

WORLD UNIVERSITY SERVICE

Academic Freedom

2

A Human Rights Report

MALAWI • SWAZILAND • BURMA • SRI LANKA • PARAGUAY • PALESTINE • SUDAN • LEBANON

WORLD UNIVERSITY SERVICE

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2

A HUMAN RIGHTS REPORT



EDITED BY

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Contents

	About the Contributors	vii
1.	Introduction <i>The Editors</i>	1
	Academic Freedom and International Instruments	3
	World University Service and Human Rights	6
2.	The Right to Education: Its Significance and Limitations <i>Manfred Nowak</i>	8
	The History of the Right to Education	8
	The Meaning of the Right to Education	10
	Violations	13
	Conclusions	14
3.	Burma (Myanmar) <i>Martin Smith</i>	17
	Political Background	17
	Social and Economic Background	18
	General Human Rights Situation	20
	The Education System	21
	The Right to Education	26
	Discrimination	28
	Academic Freedom	30
	Limitations on Freedom of Association	36
	Limitations on Freedom of Expression	38
4.	Lebanon <i>Anonymous</i>	42
	Socio-economic Conditions	43
	The Education System	45
	Human Rights	46
	The Right to Education	48
	Academic Freedom	50
5.	Malawi <i>Richard Carver</i>	55
	Social and Economic Situation	56
	General Human Rights Situation	57
	The Education System	60
	The Right to Education: Limitations and Violations	61

	Institutional and Legal Status of Higher Education	65
	Freedom of Association	68
	Freedom of Expression	70
6.	Palestine <i>Penny Johnson and Mark Taylor</i>	78
	Human Rights: An Overview	78
	Israeli Justification	78
	Marked Violations in 1990-91	79
	Status of the Right to Education	80
	Violations of Academic Freedom	82
	The Rights of Students	83
	Academic Freedom and Faculty Rights	84
	Settler University Violates International Law	84
7.	Paraguay <i>Jorge Lara Castro</i>	86
	The Right to Education	88
	Higher Education	91
	Violations of Academic Freedom	96
	Conclusions	97
8.	Sri Lanka <i>Hema Goonatilake</i>	99
	The Human Rights Situation	99
	Universities in the South of Sri Lanka	101
	Universities in the North and East	104
	A Personal Testimony	105
9.	Sudan <i>Leah Leatherbee and Hibaaq Osman</i>	117
	The Right to Education	120
	Violations of Academic Freedom	122
	The Crackdown on Khartoum University	125
	Other Student Actions	129
	Dismissal of Faculty Members	129
	Forced Training in the Popular Defence Force Camps	132
10.	Swaziland <i>John Daniel</i>	136
	Socio-economic Conditions	140
	General Human Rights Situation	141
	The Education System	143
	State-Student Confrontation: the Rise of PUDEMO	147
	Conclusions	151

Annex 1:	The Lima Declaration on Academic Freedom and Institutions of Higher Education	153
Annex 2:	The Poznan Declaration on Academic Freedom	159
Index		163

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1. Introduction

The Editors

Respect for and protection of academic freedom and university autonomy are not only essential to ensure a healthy educational system, but also, in our view, necessary preconditions for the safeguarding of other freedoms and efforts towards development and the maintenance of democracy.

In 1984, World University Service (WUS) adopted as a basic principle that academic freedom is a universal human right, a civil liberty according to which all should be free to seek the truth about anything and to pass it on to others. This right makes it incumbent upon authorities not to penalise, dismiss or harass academics for pursuing the truth or to penalise students involved in the process of critical inquiry. On the contrary, these authorities should supply conditions conducive to full freedom of teaching, research and study.

The WUS initiative was a response to growing concerns about the alarming tendency of some governments to undermine, restrict or suppress academic freedom and the autonomy of institutions of higher education in the name of economic austerity and political expediency.

Manfred Nowak, former director of the Netherlands Institute of Human Rights, was assigned by WUS to draft a declaration on academic freedom and university autonomy which, after considerable consultation and debate, was finally adopted in Lima in 1988.

As formulated in the Lima Declaration on Academic Freedom and Autonomy of Institutions of Higher Education, academic freedom is a human right of special importance to the higher education sector, a right derived from the right to education and related to the rights to freedom of thought and freedom of opinion and expression.

The Lima Declaration defines the academic community as 'all those persons teaching, studying, researching and working at an institution of higher education'. The point of departure of the declaration is that no freedom can be protected for a section of the community if the rights and freedoms of other sections are unprotected. The declaration recognises the academic community

as one entity within a given institutional framework, the various sections of which have different but complementary roles in the processes of academic pursuits and functions.

It is WUS's belief that academic freedom is an essential precondition for the education, research, administrative and service functions with which universities and other institutions of higher education are entrusted. In the Lima Declaration, academic freedom is defined as 'the freedom of members of the academic community, individually or collectively, in the pursuit, development and transmission of knowledge, through research, study, discussion, documentation, production, creation, teaching, lecturing and writing'. This definition is intentionally broad and takes into account the important role of artists and librarians attached to higher educational institutions in the pursuit and transmission of knowledge. Academic freedom is a special right for a particular group in society only in so far as it goes beyond the general human rights of freedom of expression and information.

The Lima Declaration considers academic freedom as applicable mainly to individual members of the academic community. Autonomy is the institutional form of academic freedom and a necessary precondition for the fulfilment of the functions with which higher educational institutions are entrusted. The declaration states that 'autonomy means the independence of the institutions of higher education from the State and all other forces of society, to make decisions regarding their policies of education, research, extension work and other related activities'. WUS does not consider that higher educational institutions should be exempt from positive suggestions and/or constructive criticisms by society, but it recognises the need to safeguard these institutions from undue pressures from the state and vested business interests. There exist clearly acceptable responsibilities that the institutions of higher education should pursue. These are stated in the declaration to avoid any 'ivory tower' conception of autonomy. But in defining and arguing for academic freedom and autonomy, the authors of the declaration consciously tried to avoid any qualification of this freedom, although the declaration states that 'the exercise of academic freedom and autonomy is subject to limitations as established in the declaration'.

WUS has resisted temptations to proclaim the declaration an international document and has instead suggested that it be used

as a starting point for the creation of an international declaration on academic freedom. Despite this, the Lima Declaration has been adopted by numerous national and international university staff and teacher organisations, in order to use its guiding principles during negotiations with governments.

Academic Freedom and International Instruments

The concept of academic freedom is closely connected with the right to education. It also represents an important aspect of freedom of thought, freedom of opinion, and freedom of expression and information. Academic freedom can also be seen as one of those areas of human rights within which the interdependence of both civil and political rights, on the one hand, and economic, social and cultural rights, on the other, becomes apparent. Although the right to education constitutes a major concept in the Universal Declaration on Human Rights (Article 26) and is explicitly guaranteed in the International Covenant on Economic, Social and Cultural Rights (ICESCR) (Article 13), there is no explicit reference to academic freedom or autonomy of institutions of higher education in either of these international instruments. The only related reference in this respect is in Article 15 of the ICESCR, according to which states undertake to 'respect the freedom indispensable for scientific research and creative activity'. The general freedoms of thought, opinion, expression, information, assembly and association as enshrined in articles 18, 19, 21 and 22 of the International Covenant on Civil and Political Rights were obviously regarded as sufficient to protect academic freedom. Unfortunately this has not been the case.

Freedom of thought and freedom of opinion are absolute rights in the sense that they cannot be subject to restrictions imposed by the state. Freedoms of expression, assembly and association, on the other hand, carry with them duties and responsibilities and can be subject to various limitations and restrictions imposed by law. A question that arises is how do such restrictions and limitations affect academic activities in higher education? Is it possible to consider as a matter of international law that academic communities and institutions should be granted special protection in relation to their academic activities and pursuits?' In so far as the nature of academic work

requires special protection, one can argue in favour of a need to set further international standards. To realise the economic, social and cultural rights enshrined in the ICESCR requires action at both national and international levels.

Further development of international standards can be seen as one area of international action for the realisation of these rights. Article 23 of the ICESCR provides for international action in order to achieve the rights recognised in that covenant and includes such methods as the adoption of conventions and recommendations. Danilo Türk, the Special Rapporteur of the (United Nations) Sub-commission on the Prevention of Discrimination and Protection of Minorities, in his Preliminary Report on the Realisation of Economic, Social and Cultural Rights, in August 1989, recognised academic freedom as one area in which some setting of international standards might be useful.²

Within the framework of the United Nations Educational, Scientific and Cultural Organisation (UNESCO), several international instruments have been adopted which deal, *inter alia*, with the subject of academic freedom, though indirectly. Two important instruments are the Recommendation Concerning the Status of Teachers and the Recommendation Concerning the Status of Scientific Researchers. These documents cover a wide range of issues such as recruitment, training, conditions of work, social guarantees and participation in public affairs. Paragraph 61 of the Recommendation Concerning the Status of Teachers states that the 'teaching profession should enjoy academic freedom in the discharge of professional duties'. However, neither of these instruments apply directly to the higher education sector or to universities.

Several national and international efforts have been made to raise the importance of setting standards dealing with academic freedom and autonomy in higher education. In the wake of a university reform in Malaysia in 1978, which drastically threatened academic freedom and autonomy in that country, Malaysian academics produced the University Charter to safeguard their rights. In 1982, the International Association of University Professors and Lecturers formulated a Declaration of Rights and Duties Inherent in Academic Freedom. An important recent effort similar to the Lima Declaration is the Magna Carta of European Universities adopted by the rectors of European universities at Bologna in September 1988.

At a state level, one of the few national constitutions that guarantees academic freedom is that of the Philippines. In practice, however, the Philippines government frequently violates it. In January 1990 the Australian government commissioned a study with a view to developing an Australian charter on academic freedom.

During the same year, in April, six staff associations of institutions of higher education in Tanzania adopted the Dar es Salaam Declaration on Academic Freedom and Social Responsibility of Academics. The document, according to its authors, was necessary at a time in which 'budgetary allocations for education become minuscule, education is threatening to become the preserve of a minority of the wealthy and influential in our society'. . . and there was an 'increasingly greater, deeper and more frequent encroachment on academic freedom and freedom to pursue truth and knowledge particularly at the universities and other institutions of higher education'.

In November 1990, participants in a symposium in Uganda entitled 'Academic Freedom and Social Responsibility of Intellectuals' and members of the African intellectual community adopted the Kampala Declaration on Intellectual Freedom and Social Responsibility. Its preamble states: 'The struggle for intellectual freedom is an integral part of the struggle of our people for human rights; just as the struggle of the African people for democracy is being generalised, so too is the struggle of African intellectuals for intellectual freedom intensifying'.

There is a growing tendency to use the text of the Lima Declaration as a starting point for discussions on the formulation of an international legal instrument on academic freedom. Plans to present a draft declaration before the World Conference on Human Rights in June 1993 became more and more concrete during 1992, and materialised early in 1993.

Two conferences on academic freedom in 1992 paved the way for preparation of a draft. In March, representatives of the UN, UNESCO, the Standing Conference of Rectors of European Universities and WUS gathered in Lund, Sweden, for a seminar co-sponsored by the Raoul Wallenberg Institute of Human Rights and Humanitarian Law and WUS. This meeting concluded that an international declaration based on the Lima Declaration was needed, and it debated ways in which such a document could be introduced into the UN machinery.

In May 1992, a joint meeting of UNESCO and CEPES (the

European Centre for Higher Education in Bucharest) entitled 'Academic Freedom and University Autonomy', which included academic and NGO (non-governmental organisation) representatives from Western and Eastern Europe and the Commonwealth of Independent States, urged UNESCO to prepare an international instrument for the protection of academic freedom and university autonomy.

In January 1993, experts gathered in Poznan, Poland, drafted the Poznan Declaration on Academic Freedom. The text of the Poznan Declaration is shorter than those on which it was based (the Lima Declaration, Kampala Declaration, Dar es Salaam Declaration and Magna Carta). The declaration does not include the principle of university autonomy as the authors did not consider this to belong to the category of human rights. It does, however, add to the existing standards freedom of movement and the right to receive information without restrictions.

The drafters of the Poznan Declaration on Academic Freedom intend to seek recognition from the World Conference on Human Rights to be held in June 1993, Vienna. The declaration will then be presented to UNESCO to be adopted as a formal UN instrument.

These efforts, coupled with ongoing violations against academics and their institutions around the world, fuel the forces seeking to make academic freedom a universal human right.

World University Service and Human Rights

Calls for action in the face of the destruction wrought by World War One and the accompanying famine and disease, that gave rise, in 1920, to the European Student Relief (ESR) organisation, the progenitor of the movement now known as WUS. It is due largely to the deeds of two women, Ruth Rouse and Eleanora Iredale, in building ESR that WUS exists today. Seven decades on, WUS has grown into an international NGO focusing on education, development and human rights. It is made up of national committees and contact groups in sixty countries, and involves academics and students in national and international programmes. Forty-seven, or nearly 80 per cent, of its national committees and contact groups are in the Third World. Since 1920, the organisation has undergone considerable transformation. An initially European focus has been gradually replaced by an

international perspective as committees have been established in Africa, Asia and Latin America. Renamed World University Service in 1950, the organisation has seen its initial exclusive concern with universities evolve into a programme linking the educational resources of universities to the needs of the community. This particularly applies in the Third World.

The primary objectives of WUS are two-fold. On the one hand, WUS is committed to resist all forms of undue interference in the freedom of teaching, study and research. It is on the basis of this objective that WUS conceived its present programme on academic freedom and adopted the Lima Declaration. On the other hand, WUS seeks to promote the social role of universities and to ensure that academic communities are involved in the solutions to the problems that face society. Consequently, WUS attempts to promote human rights teaching, education, networking and the dissemination of information through academic communities.

The objectives of WUS's human rights programme are to promote the right to education and its implementation worldwide; to encourage academic freedom and autonomy in the higher education sector; to engage in human rights teaching, education and the dissemination of information, and to defend and promote human rights through joint action, networking and projects. These objectives are derived from the goals and policies of WUS in general and relate to the human rights initiatives and programmes of the United Nations. The WUS programme is unique in that it focuses on the education sector.

Notes

1. See Danilo Türk, 'Some Remarks Relating to the Lima Declaration on Academic Freedom and Autonomy of Institutions of Higher Education', *WUS/UNESCO Seminar on Factors and Conditions Conducive to Academic Freedom*, Paris, May 1989.
2. Doc. E/CN.4/Sub.2/1989/19 para. 74.

2. The Right to Education: its Significance and Limitations

Manfred Nowak

The History of the Right to Education

There are many ironies in history. One relates to the development of the right to education in international law. Like other economic, social and cultural rights, it has its origins in the socialist concept of human rights, and it was promoted on the international level by the socialist states. But only now, when these states are gradually disappearing, are serious efforts for the international implementation of these rights being undertaken.

Although the idea of compulsory primary education was praised during the Age of Enlightenment in certain parts of Europe, the right to education did not figure among the civil liberties enumerated in the domestic bills of rights proclaimed by most European nations and the United States of America in the late eighteenth and nineteenth centuries. The main reason for this omission is simply that in the liberal concept of human rights, civil liberties were understood as 'negative' rights directed against state interference. In the socialist concept, on the contrary, the right to education, together with the right to work and the right to social security, figure among the most prominent human rights, which are conceived of as individual rights that require positive action by the state and society.

Thanks to the insistence of representatives of the socialist states in the United Nations, the Universal Declaration of Human Rights of 1948 contains not only the classic civil and political rights, but also the most important economic, social and cultural rights. Article 26 guarantees to everyone the right to education and provides in considerable detail that:

1. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be

- compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. 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.
 3. Parents have a prior right to choose the kind of education that shall be given to their children.

When it came to drafting a binding universal convention on human rights, the Western states succeeded, in the early fifties, in separating these two sets of human rights once again.¹ That is why in 1966 the United Nations adopted two separate international covenants, one on civil and political rights, the other on economic, social and cultural rights. The main differences between the two covenants are in the obligations placed on states and in the procedures for implementation, on both the domestic and international levels. Whereas states party to the International Covenant on Civil and Political Rights undertake from the very day of its coming into force 'to respect and to ensure to all individuals' within their territory the civil and political rights recognised in the covenant, states party to the International Covenant on Economic, Social and Cultural Rights only undertake 'to take steps . . . to the maximum of their available resources, with a view to achieving progressively the full realisation of the economic, social and cultural rights recognised therein'.

Similarly, there are major differences between the covenants on international implementation procedures. The supervision of civil and political rights was entrusted to the Human Rights Committee, a quasi-judicial body of eighteen independent experts, which is empowered to decide upon the complaints of individual victims. But the international obligations of states party to the International Covenant on Economic, Social and Cultural Rights were limited to the submission of periodic reports, which were examined by one of the principal political organs of the United Nations, the Economic and Social Council (ECOSOC), consisting of representatives of member states. Although the socialist states

had been to the fore in putting economic, social and cultural rights on the same level as civil and political rights, in the late 1970s and early 1980s it was they who resisted every initiative to strengthen this extremely weak implementation mechanism. It was some of the more progressive Western and Southern states which, in the age of *glasnost* and *perestroika*, succeeded in establishing an independent expert Committee on Economic, Social and Cultural Rights,² and which pushed certain other initiatives to strengthen the implementation of these so-called 'second generation' rights. One of these initiatives led to the appointment in 1988 of a UN Special Rapporteur on the Realization of Economic, Social and Cultural Rights.³

On the regional level several similar moves have been made intended eventually to put both sets of rights on an equal footing. In 1988 the Organisation of American States adopted an additional protocol to the American Convention on Human Rights which before the late 1980s contained no economic, social and cultural rights.⁴ The Council of Europe is considering a similar amendment to the European Convention on Human Rights.⁵ In fact, this 'Magna Charta of Europe', as it is often called, does not contain any second-generation right, with the possible exception of the right to education. This right is, however, phrased in such restrictive and negative terms ('Nobody should be denied the right to education') that the European Commission and Court of Human Rights decided in a number of cases that nobody can claim European states are under any positive obligation actively to provide educational facilities. The European convention guarantees only a right of equal access to existing facilities, and it is more concerned with the liberty of parents to ensure education in conformity with their own religious convictions.⁶

The Meaning of the Right to Education

No binding international jurisprudence as yet exists that would shed light on the exact meaning of the 'right' to education. Nevertheless, the more recent developments mentioned above, particularly those within the framework of the United Nations, help us to gain a clearer understanding of this right's scope, its contents and its limitations under present international law. The most important sources of international treaty law, on which the

following attempt at interpretation is based, are the UNESCO Convention against Discrimination in Education of 1960; articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights of 1966, and articles 28 and 29 of the UN Convention on the Rights of the Child, which was adopted in 1989 and entered into force in 1990. All these conventions have been ratified by a clear majority of the existing states in the world.

The first conclusion we can draw is that there is no longer any doubt that the right to education, like other economic, social and cultural rights, is a legal right that entitles all individuals to certain forms of behaviour by their respective governments. State responsibility differs according to the precise formulation of the human right concerned. We can distinguish between obligations to respect, to protect and to fulfil.⁷

The obligation to *respect* requires states to abstain from certain interferences. They must, for example, respect the liberty of parents to choose for their own children private or public schools and to ensure the religious and moral education of their children in conformity with their own convictions (Article 13(3) of the International Covenant on Economic, Social and Cultural Rights). States are not allowed to discriminate in the admission of pupils to educational institutions, or to discriminate between boys and girls, between different religious, linguistic and ethnic groups, or between nationals and foreigners, etcetera. This is explicitly spelled out in the UNESCO Convention against Discrimination in Education. States must also respect the human dignity of children in educational institutions as laid down in Article 28(2) of the UN Convention on the Rights of the Child. In a famous case against the United Kingdom government (Campbell and Cosans) the European Court of Human Rights held that corporal punishment as practised in Scottish schools violated the right to education.⁸ States must also respect the right of prisoners to education by means of, for example, correspondence courses.⁹

The obligation to *protect* the right to education requires governments to adopt measures necessary to prevent other individuals, groups or private institutions from violating this right. States must ensure, for example, that private schools do not apply discriminatory practices in admissions, or in corporal punishment.

Most important, however, is the obligation to *fulfil* the right to education by means of positive action. In this respect we must further distinguish between so-called obligations of conduct and obligations of result. An obligation of conduct points to a certain action or measure the state should adopt. An obligation of result is less concerned with the choice of line of action, and more concerned with the results the state should achieve.¹⁰ A typical example of an obligation of conduct can be found in Article 14 of the International Convention of Economic, Social and Cultural Rights. All party states that have not yet secured free and compulsory primary education have an obligation, within two years of ratification, 'to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all'.

Most obligations arising from the right to education are, however, obligations of result. The standards to be achieved in this respect have improved only slightly since the adoption of the Universal Declaration of Human Rights more than forty years ago. They are as follows:¹¹

- primary education shall be free and compulsory for all;
- secondary education shall be available and accessible to all; in addition, free education and financial assistance in case of need shall be introduced progressively;
- higher education shall be accessible to all on the basis of capacity; free education shall be introduced progressively;
- fundamental education shall be intensified for those not having completed primary education;
- illiteracy and ignorance should be eliminated throughout the world by means of international cooperation taking into account particularly the needs of developing countries. This provision (Article 28(3) of the Convention on the Rights of the Child) is a typical example of the so-called 'third generation' of solidarity rights.

Although the international instruments referred to do not provide for a clear definition of education, they use the term in a very broad sense to include all types and levels of (formal and non-formal) education (Article 1(2) of the UNESCO Convention against Discrimination in Education). Education, they state, shall be directed to:

- the full development of the human personality and human dignity in all its aspects;
- the development of respect for human rights;
- the promotion of understanding, peace, tolerance, friendship and gender equality;
- the development of respect for the natural environment.

Violations

When can we speak of violation of a state's obligation of result derived from the right to education? This is still a controversial question. Modern human rights theory and practice developed in this respect the concept of a minimum core content that cannot be diminished under the pretext of permitted limitations, exceptions and restrictions.¹² The UN Committee on Economic, Social and Cultural Rights, in a 'General Comment' addressed to all states party to the International Covenant on Economic, Social and Cultural Rights, pointed to the immediately applicable obligation to establish free and compulsory primary education for all (Article 13(2) of the covenant).¹³ At least within a 'reasonable number of years' after ratification (Article 14), all states, irrespective of their available economic resources, are under a definite obligation to provide primary education free of charge to all children living on their territory. If they fail to achieve this result within, let us say, ten years, they violate Article 13 of the Covenant. With respect to the other standards mentioned above states have an obligation 'to move as expeditiously and effectively as possible towards that goal'.¹⁴ Every measure that deliberately reduces access to secondary and higher education would be as much a violation of Article 13 as the failure to take adequate positive steps in primary education.

In order to evaluate the degree of compliance by states with their obligations under international law, we need reliable and objective indicators. Organisations such as UNESCO, the United Nations Development Programme (UNDP), the World Bank, and the Organisation for Economic Co-operation and Development (OECD) as well as the UN Special Rapporteur on the Realisation of Economic, Social and Cultural Rights, have developed a number of indicators in this field.¹⁵ Indicators related to education also play an important role in the UN *Human Development Report*.¹⁶ These include literacy rates, public

expenditure on education, enrolment ratios, completion and drop-out rates, book production etcetera.

Only a careful examination of these and other indicators over several years can show whether a government has violated certain obligations of result. It is not decisive whether such violation is the result of a policy expressly denying education to certain sectors of the population, or the result of sheer neglect, lack of priority or even lack of resources. From a strategic point of view it is, of course, important to identify the root causes of violations of the right to education. If poverty, for example, is the only reason why people are not provided with adequate education, the strategy for overcoming this must differ from the strategy applied towards a government that as a matter of policy denies access to education to certain groups. From a legal point of view, however, both governments equally violate their obligations, and the lack of economic resources cannot be invoked as a justification if the minimum core content of the right to education is at stake.

Conclusions

Universal access to (and completion of) basic education for all by the year 2000 - including a drastic reduction in the present illiteracy rate - is not simply an idealistic goal, agreed by the participants in the World Conference on Education for All held in 1990 in Jomtien.¹⁷ It is a legally binding human right of the majority of the world's population. And it is a human right that places corresponding obligations on states under international law. Of course, states often violate international law, and the measures to enforce human rights law at the international level are particularly weak. Nevertheless, governments often seem to understand the language of rights and obligations better than they do the language of moral appeals. When discussing how the targets set for the year 2000 by the Jomtien 'Framework for Action to Meet Basic Learning Needs' can be put into practice, and how World University Service can best contribute to these efforts, we should not forget the legal strategy. We are in fact demanding no more than that governments should respect and fulfil their obligations under international human rights laws - binding obligations, which they have voluntarily undertaken.

Notes

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1. See Manfred Nowak, *Internationaler Pakt über bürgerliche und politische Rechte und Fakultativprotokoll - CCRP-Kommentar*, Kehl/Strasbourg/Arlington, 1989, p. xviii.
2. See P. Alston, 'Out of the Abyss: the Challenges Confronting the New UN Committee on Economic, Social and Cultural Rights', *Human Rights Quarterly* 9 (1987), pp. 332-45 ff.
3. Resolution 1988/33 of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities; resolutions 1989/12 and 13 of the UN Commission on Human Rights. The preliminary report as well as the first two progress reports of the Special Rapporteur, Prof. Danilo Türk (Yugoslavia), are contained in UN documents E/CN.4/Sub.2/1989/19, E/CN.4/Sub.2/1990/19 and E/CN.4/Sub.2/1991/17.
4. The Protocol of San Salvador of 17 November 1988 (OAS Treaty Series No. 69).
5. See the forthcoming report of the Colloquy on the Implementation of Social and Economic Rights, organised by the Austrian Human Rights Institute in co-operation with the Council of Europe and held from 17 to 20 April 1991 in Salzburg.
6. On the Strasbourg case law regarding Article 2 of Protocol No. 1 to the European Convention on Human Rights, see P. van Dijk and G.J.H. van Hoof, *Theory and Practice of the European Convention on Human Rights*, 2nd edn, Deventer, 1990, p. 467 ff.
7. See A. Eide, *Right to Adequate Food as a Human Right*, United Nations Human Rights Study Series 1, New York, 1989, p. 14 ff.
8. Judgement of 25 February 1982, Series A No. 48 (1982), 19.
9. See Van Dijk and Van Hoof, p. 476.
10. See Eide, p. 15.
11. See also F. Volio, 'The Child's Right to Education: a Survey', in G. Mialaret (ed.), *The Child's Right to Education*, UNESCO, Paris, 1979, p. 19.
12. Alston, p. 352; Türk: UN Doc. E/CN.4/Sub.2/1989/19, p. 10.

13. 'General Comment No. 3' (1990), para. 5, contained in the *Report on the Fifth Session of the Committee on Economic, Social and Cultural Rights*, UN Doc. E/1991/23, p. 84.
14. *Ibid.*, para. 9. This formulation has been taken from para. 21 of the Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights, adopted in 1986 by a group of distinguished experts in international law at a meeting held in Maastricht (Netherlands): for the text see, for example, No. 37 of the *Review of the International Commission of Jurists* (1986), p. 46.
15. See Türk: UN Doc. E/CN.4/Sub.2/1990/19, p. 3 ff.
16. See UNDP, *Human Development Report 1991*, New York/Oxford, 1991, pp. 15 and 88 ff.
17. 'World Declaration on Education for All' and 'Framework for Action to Meet Basic Learning Needs' adopted by the World Conference on Education for All held from 5 to 9 March 1990 in Jomtien (Thailand), published by the Inter-Agency Commission (UNDP, UNESCO, UNICEF, World Bank), New York, 1990.

3. Burma (Myanmar)

Martin Smith

Political Background

One of the most secretive countries in Asia, Burma (Myanmar)¹ was dramatically thrust back into international prominence in mid-1988 when popular, student-led protests brought down the Burma Socialist Programme Party (BSPP) government of the country's ageing military strongman, General Ne Win. The students' victory, however, was short-lived. Over 3,000 civilians were reportedly killed by the security forces when a brief 'democracy summer' was brutally crushed in a military coup on 18 September by officers loyal to Ne Win. Immediately following the coup, another 10,000 students and civilian activists fled from the cities to take sanctuary in borderlands controlled by various ethnic and communist insurgent forces which have been in armed opposition to the central government virtually since Burma's independence in 1948.

Upon assuming power, the new State Law and Order Restoration Council (SLORC) in Rangoon, headed by General Saw Maung, promised to introduce a new era of multi-party democracy; new political parties were briefly permitted to form. However, in the years since then the political repression has continued, Burma has remained under martial law, and thousands of political activists, including students, workers and Buddhist monks, have been arrested.

Throughout this clampdown, the universities and institutions of higher education have for the most part been kept closed by the authorities. The results of the May 1990 general election, Burma's first in three decades, have been systematically undermined and over 80 of the 485 elected members of parliament (MPs) have been arrested. Another 20 MPs have escaped into exile or into territory controlled by armed opposition groups.

The National League for Democracy (NLD), which won a landslide victory in the election, has been decimated by arrests. Even before the election took place, Daw Aung San Suu Kyi, U Tin Oo and most of the NLD's first-line leaders had been

detained or imprisoned. Other parties have been similarly suppressed. Of the 233 new parties which had legally registered by the deadline of February 1989, all but 7 had been banned by the SLORC by April 1992.

In the countryside, meanwhile, Burma's long-running insurgencies have continued. The years 1988-92 witnessed some of the heaviest fighting and casualties in all the years since independence. Though the SLORC has agreed ceasefires with a number of insurgent forces in Shan state, in other parts of the country fighting has spread into new areas. The battles have been particularly fierce along the Thai and Chinese borders in territory where students, MPs and other exiles from the cities have joined the 23-party Democratic Alliance of Burma. To escape government persecution, over 400,000 refugees have fled across Burma's borders into Thailand, Bangladesh, China and India.

As a sign of growing international concern, in December 1991 Aung San Suu Kyi, under house arrest in Rangoon, was awarded the Nobel Peace Prize for her commitment to non-violence. Nevertheless the SLORC, still masterminded by 81-year-old Ne Win, appeared impervious to foreign pressure, and army generals spoke openly of their determination to remain in power for another ten years if necessary.

Apparently confident of its position, in April 1992 the SLORC announced a number of policy changes, including the release of over 200 'political prisoners', the unilateral cessation of military operations against Burma's largest insurgent force, the Karen National Union, and the timetable for the creation of a new National Convention where the principles for a new constitution would be drawn up. General Saw Maung was replaced by his deputy, General Than Shwe, as chairman of the SLORC.

Thus, four years after the coup, Burma remained in a state of transition; multi-party democracy was still promised, but the Burmese army or *tatmadaw* remained the ultimate arbiter of the speed and style of reform.

Social and Economic Background

The full scale of Burma's social and economic decline under General Ne Win's 'Burmese Way to Socialism' was first brought

to international attention in December 1987 when Burma was admitted to Least Developed Country (LDC) status at the United Nations (UN). Undoubtedly one of the most fertile and mineral-rich countries in Asia, Burma was now classified as one of the world's ten poorest nations with an average per capita income of just \$200 per year.

Despite the promise of economic reform, for the great majority of Burmese² citizens living conditions have only worsened under the SLORC. Over 80 per cent of Burma's 42 million people live in rural areas, but less than 20 per cent of the land area is cultivated. Since 1988 inflation has topped 800 per cent for rice and several other key commodities, but the wages of many workers remain little changed. Cases of severe malnutrition have been reported in Rangoon hospitals, and from all regions there is increasing evidence of the country's mounting social crisis. Since 1988 Burma has become the world's largest producer of illicit heroin; AIDS is spreading rapidly, environmental disaster is looming as Burma's once-great forests are clear-felled, and refugees are pouring out of the country. By July 1992, 300,000 Muslim refugees were taking shelter in Bangladesh, whilst over 70,000 refugees (mainly ethnic Karens, Karennis and Mons, as well as over 2,000 Burmese students) had been granted official sanctuary in Thailand. Unofficial estimates in Bangkok put the true number at twice this figure.

Children are especially vulnerable amidst Burma's social and economic collapse. According to unpublished statistics, Burma's infant mortality rate of 98 per 1,000 live births is the eighth highest in Asia, whilst the maternal mortality rate is at least 250 per 100,000 live births. Because of the fighting, there are also growing numbers of orphans and internally displaced persons, particularly amongst ethnic minority communities (which make up over one-third of Burma's population). Throughout Burma there is negligible social or welfare support, and in the war zones villagers usually flee at the first approach of government troops in fear of enforced porter duty or army atrocities.

All the above factors combine to underpin the deep social malaise that lies at the heart of present-day Burmese society under the SLORC, and will severely challenge any government which eventually comes to power.

General Human Rights Situation

With the possible exception of Iraq, since 1988 the SLORC has been one of the most internationally condemned governments. An alarming catalogue of human rights abuses has been documented in reports by organisations such as Amnesty International, Asia Watch, Article 19 and the International Human Rights Law Group.³ The strength of international concern was reflected in the decision by the United Nations Commission on Human Rights to appoint two teams of independent experts, under its confidential 1503 procedure, to investigate 'a consistent pattern of gross violations of human rights' in Burma.

The first team, headed by Professor Ogata from Japan, reported to the United Nations Commission on Human Rights in February 1991 and the second, led by Professor Yokota, reported in February 1992. Reflecting international frustration at the lack of progress, in March 1992 it was decided to appoint a Special Rapporteur who would report in open session to both the UN General Assembly in New York and the Commission on Human Rights in Geneva.

Many of the human rights violations detailed in these investigations were already prevalent under the BSPP. Since 1962, arbitrary arrest, detention without trial, torture and extrajudicial executions have routinely been carried out by the Burmese army or units of the omnipresent Military Intelligence Service (MIS).⁴ But the scale of countrywide repression has undoubtedly increased under the SLORC, which has ruled by means of a complex web of existing laws and new martial law decrees.

Under such laws, many of Burma's brightest talents have been imprisoned. It is usually Aung San Suu Kyi, Tin Oo and the former prime minister, U Nu, who receive the international headlines, but Burma's other prisoners have included such well-known personalities as the popular comedian Zargana, the writers U Win Tin and Nyan Paw, and the young monks' leader the Venerable U Yewata. Torture, beatings and other forms of ill-treatment are rife in prison, and a number of prominent political prisoners have died. These include the chairman of the Writers' Association, U Ba Thaw (Maung Thawka), workers' leader U Maung Ko, NLD MP U Tin Maung Win, and student activist Kyaw Myo Thant.

Many of the worst human rights abuses are committed by front-line units of the Burmese army which, as SLORC

spokesmen have frequently claimed, are legally entitled under martial law to employ any measures they think fit. 'In fact martial law means no law at all', the MIS chief, Major-General Khin Nyunt, explained in May 1991. Not only has there been no just accounting for the countrywide civilian deaths during the street protests of 1988, but tens of thousands of ethnic minority villagers have continued to leave the country, bringing well-documented accounts of murder, beatings, rape and constant Burmese army harassment.

Many are victims of a brutal counter-insurgency operation, known as the 'Four Cuts', which includes the uprooting or destruction of entire communities in order to sever any links between the civilian population and armed opposition forces. A particular grievance has been the enforced conscription of civilians into front-line porter service for the Burmese army; these porters are frequently forced to walk ahead of government troops as human mine-shields.

The Education System

Elementary education and the development of a school system

Every stratum of education in Burma has been seriously affected by the political turbulence of the past four years; moreover, the entire education system, which is now in theory being remodelled by the SLORC, is still suffering the consequences of the 'Burmese Way to Socialism'. By tradition, Burma has remained one of the most literate countries in Asia. Across the centuries successive generations of Buddhist Burmese, including Buddhist minorities such as the Mons and Shans, have learnt to read and write at monasteries, which formed the bedrock of basic primary education until well into the colonial era.⁵

In many communities, small lay schools also developed which provided basic education for girls or younger children, who were generally excluded from the monastery schools. With the arrival of British and Western missionaries a third kind of school developed, Anglo-vernacular or private schools, which laid the basis for modern education. Non-literate minorities such as the Kachin and Karen (which now developed their own scripts) responded to the impact of colonial education and many converted to Christianity.

Under British rule a process of integration was begun

between these three different kinds of schools, mainly through the grant-in-aid system of funding by the colonial Education Department. The influence of the strongly nationalist character of education in developing political movements in Burma was reflected by the strike at the newly opened Rangoon University in 1920, from which Burma still takes its national day, and the establishment of locally run 'national schools' in the countryside.

Under the Burmese directors of education in the colonial administration, the greatest expansion was in primary education: especially among girls, whose number increased sixfold in schools (from 36,000 to 220,000) between 1900 and 1940.⁶ A perennial problem, however, was the high drop-out rate. Even in government-aided schools it was estimated that 88 per cent of students left school before they reached the fourth grade.⁷

Following independence in 1948, successive governments attempted to complete the integration of the existing schools (monastery, lay, government and mission) into a one-track state system. Education was to be free, and four years of primary education would be compulsory. Despite the continuing disruption of the insurgencies in the countryside, the number of primary schools increased rapidly: from 2,186 schools in 1949 to 11,220 in 1959.⁸ However, the dropping-out of children after a few years' schooling continued to be a problem, and refresher training courses were given to 18,000 teachers between 1952 and 1957 to try to improve standards.

After Ne Win seized power in 1962, the economy, the press and virtually every walk of life were nationalised in the name of building a socialist state. Some 800 private schools were nationalised during 1965-66 and all foreign missionaries were expelled in 1966. Reflecting the continuing difficulties in primary education, it was planned that new primary schools would be built across the country, at which attendance would be compulsory.

Many of these changes were set out in the Basic Education Law of April 1966. Then, under Chapter 3 of the Union of Burma Education Law, enacted in 1973, a single-track 5-4-2 system of education, that is, five years primary (including one year kindergarten), four years middle school and two years high school, was adopted as the 'basic education course', a structure which continues today under the SLORC.

Despite the professed goals of the 'Burmese Way to Socialism', results never lived up to the rhetoric. According to

BSPP statistics, primary education expanded dramatically: from 13,903 schools with 1,886,000 students in 1966 to 31,429 schools with 5,202,508 students by 1988.⁹ Underfunding, however, was chronic, and materials never kept pace with the many changes in the system. For example, having abolished English in 1966, the BSPP suddenly reintroduced it, from kindergarten level upwards, in 1980. In primary schools in particular, many teachers had little or no training. On average, unqualified teachers would work for five years before receiving any in-service training, and the better teachers would constantly push for promotion to secondary schools and the better salaries offered in them.

By 1987, when Burma was admitted to LDC status, the writing was already on the wall. During the 1970s Burma had twice won special UN prizes for literacy campaigns, but that year, in the type of fluctuation of statistics for which the BSPP was notorious, the previously reported literacy rate of 78.6 per cent was dropped to 18.7 per cent. Cynical observers believed that the drop was recorded to comply with the fixed rate of less than 20 per cent required for LDC status. But unpublished studies carried out by both UNESCO and UNICEF under the SLORC confirm the existence of low standards throughout Burma's schools. According to UNICEF statistics in 1991, 80 per cent of Burmese schoolchildren still do not complete more than four grades of schooling.

This high drop-out rate can partly be blamed on the long-standing practice of children in rural areas leaving school in term-time to help their families with the harvest. But a number of other factors have been identified. In addition to chronic underfunding and constant political disruptions (even primary schools were closed by the authorities during much of 1988-89 and thousands of teachers were sacked), in primary schools - as in the rest of the education system - there remains a deep rigidity and little in the way of social, health or vocational training relevant to the country's needs. Classes consist of little more than rote learning of a strict, government-controlled curriculum, with intense pressure on the more able students to graduate through each grade towards high school and, eventually, university.

Failure in the end-of-year examination necessitates repetition of the entire academic year. The curriculum is taught in Burmese, and standards are especially low in ethnic minority areas where many students only begin to learn Burmese for the

first time on their entrance to school. Regardless of the outcome of the political crisis in Rangoon, UNESCO has therefore targeted primary education as the main area for reform if countrywide standards are ever to be raised.

Secondary education

Restricted to a much smaller section of the population, secondary education has suffered from many of the same political problems and inadequacies as the primary sector over the past century. Despite nationalist resentment against the primacy of the English language, secondary education expanded rapidly in the colonial era, based loosely on the British system. Secondary education, in which English was compulsory, was essential for getting a good job. Between 1900 and 1937, middle-school students increased 8-fold and high schools students 25-fold.¹⁰

Though supported by government subsidies, the majority of Burma's 1,277 middle and high schools in 1938 were private and only 143 schools were entirely funded by the state. To some extent, these gaps were filled by Burmese-vernacular national schools in the countryside, some of which provided a good standard of education.

The expansion of secondary education in the 1920s and 1930s supported the growth of university education in Burma. Passing tenth grade allowed entrance to university. Rangoon University was founded in 1920 with 692 students from Rangoon College, a college attached to a state high school in Rangoon since 1880, and with 137 mostly ethnic Karen students from the Baptist (or Judson) College, which dated back even earlier. Previously college education in Burma had been tied to the University of Calcutta in India. Despite continuing student protests, the secondary and university system by and large fulfilled the British intention of forming a new administrative middle class. Of the 1,744 university students in 1937, over 90 per cent had passed through high schools in the cities.¹¹

After independence, despite the destruction caused by World War Two and the insurgencies, attempts were made to begin a massive expansion of secondary education. Previously all schools had been located in administrative towns, so a new building programme was begun in the rural districts. Under the Ministry of Education, middle schools increased from 72 with 35,000 students in 1952 to 500 with 205,000 students by 1958, whilst high schools increased from 108 with 10,000 students to

269 with 56,000 students over the same period.¹² Though schools continued to be a mixture of state run and privately run, a new Burmese-language curriculum was gradually introduced, and after 1955 all subjects in the university entrance examination were tested only in Burmese (previously candidates had the option of using English, which was deemed to give an advantage to mission school candidates).

The expansion of high schools and university places, however, did not keep pace with the growth of middle schools, and the number of unsuccessful candidates kept rising each year. This led to an extraordinary incident in 1956 when some questions were leaked: a student was shot dead by police during subsequent protests, and the prime minister, U Nu, was forced to pass all 63,000 middle-school candidates for that year's exams *en masse*.¹³

Following Ne Win's seizure of power in 1962, all the country's 858 middle schools and 605 high schools were nationalised (in 1966) and the school curriculum, henceforth to be determined in line with 'socialist objectives', was irrevocably changed. In theory, greater emphasis would now be placed on science and 'Burmese' arts and culture; Western political systems were rejected. As with primary education, however, for students in most parts of Burma the gap between reality and BSPP rhetoric was stunning. By 1988 the BSPP estimated that middle schools education had expanded to 1,702 schools with 1,294,171 students and that the high-school sector had expanded to 726 with 296,756 students.¹⁴ But whilst some of the nationalised schools struggled to maintain their high standards (especially former mission schools, which kept their former teachers and thus became popular with families of the ruling elite), the quality of secondary education in Burma declined drastically.

Many of the problems can be attributed to sudden and underfunded changes in curriculum. Following the banning of the use of English in schools in 1966, the translation of new materials into Burmese was completed very slowly and, because of a combination of poor funding, censorship delays and shortages of paper, inadequate new materials were prepared. Likewise, having lost an entire generation of English student from the schools, standards declined even further when English was suddenly reintroduced in 1980 - not only as a school subject but also as a language of instruction. In theory several high-school subjects are supposed to be taught in English today.

Another problem is the formal nature of education, which only points in the direction of university; there is little in the way of vocational education for students who fail to get there. Thus, two examination bottlenecks have built up: at the end of middle school in the eighth grade and at the end of high school in the tenth grade.

Examination passes depend not on marks, but on the number of places available at university that year. To have any chance of passing, it has become commonplace for pupils to take expensive private tuition classes outside school. Though technically illegal under the BSPP, private tutors have become one of the most prosperous groups in society. The pressures have led to widespread corruption throughout the school system, and though tenth-grade examination papers are printed at Tharrawaddy prison to prevent leaks, once they reach the districts the questions are usually widely bought in advance from administrators and teachers.

Under the SLORC, educational conditions in many secondary schools have continued to worsen. In 1988 unknown numbers of middle- and high-school students, including several teachers, were killed in the countrywide protests, and thousands were arrested or went underground following the coup.¹⁵ When the schools finally reopened in 1989, it was with troops in attendance, and disruption and arrests of both teachers and students have continued ever since. Deep frustration is felt by many secondary-school students after the educational experiments of the past thirty years; with the universities repeatedly closed since 1988, a massive backlog has built up of high-school students eligible for university, who have little or no chance to continue their studies.

The Right to Education

Limitations and violations

The right of all citizens to education in Burma has been codified in several laws since independence in 1948. The central strategy of the Education Policy Enquiry Committee of 1946 for a single-track system of education, from primary school through to university under the Ministry of Education, was enacted by the eight-year Economic Development Plan (or *Pyidawtha* scheme) of 1952. The goals of free education, available to all, were

maintained by the BSPP under Article 152 of the 1974 constitution which stated, 'every citizen shall have the right to education' and promised that 'basic education' would be compulsory.

Like other clauses in the constitution, however, the right to social and educational freedoms was restricted by the proviso that the expression of such rights be not 'to the detriment of national solidarity and the socialist social order' (Article 153b). Under the SLORC, though a new constitution is being prepared, many of these same restrictions have been maintained by the dropping of the single word 'socialist'.

The many social and political failings in Burma's education system, which severely limit the right of young people to education, have been outlined above. But a number of other factors need to be mentioned. One is the widespread favouritism shown to children of the ruling elite in the passing of examinations, the right to travel, and the finding of places in schools and universities. This discriminates against children from other backgrounds and encourages corruption.

Another limitation is the right of children to education in areas contested by armed opposition forces. For over two decades insurgent organisations such as the Karen National Union and the Kachin Independence Organisation have run their own networks of schools. But such schools have frequently been burnt or destroyed and, according to eyewitness testimony, even targeted in air raids by the Burmese air force. Unknown numbers of children have been killed. Other young people, including children from government-controlled towns, have been conscripted into porter duty by the Burmese army in the course of which a number have died. In February 1991, for example, two teenage girls from Papun High School in Karen state, who were preparing to take their end-of-year examinations, were reportedly killed when they stepped on mines after being pressganged as porters. Today children predominate in refugee camps across all Burma's borders.

Another practice under the SLORC is the recruitment of children, while still of school age, into the Burmese army. Though in 1991 the SLORC ratified the UN Convention on the Rights of the Child, since 1988 the army recruitment age has dropped as low as fourteen and, according to Rangoon sources, in several parts of the country orphans are being trained in quasi-educational academies to join the army on graduation.

Armed opposition groups such as the Karen National Union and United Wa State Party also admit to accepting child 'volunteers' (also often orphans) as young as twelve years old into their armies.

Discrimination

Despite the right, under the 1974 constitution, of every citizen to education, for the past thirty years Burmese citizens from every ethnic and religious background have complained of constant surveillance and discrimination by the security forces. Vaguely worded laws are used as technical catch-alls to bar many citizens. For example, under the ministry of education's 1980-81 regulations on entry to university, applicants must satisfy four requirements: they must be a 'Burmese national', pass prescribed exams, have a 'good character', and be in 'good health'. Such clauses, teachers say, have been used to ban any student the authorities disapprove of.

One group particularly discriminated against by such regulations are holders, mostly ethnic Indians and Chinese, of Foreign Residents' Cards, even if born and brought up in Burma, who are barred from studying 'professional' subjects such as medicine and technology. This rule is backed by the 1982 Citizenship Law, which restricts full citizenship, except for 'indigenous' groups such as the Burmans and Mons, only to citizens who can prove ancestors resident in Burma before the first British annexation of 1824-25. For many citizens this is a near impossible task, and it was a major reason for the exodus of 300,000 minority Muslims from Rakhine (Arakan) State into Bangladesh during 1991-92 after a border operation by the Burmese army went badly out of hand amidst widespread reports of murder, rape and robbery.

Other ethnic minority groups claim that they have consistently been failed by the authorities in middle- and high-school examinations which Burman classmates have passed. Moreover under the BSPP's regional college system, still in force today, it has become increasingly difficult for candidates from ethnic minority areas to travel to the main cities. Education in ethnic minority areas appears to have been relegated to second-class status (see below).

Teachers are subject to intense political pressures and conditions. The mass purge of the educational system by the SLORC since 1988 on the basis of questionnaires and political views (see below) only echoes earlier sackings in the 1970s when teachers were expected to support the BSPP and the propagation of the 'Burmese Way to Socialism'.

The authorities have also employed restrictions on religious grounds. In keeping with the tenets of the 'Burmese Way to Socialism', religiously based schools and education have been barred. This move was supported by many citizens because an attempt by U Nu in the early 1960s to make Buddhism Burma's official state religion caused considerable unrest amongst the Christian and Muslim minorities, who make up some 15 per cent of the population.

Under the SLORC, however, the government's record is more complicated. Burma's estimated 150,000 Buddhist monks, who have played a leading role in the democracy movement, have been as censored and suppressed as any section of the community. Monasteries continue to play an important role in teaching young people in Burmese society, and dozens have been raided and hundreds of monks have been arrested.¹⁶ At the same time, the SLORC has also undertaken moves that many observers believe are preparing the way for the military's own brand of Buddhist, one nationalism which discriminates against minority religions and teaching. Since 1988 church and mosque land has been confiscated, SLORC officers have frequently spoken in the state media of their defence of Burma's 'Buddhist culture' and, following a campaign supporting Buddhist projects in ethnic minority states, many clerics fear religious minorities will be undermined even further. Teachers, pastors and religious elders from Muslim and Christian backgrounds have been singled out for arrest in Burmese army operations in Rakhine state and the Irrawaddy Division of the Delta where, eyewitnesses claim, a number were extrajudicially executed in late 1991.

Regarding sexual discrimination, reliable statistics are not available, but female graduates have consistently failed to reach senior positions in the academic hierarchy. This stands in contradiction to the theoretical equality enjoyed by women in education. Women form a majority of the students and teaching staff in many of the country's schools. This predominance continues in higher education. According to the most recent SLORC statistics for the country's leading twenty-seven

institutions (including three universities) of higher education, females constitute 68,358 of the 128,388 students as opposed to 60,030 males, while of the 5,443 teaching staff there are 3,646 females against just 1,797 males.¹⁷

Academic Freedom

Institutional and legal status of higher education

In practice, military control is absolute over all aspects and levels of higher education in Burma today. But on paper the institutional status of colleges of higher education has long been legally founded. Under the University of Rangoon Act of September 1920, the self-government of university affairs was guaranteed under the authority of the university chancellor, vice-chancellor, council and senate. Under the 1924 Amendment Act, provision was made for the affiliation of colleges in other towns in Burma and for a broader representation of public bodies and popular interest groups on an enlarged council. Mandalay Intermediate College was established in 1925, and from the inaugural 829 students in 1920 the number of students at Rangoon University had risen by 1935 to some 2,500, one quarter of whom were female.¹⁸ Following a series of student protest strikes in the mid-1930s, another University Amendment Bill was passed in 1939, giving wider control over the university and its colleges back to the government. The university council was reconstituted with a larger non-university element.

Rangoon University was closed for much of World War Two, but in 1946 the 'Interim University' was opened. In 1949 the University Suspension Withdrawal Act, followed by an Amendment Act the same year, enacted many of the provisions of the Provisional Committee of the Interim University. But the committee's recommendation for a collegiate-centred system of education was rejected by the U Nu government in favour of a unitary system which gave greater central control to the university.

With the introduction of free education in 1951, student numbers increased rapidly, from 2,003 in 1946 to over 13,000 by 1959, and the number of departments proliferated.¹⁹ The momentum was maintained by the transformation of Mandalay Intermediate College into a full university in 1958. In order to accommodate the growing number of high school graduates,

several intermediate colleges were opened, including Moulmein (1953), Kyaupkyu (1954) and Bassein (1958). (Little noticed at the time was the military Defence Services Academy, founded in 1953 which, though running its own courses, was affiliated to Rangoon University. Ultimately it was Ne Win's military graduates who were to have the greatest impact on national life.)

As higher education became increasingly tailored to meet the needs of a developing country, the democratic era of the 1950s was a period of relatively open debate on the role of education in Burma. For example, during the Education Enquiry Committee of 1957, chaired by Prime Minister U Nu, 630 different testimonies were heard and education specialists were invited from 13 countries, including China, the Soviet Union, the UK and the USA.

This period of reform came to an abrupt end with the 1962 military coup. Protests were bloodily crushed at Rangoon University in July 1962 (see below). Under the 1964 University Education Act and the 1973 Union of Burma Education Act, universities were assigned the role of helping in the construction of a socialist economy and society. A college system was adopted and Burma's two universities and five intermediate colleges were reorganised into nine institutes, two arts and science universities (Rangoon and Mandalay), and seven colleges. All were state-owned under the ministry of education, which developed two directorates for tertiary education: higher education and medicine.

Dispensing with the 'unitary' or 'central university principle', these reforms allowed the BSPP to begin the expansion of what were intended to be vocational or specialist colleges of higher education; by 1970 seventeen such colleges had been opened.²⁰ However, following another series of disturbances at Rangoon University in the years 1974-76, the BSPP decided to disperse Burma's restive student population by building up a system of regional colleges.²¹

The new regional colleges were set up with a twofold remit: vocational education and courses to run parallel to university. But the curriculum proved to be an ill-defined mixture of the two, and the colleges' low standards made it impossible for students later to transfer or gain entrance to university. On 1 April 1980 the regional colleges were therefore transformed into 'two-year colleges' from which students could transfer to university, and in the mid-1980s six 'two-year' colleges (Bassein,

Magwe, Myitkyina, Taunggyi, Sittwe and Rangoon Workers' College) were upgraded to 'four-year' colleges with degree-style courses.²² In 1986 Moulmein College was reformed as Moulmein University, Burma's third university; at present the seventeen regional colleges are affiliated to the country's three universities on a geographic basis.

All Burma's universities and institutes of higher education were closed down by the authorities (both BSPP and subsequently SLORC) for most of 1988 and all of 1989-90. They briefly reopened in May 1991, but were again shut down in December that year when anti-SLORC protests broke out at Rangoon University celebrating the award of the Nobel Peace Prize to Aung San Suu Kyi.

Martial law regulations continue to be widely used to control the movement of students and teachers, and future educational reforms are being mooted. For the present, the universities remain, in theory, under the ministry of education. The one exception is the Academy for the Development of National Groups, a small institute set up in 1964 in Sagaing Division to propagate the 'Burmese Way to Socialism' in ethnic minority areas. On 10 May 1991, under SLORC Law 9/91, the academy was reformed as a university run directly by the SLORC. An approach to UN agencies for educational support was rejected because of the clear military and political restrictions involved.

Controls by the state and other sectors

Critics of the BSPP and its successor the SLORC have argued that every reform of higher education has been a means of extending state control and preventing dissent; where paper reforms have not worked, the army has not hesitated to use force. As Ne Win infamously warned in his 1988 resignation speech, 'When the army shoots, it shoots to hit'.

Reputedly a failed student of Rangoon University himself, Ne Win is believed by many citizens to have deliberately inculcated an anti-intellectual philosophy into the present army leadership. There have been frequent confrontations. Eyewitnesses claim that over 100 students were killed in July 1962, shortly after Ne Win seized power, during protests at Rangoon University. These ended with troops blowing up the student union building, which had been the symbolic centre of nationalist protest since the days of Aung San. Hundreds of students went

underground to join the Communist Party of Burma or other armed nationalist groups, and for the next two years the universities were intermittently closed.²³

More students were killed and hundreds arrested by the security forces in protests that swept Rangoon between 1974 and 1976, notably in demonstrations surrounding the funeral of former UN Secretary-General U Thant.²⁴ But the most horrific violence was unleashed in 1988 when troops repeatedly opened fire on student-led protests in Rangoon and several other towns.²⁵ In one notorious incident in March 1988, forty-one students were suffocated to death in a truck driven round the city for two hours on the way to Insein jail. A provocative figure in all these incidents spanning nearly three decades was Brigadier Sein Lwin, who in July 1988 was Ne Win's chosen successor as chairman of the BSPP.

Following the SLORC's assumption of power, thousands of students disappeared from Burma's schools and universities. Despite widespread international condemnation, there has never been an investigation into any of the events of those months. In late 1988 the SLORC declared an amnesty for students and, according to the government, over 2,000 returned. But a number have subsequently been arrested or killed. Thousands of students still remain unaccounted for, but until real peace returns it will be impossible to distinguish who is under arrest, dead, in exile or underground with armed opposition groups.

Set against this violent background, the political and security controls employed by the authorities might appear insignificant, but they are just as important in the creation of the state of fear that at present exists. Critics argue that a particular tactic of the security forces has been constantly to break the student population into ever smaller groupings. For example, the regional college system of the 1970s effectively prevented thousands of students from outlying rural or ethnic minority areas from reaching the cities. As at Rangoon and Mandalay universities, teaching staff and administrators were invariably expected to be BSPP members, a requirement that further ensured the spread of central control. Similarly, specialist institutes (Agriculture, Economics, Technology, Foreign Languages etcetera) have been set up which, lecturers claim, have undermined teaching standards at the universities by breaking up scant resources and the student body even further. Academic gains have been nonexistent.

A correspondence course system was also established in the mid-1970s which, though completed by many working students, was underfunded and poorly run. But it did achieve at least one objective in keeping thousands of students away from the urban campuses. According to the BSPP, in 1987-88 a remarkable 104,687 students were enrolled on university correspondence courses as opposed to 255,866 students in universities and colleges of higher education.²⁶

Under the SLORC, military control has been tightened in every respect and a thorough purge of educational institutions has been undertaken. Following the coup, all teachers and staff were ordered to fill in forms describing their actions during the democracy protests. Amongst those reportedly dismissed at this stage were the Rector of Rangoon University, Dr Chit Swe, the Head of Physics, Professor Tin Aung, and the Director of the Institute of Education, Khin Maung Tint. Also pensioned off was the Rector of Rangoon Institute of Technology, Khin Aung Kyi.

With new technicians and graduates in desperately short supply, some final-year medical classes were quietly restarted early. But when the universities finally reopened in May 1991, there was a strong military presence, and according to student groups at least one in ten students in each class was reporting to the Military Intelligence Service. This did not prevent students from planning a new wave of protests, and in December 1991 the campuses were once again abruptly shut down. According to Amnesty International, as many as 900 students were arrested and a number were wounded.

This was the cue for the SLORC to intensify its purge of the education system. During 1991 all government servants, including teachers, had been required to fill in detailed questionnaires on their political beliefs and many had subsequently been sacked (see below). With the universities now shut, the SLORC sent teachers away on 're-education' courses organised by the Military Intelligence Service. Those who failed were sacked. By April 1992, diplomats in Rangoon estimated that over 7,000 teachers had been dismissed, including another 200 staff from Rangoon University, bringing to over 1,000 the number of local university staff estimated to have been sacked since 1988. According to a Rangoon-based diplomat, Burma's military rulers seemed 'to have an unending appetite for getting rid of people who don't agree with them. They will reduce the universities to kindergartens if they have to, to get people to see things their way'.²⁷

Those who remained in their jobs were ordered to take on security responsibilities for the SLORC. For example, at Rangoon Workers' College, which part-shares campuses with Rangoon University, each corridor and staircase was divided into 'security divisions' under the command of department heads, with lecturers required to report on the movement of their students. At the University for the Development of National Groups, which is entirely run by the SLORC, students are expected to undergo military training as part of their studies.

Perhaps nothing symbolised the militarisation of higher education more than the conduct of the SLORC education minister, Pe Thein. A medical doctor and former Rector of Mandalay Institute of Medicine, in 1988 he became the only civilian in the SLORC cabinet when he was appointed minister of health, a post which was in 1989 expanded to take in education. Towards the end of the year, though the universities were closed, he was given the new title 'Commanding Officer of the University Training Corps' with the rank of colonel, since when, colleagues say, he has taken to wearing a uniform, medals and a revolver.

The reopening of universities and colleges of higher education remained a major problem for the SLORC. After much speculation, classes officially started again in August 1992, but it was not clear how many students - or from what academic years and under what conditions - would be permitted to return. SLORC officers approached UN officials with the novel suggestion that, as an economy measure, universities could be reduced to a fast-track elite of just several thousand students at selected campuses, whilst the remainder would remain at home and study by radio, television and post. Following discussions it was thought unlikely that the SLORC would proceed on such a drastic scale, but on 29 July 1992 the state-run *Working People's Daily* confirmed that a new correspondence system, the University of Distance Learning, would soon be developed. Few details were revealed, but the military, it seemed, were determined to prevent any further disruptions caused by uncontrolled gatherings of students.

Discrimination related to political belief, religion and ethnic origin

Under SLORC Decree 1/91 of April 1991, all public personnel, including teachers, have been banned from engaging in politics.

Spot checks have been threatened at schools and offices, and public servants have been ordered to report on the activities of their children and relatives. But the most extraordinary evidence of the SLORC's determination to discriminate on the grounds of political belief, religion or ethnic origin has been the questionnaires issued to all teachers and government servants in April 1991. State employees were required to give their views on a wide range of subjects, including Aung San Suu Kyi, the near-defunct Communist Party of Burma, armed ethnic nationalist forces and the CIA.²⁸ At some colleges teachers reported that those who gave 'incorrect' answers were called in and asked if they wanted to change any of their replies which, they were warned, would remain on file. Following the sacking of hundreds of teachers on the basis of these forms, the academic establishment is, for the present, completely cowed.

A more subtle, though equally severe repression had existed under the BSPP. As described above, ethnic minority students have been particularly discriminated against. Minimal resources are spent on the ethnic minority states, which are firmly at the bottom of Burma's educational league table. Despite the extraordinary ethnic diversity of Burma, no official research or teaching is carried out in any minority language in secondary or tertiary education today. This is only the most obvious manifestation of what ethnic minority nationalist leaders say has been a deliberate policy of 'Burmanisation' since Ne Win seized power in 1962, and stands in complete contravention to Burma's independence constitution. With large parts of the country off limits, few details emerge of educational conditions in many ethnic minority communities, and it is impossible to verify many charges of anti-minority discrimination. But in January 1991 colleagues who escaped to Thailand said that two ethnic Mon intellectuals, the monk Nai Nawn Dho and Rangoon University lecturer Nai Manawchrod, were arrested after they attempted to promote the use of the Mon language.

Limitations on Freedom of Association

Since the 1920s, Burma's students have stood in the forefront of political protest in Burma. This situation was largely tolerated by the U Nu governments of the 1950s, when student groups and factions of every ethnic and political variety flourished on

campuses. The two main student organisations, the Rangoon University Students Union (RUSU) and the All Burma Students Union (ABSU), who number Aung San and U Nu amongst their former leaders, played a prominent role in national life.

With the dynamiting by soldiers of the RUSU building in 1962, free student union activities came to a virtual halt. The University Teachers Association was also forced to close down. Under the 1974 constitution, trade unions were technically permitted but had to support the maintenance of the socialist order. In their place, non-political student clubs or associations have been permitted to form, with teaching staff taking prominent positions on the executive committees. Usually these are subject-related (for example, Geology, Geography), but Christian and Buddhist associations have been permitted. An Association of Indigenous Groups existed under the BSPP in which different groups were allowed to teach local languages and celebrate national festivals, but their activities were always monitored by MIS agents.

During the democracy uprising of 1988, free student and teachers' organisations were formed around the country and, with the monks, took a leading role in the strike committees that sprang up in every town. The All Burma Federation of Students Unions headed by Min Ko Naing (Paw U Tun), a third-year zoology student, was set up in August 1988, and at one stage claimed to have 50,000 members. Under the martial law conditions enforced since September 1988, all such groups, parties and independent trade unions were banned. Under the SLORC Order 2/88 public gatherings of more than five people have been declared illegal whether 'the act is with the intention of creating disturbances or committing a crime or not'.

On the basis of such regulations restricting freedom of association, thousands of activists have been arrested and the student movement has fractured into several groups for survival. Many of those detained have been given long jail terms. Torture has been widespread.²⁹ Information is still lacking on hundreds of those still detained, but amongst the best-known cases are those of Min Ko Naing, the ABSU chairman, who is believed to have received a twenty-year jail sentence, and the party general secretary, Aung Din, who received a fifteen-year sentence. Others believed to be still in detention include U Kyaw Thiha, a Mandalay University history lecturer, Kyaw Soe Aung, leader of

the predominantly Muslim Mayu Student Development Party, and Min Zeya of the All Burma Students Democratic Association.

Limitations on Freedom of Expression

After the closure of schools and the killings, arrests and mass sackings of recent years, there is absolutely no freedom of academic expression in Burma today. Even under the BSPP, all writings had to go before tough censorship boards before they could go to press - and even then the numbers of copies printed were tightly restricted. Under the SLORC a complex labyrinth of laws governs every aspect of the written and spoken word - and even the offence of 'opposition' in 'thought'.³⁰ Under Law 10/91 of July 1991, for example, the authorities can bar anyone they choose from political office on the basis of a long list of offences including 'moral turpitude'. Publishers in particular face considerable risks and under Martial Law 16/89 of June 1989 maximum sentences under the 1962 Printers and Publishers Registration Law have been increased to seven years' imprisonment and/or fines of 30,000 kyats (US \$5,000). On the basis of these laws, hundreds of printers, political activists and students have been arrested.

In 1991 the SLORC launched its own 'cultural revolution' and all music, art, cinema, research and writings are now expected to conform to patriotic standards. Indeed the only academic institution to have worked uninterrupted since 1988 is the Historical Research Commission at Rangoon University, headed by Daw Ni Ni Myint, the wife of Ne Win, which has whitewashed the role of the Burmese army and sought to portray the present army leadership as the embodiment of all national aspirations. The overall result, therefore, of thirty years of military rule is a quiescent academic sector, press and publishing industry. Independent research is stifled, controversy is avoided, and only safe topics are investigated or reported.

As described above, one major area completely suppressed is the study of ethnic minority affairs. Except in the Institute of Foreign Languages in Rangoon, where Chinese is taught, in Burma there is absolutely no official study or teaching of any minority language at all. Cultural, historic, economic or religious studies are equally suppressed.

Postgraduate students too have suffered as a result of thirty years' isolation, stagnation and interference in the education system. Under the BSPP, all PhD programmes in Burmese universities came to an end. The few PhD students allowed to travel abroad were for the most part restricted to scientific subjects, but many never returned. The decline in the standards of English teaching has proven a particular handicap. One result has been the virtual collapse of specialist departments, such as Anthropology, Philosophy and Art, since for thirty years few trained teachers have come through. Ironically, despite the military's discrimination against PhDs in the arts, several doctors with non-scientific PhDs from the democratic era of the 1950s came to occupy leading positions in the BSPP education system.

The exodus of academics has gathered pace since 1988 and the SLORC appears willing to let intellectuals who desire to leave Burma do so. At Assumption University in Bangkok alone, over 100 Burmese lecturers are working, including the former Rangoon University rector Dr Chit Swe. Over 2,000 students have applied for refugee status with the UN in the Thai capital where, under constant threat of detention, they face an uncertain future.³¹ Meanwhile hundreds of students, as well as many of their teachers, remain in the jungles where the armed All Burma Students Democratic Front remains active.

For the moment it is hard to see how they can ever return to their studies. Burma's political crisis continues and yet another generation of young students has lost any fair chance of education.

Notes

1. The renaming of Burma as 'Myanmar Naing-Ngan' (Union of Burma) by the SLORC in June 1989 has yet to become widely accepted colloquial usage and is not used hereafter. The title is rejected by many ethnic minority parties as being the historic ethnic Burman name for the country.
2. The terms 'Burman' and 'Burmese' are confusing and often used interchangeably. But generally 'Burman' is used to refer to the majority ethnic group and 'Burmese' to citizenship or language, that is, someone can be an ethnic Shan or Kachin but a Burmese citizen.

3. See, for example, Amnesty International, *Myanmar: In the National Interest*, London, 1990; Asia Watch, *Human Rights in Burma (Myanmar)*, New York, 1990; Article 19, *State of Fear: Censorship in Burma*, London, 1991; International Human Rights Law Group, *Report on the Myanmar Election*, Washington, 1990.
4. See, for example, Amnesty International, *Burma: Extrajudicial Executions and Torture of Members of Ethnic Minorities*, London, 1988.
5. For a detailed account of the development of schools in Burma, see, U Kaung, 'History of Education in Burma Before the British Conquest and After', *Journal of the Burma Research Society*, Vol. 2, December 1963.
6. Ono Toru, 'The Development of Education in Burma', *East Asian Cultural Studies*, Vol. XX, March 1981, p. 114.
7. *Ibid.*
8. *Ibid.*, pp. 121-3.
9. *Ibid.*, p. 126; Ministry of Education, *Education in Myanmar*, Rangoon, 1990, Appendix D.
10. Toru, p. 115.
11. *Ibid.*, p. 116.
12. *Ibid.*, pp. 121, 124.
13. Martin Smith, *Burma: Insurgency and the Politics of Ethnicity*, Zed Books, London, 1991, p. 165.
14. Ministry of Planning and Finance, *Report to the Pyithu Hluttaw on Financial, Economic and Social Conditions*, Rangoon, 1988, p. 224.
15. See, for example, Smith, pp. 15-7.
16. Article 19, *State of Fear*, pp. 62-6.
17. Ministry of Education, *Education in Myanmar*, Appendix D. However, while demonstrating the majority of females over males, these undated figures, published in the atypical year of 1990 when the colleges were still closed, must be treated with some circumspection.
18. Toru, p. 116.
19. Nyi Nyi, 'The Development of University Education in Burma', *Journal of the Burma Research Society*, June 1964, p. 33.
20. Maung Khin Myint, 'University and Nation Stand Together', *Forward*, 1 December 1970, p. 7.
21. *Far East Economic Review*, 9 September 1977, pp. 30-1.
22. Today Rangoon Workers' College is theoretically a part-time college, running five-year courses.
23. Smith, pp. 202-3.
24. *Ibid.*, pp. 268-71.

25. For descriptions of these events see, for example, *ibid.*, pp. 1-22; Bertil Lintner, *Outrage: Burma's Struggle for Democracy*, White Lotus, Bangkok, 1990.
26. Ministry of Planning and Finance, *Report to the Pyithu Hluttaw*, p. 224.
27. *The Nation* (Bangkok), 31 March 1992.
28. Article 19, *State of Fear*, Appendix 4.
29. Several cases were reported in the BBC TV documentary 'Forty Million Hostages' (BBC *Everyman*, 1991).
30. For an overview of SLORC laws relating to freedom of expression, see Article 19, *State of Fear*, pp. 33-5, 46-50, 53-8, 60-2.
31. The Thai government announced plans to open a compulsory 'safe camp' for an initial 500 Burmese students in 1992 near the border where academic classes may be permitted. But though over 1,300 Burmese exiles registered, as yet the curriculum and the legal status of the courses and refugees have not been announced and many doubts remain.

4. Lebanon

Anonymous

Lebanon became an independent state at the end of World War One following the collapse of the Ottoman Empire, of which Lebanon had been a part for almost four hundred years. During this period, however, Lebanon alone among the Ottoman provinces enjoyed an autonomous status.

The modern state of Lebanon came into being as the result of an agreement between seventeen ethnic and religious communities, among them the Christian, Muslim and Jewish communities. Lebanon is unique among the countries of the Middle East in that it has no state religion and its constitution guarantees freedom of belief to all communities. Moreover, the constitution gives the different communities a central role in the governance of questions concerning the family (marriage, divorce, adoption, inheritance) and education, so much so that the Lebanese political regime, a parliamentary republic, can be described as a federation of communities.

Until 1990 Lebanon occupied a prominent place in media coverage of world news; scarcely a day passed without references to the country in television and radio broadcasts. Very often the situation was referred to as a 'civil war' between Christians and Muslims, and the roles of the PLO, Syria, Israel and Iran were usually left unexplained in the many analyses offered of the war's developments.

What have come to be known as 'red lines' were drawn in Lebanon very soon after the intervention of Syrian forces in the country in 1976 and the Israeli invasion of the south in 1978. These red lines delimited the effective control of Lebanese territory (including its air space and territorial waters) between Israel and Syria, leaving Lebanese protagonists with very little room to manoeuvre and exercise power. The strategy of Israel and Syria, the two main forces in the region, was to integrate themselves with their military allies in Lebanon by providing them with the logistic support required to maintain and perpetuate the war. This strategy transformed Lebanon into an enclosed space in which countries directly or indirectly involved could exert pressure on countries with which they were in

dispute without any direct official involvement. Hence, Western nationals were taken hostage by local militias as a means of putting pressure on the USA and the European powers.

Dramatic changes occurred in 1989 when the outgoing President of the Republic transferred power to a government headed by the commander-in-chief of the Lebanese army. When the army sought to bring down the militias in Lebanon, it acted against the interests of the occupying powers. This led to a confrontation between the army and Syrian forces and for several months the territory controlled by the army was besieged and blockaded until it eventually fell to an outright invasion by Syrian forces backed by air power. This occurred on 13 October, 1990: for the first time since the outbreak of war, the rules of engagement were broken and the red line fixed by both regional powers was overstepped without interference from Israel.

This invasion was depicted as 'complying with the wishes of the international community by the American administration and as an action leading to the re-establishment of a legal government in Lebanon' as the result of a meeting of Lebanese parliamentarians in Ta'if in Saudi Arabia.

The country's future therefore remains at the mercy of non-Lebanese forces, principally Syrian and Israeli, who officially justify their presence by pretexts which range from 'fraternal support for the Lebanese people' and 'pacification' of Lebanon to 'imperatives of [their own] security'. All of this is in contradiction to United Nations (UN) resolutions (notably number 520 which demands the withdrawal of all non-Lebanese troops and number 425 which demands the withdrawal of Israeli troops from the south) and despite the demands of the Lebanese authorities as expressed in 1983 and 1989.

About 900,000 Lebanese have left the country since the outbreak of war in 1975, among them many opposition leaders. More than 200,000 people have left during the past two years. The resident population is now estimated at 2,750,000 persons.

Socio-economic Conditions

Despite the cessation of large-scale hostilities, little positive change can be noted in the general conditions of life of the population, largely because the government has its hands full with political and security problems. Re-establishment of

democratic life has been 'adjourned' on the pretext that 'the process of reconciliation must not be compromised'.

Sixteen years of conflict has resulted in an estimated US\$25 billion worth of material damage. At present, 400,000 of the estimated population depend on humanitarian assistance to meet their basic daily needs. About 800,000 persons displaced since 1975 live as refugees inside their own country, although the Ta'if Agreement to end the war guarantees both their right to return to their homes and their freedom to move and settle throughout the country. A recent study indicated that 681,000 of them (some 22 per cent of the population) reside under conditions far below the minimum acceptable standards of living. Basic social services, water and electricity supplies, and public transport have all collapsed. Crises in the Gulf and Liberia have exacerbated the situation: 55,000 Lebanese were compelled to return home. Loss of remittances, frozen or lost assets, and the loss of export markets accounting for 25 per cent of Lebanon's pre-war annual exports, as well as increased energy costs, are other problems which have stemmed from the conflict.

Public internal debt has reached over US\$2 billion whilst the external debt is only US\$600 million. The deficit in the trade balance stood in 1991 at US\$2.6 billion. Inflation during the past six years has reached an average of 120 per cent (it was 5 per cent before the war). The average wage is one-third of its level in 1982.

The rate of unemployment is over 35 per cent. During late 1991, the minimum salary was raised from 75,000 to 120,000 Lebanese pounds per month (corresponding originally to a rise from US\$85 to US\$136). Figures available from the Confederation of Trade Unions for December 1991 indicate that a family of five persons required US\$825 to meet their monthly requirements, a quarter of which goes on education.

Until recently, international assistance to Lebanon aimed to give assistance in emergency situations. At present, international support for the reconstruction and rehabilitation of Lebanon falls far below the level required. The International Fund for the Reconstruction of Lebanon, which was formally established in 1990 as a part of the Ta'if Agreement and financed at US\$2 billion, has not yet become operational. In late 1991, an international meeting was convened by the World Bank to discuss Lebanon's request for US\$4.45 billion in assistance from the international community for a five-year reconstruction and

rehabilitation programme. The meeting resulted in tentative pledges from the European Community to provide US\$700 million, primarily in the form of loans. Simultaneously, a United Nations Inter-Agency Mission reported that Lebanon was in need of immediate international assistance of US\$418 million.

The Council for Development and Reconstruction estimates the current level of international assistance at US\$100-150 million. It is generally felt in Lebanon that the volume and availability of international assistance is linked to the state of the Middle East Peace Conference.

The Education System

Public education in Lebanon dates back many centuries; for example, compulsory schooling was envisaged in the thirteenth century by the Maronite Church Council for members of this Catholic community. Education developed during the first half of the nineteenth century with the arrival of French and American missionaries, and spread throughout the country; access to primary education became available to all. Access to secondary and higher education, however, was reserved for the well-to-do.

Since that period, private schooling has held a predominant role. There were 1,037 private schools in 1926 and 1,320 in 1941, providing education to some 80 per cent of children of school age. Private schools now teach 60 per cent of school-age children but account for only about 45 per cent of school buildings and half of the country's teachers. Public schooling progressed from 348 schools in 1943 to 1,203 in 1963, an increase of 855 schools. During virtually the same period, from 1943 to 1964, the number of private schools rose from 1,279 to 1,456, an increase of 177 schools. Since the beginning of the war the number of schools has decreased.

Education in public schools and in some private establishments is entirely free of charge. In 1986-87 there were 464 free schools among the 1,090 private schools, compared with 697 free schools just before the outbreak of war.

Lebanon's education system, both private and public, has four levels: primary education (five years), complementary education (four years of academic or technical instruction), secondary education (three years of academic or technical instruction) and higher education. The end of secondary studies

is marked by the Baccalaureate, which is required for admission to higher education.

The ministry of education, operating through its five directorates, including the general directorate for education and the directorate for technical education and professional training, is responsible for the whole system of public education. The ministry also runs a research centre for pedagogical development, and a planning institute for the provision of technical and human resources.

Human Rights

Lebanon played an active role in drawing up the Charter of the United Nations and the Universal Declaration of Human Rights. Through the country's constitution of September 1991, Lebanon undertook to respect both the Charter of the United Nations and the Universal Declaration of Human Rights.

Lebanon has ratified or acceded to twenty-one international human rights conventions, including the International Convention on Economic, Social and Cultural Rights, the International Convention on Civic and Political Rights, as well as the convention creating UNESCO and its convention, number 111, concerning discrimination in the educational sector.

Article 51 of the Lebanese constitution states that international conventions must be validated by a vote of the National Assembly without giving precise details as to the assembly's validity as a source of internal law. The international treaties, if ratified by the parliament, are generally regarded as part of Lebanese national law. The Civil Code envisages the right to derogate from national law in the case of conflict between national and international laws. However, the courts have rarely applied this rule.

There is no provision in Lebanese law for any control on the constitutionality of laws, even though the Ta'if Agreement calls for the creation of a constitutional council to perform this function. To date, no action has been taken to implement this provision.

The sixteen years of warfare and the destruction of state institutions by the occupying powers and local militias made effective protection of human rights almost impossible. Moreover, human rights organisations like Amnesty

International have frequently stated that 'the lack of a central government and inter-factional fighting between governmental and non-governmental forces' in the country has made research into the human rights situation extremely difficult.' It can be stated with some certainty that all sides have been responsible for human rights abuses.

Although the Ta'if Agreement brought an end to hostilities, it did not remove the forces that had been responsible for violating the fundamental rights of the people. In some cases, those who had either directly or indirectly been involved in the harassment of the population emerged as members of parliament, or cabinet members, others were senior civil servants in the state administration. Moreover, the amnesty announced by the government in August 1991, which enabled the release of 317 detainees, went so far as to cover crimes such as politically motivated killings.

Violations of the constitution and Lebanon's laws by those who govern the country are so common that even the Ta'if Agreement, which when it was adopted was presented as an untouchable and monolithic document beyond modification or criticism for fear of a return to violence, is violated by those who created it.

Freedom of speech has been seriously compromised and the press practises self-censorship at the express request of the head of the press association after the latter 'was asked' to do this.

Arbitrary arrests of political opponents by the army and military police reportedly continued on a large scale during 1991 and the first half of 1992. According to Amnesty International, several prisoners of conscience were among those arrested. Some reports have been received alleging torture and maltreatment of detainees both by government forces and by various militias and armed groups. Political assassinations of writers, university professors and others in the years up to 1991 have not led to judicial proceedings, and probably never will as an amnesty promulgated in March 1991 covers these actions.

The entire political system has thus become an instrument for the legitimisation of the warlords and the traditional political class, forcing the intellectual elite to be silent or go into exile. As a result, almost one-third of Lebanese university teachers have left the country and some faculties have lost up to 60 per cent of their teaching staff.

The Right to Education

Educational rights and freedoms are guaranteed by the constitution which states that 'education is free in so far as it does not act against public order and good morals and does not affect the dignity of religious beliefs' (Article 10). The constitution also lays down 'the right of communities to have their own schools within the framework of general directives concerning public education promulgated by the state'.

Lebanon's membership of ALECSO (the Arab League's equivalent of UNESCO) gave rise to widespread criticism from a large portion of public opinion. Joining ALECSO was seen as threatening educational freedom in Lebanon and the status of women and, in more general terms, as endangering the religious, cultural and linguistic pluralism characteristic of Lebanon since its inception. The minister of education declared as a result that Lebanon had ratified the convention to join the organisation with the reservation that ratification would not apply to measures which ran counter to the Lebanese constitution, notably Article 10.

The 1989 Ta'if Agreement envisages obligatory primary education. By 1991, little had been done to implement this ruling with the exception of a decision in principle by the Council of Ministers in December 1991 that primary education should be obligatory and free of charge, a ruling subsequently extended to complementary education. Implementation of this decision, which contained no timetable, remains a distant goal because the allocation for education in the state's budget has continued to diminish since the outbreak of war: education accounted for 21 per cent of the general budget in 1974 but only 8 per cent in 1989-90.

The productivity of public schools is well below that of private schools, notably because the ratio of pupils to teachers has fallen to eight to one in public schools, whilst it is sixteen to one in private schools (1991).

The role of public schooling remains reduced in consequence of the weakening of the state and also because the state has neglected its role in this field: in 1988/89 the number of pre-university public schools was 1,271, catering for 237,054 pupils, whilst there were 1,034 private schools (626 charging fees and 408 free of charge), catering for 482,661 pupils (130,146 in free schools and 352,515 paying fees).

Indeed, the private sector has taken over responsibility from the state for absorbing the shock of the demographic upheavals caused by the forced displacement of people and destruction of the education infrastructure. This, however, has been at the people's expense: the number of free private schools has fallen from 697 before the war to 408 in 1989-90. Meanwhile, the number of fee-paying schools has risen from 514 pre-war to 626 in 1989-90.

The right to education and the effective implementation of this right by the state is at the centre of a polemical debate concerning the duty of the state to ensure that schooling is free of charge, at least in primary schools. In fact, the economic crisis has deepened to such a degree that schooling for children has become a major problem in Lebanon. In 1989, a family with three children needed to devote more than half of an average salary to schooling, without taking into account the cost of books and school buses.

The demand for free schooling is in line with the right of parents to choose freely the type of education they wish their children to have without having to be deprived of help from the public treasury, on equal terms with those parents who entrust their children to public schools, it being understood that public schools are incapable of finding places for all schoolchildren.

This principle was acted upon only once in 1986 when 6 per cent of the budget of the ministry of education was allocated to the private schools, but the debate on this subject remains open.

The impact of the war on the educational sector has been characterised by the destruction of buildings, which reduced the number of schools from 2,628 on the eve of war to 2,434. This reduction occurred even though a number of public schools were built during the war years. Among the schools lost were 146 public and 290 free private schools. A total of 436 free public and private schools, most of them primary and complementary schools, as well as some university buildings were closed down during the war.

The looting of educational establishments, including university buildings, and their use by militias and foreign troops for military activities, have deprived students of laboratory equipment, didactic material and works of reference that are indispensable for their studies. The Faculty of Science, backbone of the Lebanese University, has been devastated. It had contained

research equipment and reference works in ultra-modern buildings.

Damage to public schools has been estimated by official sources in 1991 at US\$60 million and the financial requirements of the sector are put at US\$120 million spread over five years.

The closing off of parts of the country by armed groups has left teachers isolated from students who could not move from one region to another without danger. As a result, some schools were without teachers while others were being called upon to accept more pupils. A fall in teaching standards was thus inevitable. A fall in attendance at schools has been another consequence of the war.

In 1988-89 the number of children attending primary, complementary and secondary public and private schools stood at 719,515 pupils compared with 808,468 pupils in 1986/87. These figures show that the number of pupils attending these schools fell by 11 per cent in three years. This fall was caused by a number of factors: emigration, forced displacement of people, a demographic decrease as a result of deaths during the war, and the enrolment of young persons in the militias.

As the result of the fighting during the past three years, 20 to 30 per cent of children aged between six and eight years did not attend primary schools, 50 per cent of children aged between eleven and fourteen did not attend complementary schools while the same proportion of those aged between fifteen and seventeen failed to attend secondary schools.

Between 1975 and 1990, one-third of the time allotted for education, that is, some thirty-seven months, was lost because of closures of schools and universities because of such factors as the war, blockades or closing of roads.

Academic Freedom

The status of establishments of higher education

Establishments of higher education in Lebanon have exerted a very significant role in training an intellectual elite in the Middle East; as a result, since the beginning of this century they have had a large impact on political life in the Middle East. The American University of Beirut, founded by American Protestant missionaries in 1866, was the first institution of higher learning

in Lebanon. It was followed by the Université Saint Joseph, founded by Jesuits in 1881.

The Lebanese University, a national institution providing higher education to all citizens free of charge, did not come into being until 1951, eight years after Lebanon became independent. It has thirteen faculties and 2,700 teachers.

In 1987 it had 47.3 per cent (about 40,000) of all students in higher education (83,891 students).

The Lebanese University has the status of 'public institution which enjoys academic, administrative and financial autonomy under the supervision of the Minister of National Education'. Its aim, as stated in its statutes, is 'to place the roots for human values in the minds of citizens'.

The Lebanese University is administered by a president-rector and a council which brings together the president, deans of faculties and directors of institutes as well as elected representatives of the teaching staff and students.

Other institutions of higher education have been created throughout this period, among them the Beirut Girls' College in 1885 and the University of the Holy Spirit founded in 1926 by the Maronite monastic orders. The Arab University, a branch of Alexandria University in Egypt, was opened in 1960. The University of Balamand in northern Lebanon opened its doors in 1987. After the University of the Holy Spirit, it is the second establishment of higher education to be located outside Beirut.

In 1987 there were eighteen establishments of higher education in Lebanon, nine of them universities. A consultative council of universities in Lebanon was established in 1967 to serve as a coordinating body 'without prejudice to their autonomy'. However, it is effectively non-functional.

Control by the state

The war has altered the state's control over the Lebanese University. Its statutory autonomy has been in doubt since 1977 when the councils that were responsible for its financial, administrative and academic management were abolished. These councils were democratic bodies elected from representatives of teachers, students and administrative staff.

Meanwhile, the fragmentation of the country, which meant that students were unable to pass safely from one region to another, led to the creation of mini-faculties in branches of the university. This has, however, subjected the university to a host

of military and politico-military influences, such as the influence of whichever occupation force controls the area where they are located.

The undermining of the university's autonomy continued in 1991 when the then Minister for National Education decided to confer powers over administrative and financial issues to a civil servant, contrary to the law dealing with the university's statutes. He also decided to expand his supervisory powers over the university, thus removing any real meaning from the statute of autonomy.

When students' ability to move from one region to another was restored and militia forces withdrew, university teachers created a movement seeking to restore university autonomy.

A strike by teachers began in May 1991 with the support of their students even though this put successful completion of their academic year at risk. The strike was backed by many cultural associations, women's organisations and the trades unions, all of whom wished to demonstrate their discontent over the progressive muzzling of the university and the reduction of its autonomy. The strikers demanded the reinstatement of the abolished representative councils, which were described by professors as being the only means to 're-establish democratic procedures and ensure the university's unity'. The strike lasted for two months and ended without any tangible results, despite the support of the then Minister for National Education. He was opposed by the other members of the government who held that 'many persons in posts of responsibility in the university had been nominated according to non-democratic procedures, often as the result of pressures by political factions'.

According to professors of the Lebanese University, the law to reform the university's statutes proposed by the government in November 1991 deals the *coup de grâce* to the university's autonomy and academic freedom. The law allows the Minister for National Education to ignore candidates put forward by the council of deans and to name as rector a person who lacks the academic qualifications required for the post (as is the case at present) but who enjoys 'a solid reputation in intellectual circles'. This subjective criterion might in practice pass control of the university into the hands of politicians.

In addition, the government proposed the creation of a 'ministry of higher education and scientific research' in December 1991. Professors of the National University publicly rejected the

proposal because such an institution would imply a direct threat to the autonomy of the university and its replacement by state dirigism.

Discrimination based on political opinions, sex, race and religion

Access to public schooling, including higher education, is denied to stateless persons, foreigners and people who cannot establish their identity for lack of personal documents. According to government sources, this restriction affects 180,000 persons. Many of these manage to send their children to schools run by the religious community to which they belong, but in doing this, they face a serious disadvantage because they cannot sit for examinations which they need to obtain official diplomas and qualifications.

There are a large number of women students (they made up 49 per cent of students at the Lebanese University in 1990) and they constitute a majority in some university faculties (arts and humanities), although men form the majority in scientific and technical disciplines.

Discrimination occurs against members of the teaching staff at the national university because of their alleged political opinions. During 1990, professors, as well as other public officials, who were residents of the zone controlled by the Lebanese army were subjected to the collective punishment of being denied their salaries for eight months reportedly because of their political opinions. The government that was installed after the Ta'if Agreement demanded that teachers submit a written statement of political allegiance as a condition for being paid their salaries. The text of the statement drawn up by the authorities was published in the press. Salaries were not paid in full in 1991.

In that year, teachers who were victims of this collective punishment decided to seek damages from the courts.

Restrictions on the rights of association

Contrary to Lebanon's constitution and ILO Convention 98 to which Lebanon is a party and which guarantees the freedom of association and the right to collective bargaining, the government has excluded teaching staff of the national university from the provisions of this convention by formally designating them as civil servants whose activities are governed by the state

administration, even though this runs counter to the convention's meaning. National law prohibits civil servants, and thus teachers, from joining professional unions and participating in strikes.

Freedom of research, to publish, to have international contacts and to travel

Restrictions on the freedom to publish were promulgated in 1991 by a directive from the head of the government. An administrative circular signed by the head of the government was sent in February 1991 to warn deans of faculties and teachers at the Lebanese University against allowing any protest movement on campus. Furthermore, Directive 54/91 prohibits any publication, lecture, press article, public declaration or any correspondence without the written permission of the government. The measures were rejected by university staff as anti-constitutional and contrary to human rights standards.

While freedom of research, and the freedoms to have international contacts and travel have not been subject to direct interference from the government, these rights were limited by the government's refusal to allocate sufficient funds for these purposes and by its payment of derisory salaries which force even tenured professors to seek work outside the university. Cuts by the government in the funds designated to the Lebanese University mean that these freedoms have been severely restricted. These funds have been reduced from US\$53 million in 1981-82 to about US\$14 million in 1989, even though the number of students increased by more than 50 per cent during this period.

The budget for the Lebanese University has thus been savagely reduced. For many years, there were virtually no funds available for research and teachers were forced to pay themselves to have their work published abroad and to keep abreast with international developments in their field. The National Council for Research has been paralysed since the beginning of the war and has not received funds for research. Many research workers have emigrated.

Notes

1. *Amnesty International Yearbook 1989*, p. 267.

5. Malawi

Richard Carver

Since it gained independence from Britain in 1964, Malawi has been ruled by the Malawi Congress Party, headed by Life-President Dr Hastings Kamuzu Banda. Since 1966 the country has been a one-party state, although during 1992 this state of affairs came under vigorous challenge for the first time since the 1960s.

Until 1992 there was no public discussion of political issues. The main newspapers and the radio station (there is no television) are under government control. Any attempts to question Dr Banda's government have been greeted with harsh repression. In March 1992, however, the country's Catholic bishops issued a pastoral letter criticising the one-party system and the government's human rights record. This has proved to be a catalyst for many other groups who are critical of the government. Two opposition political parties have unilaterally announced themselves as challengers to the government, despite the fact that they remain illegal. In October 1992, under pressure from both the internal opposition and the international community, President Banda announced that there would be a referendum on whether Malawi should have a one-party or a multi-party political system.

Even within the ruling Malawi Congress Party there has been no open debate. The question of who will succeed President Banda - who is in his nineties - is not a permissible subject for discussion. Nor is his real age. Constitutionally, the secretary-general of the party becomes interim president on his death, but for nearly ten years that post has been vacant. Successive secretary-generals have been dismissed, imprisoned, executed for treason and murdered in custody. The country's key political figure, aside from President Banda, is John Tembo, the Minister of State in the President's Office, who is widely regarded as being in day-to-day control of the government. John Tembo's niece, Cecilia Kadzamira, is President Banda's companion and the country's 'Official Hostess'. Members of the Tembo-Kadzamira family occupy important positions in all sectors of society, including education.

Women play an important symbolic role in Malawian politics, although they occupy a subordinate position in the society as a whole. The Chewa - the country's largest group, to which President Banda belongs - are matrilineal. One man, known as the *nkhoswe*, is delegated to mediate in disputes between the women heads of families. President Banda describes himself as 'Nkhoswe Number One' and claims to be ruling on behalf of the *mbumba*, the mothers and daughters. The effect of this is to exclude other men from power. Wherever he goes President Banda is greeted by women dancers, the *mbumba*, singing his praises. The national women's organisation, Chitukuko Cha Amai mu Malawi (CCAM), which is headed by Cecilia Kadzamira, also plays an economic role. CCAM members make handicrafts for sale, but are not paid for this work and do not receive the proceeds. Critics have compared the system with the colonial use of *thangata*, or forced labour.

For a quarter of a century Malawi has been seen as a staunch ally of Western interests in southern Africa. In particular, it has maintained diplomatic relations with South Africa throughout the period when that government was ostracised elsewhere in the region. Malawi has been a major recipient of both Western and South African aid and has received military and police training from South Africa. For much of the 1980s Malawi provided rear bases for the South Africa-backed rebels of the Resistência Nacional Moçambicana (RENAMO), Mozambique National Resistance.

In recent years, however, the changing situation in South Africa, combined with a growing economic crisis and Western concern over human rights abuses, has meant that Malawi's strategic significance has declined. The results of this fall from favour were seen in May 1992 when the major Western aid donors suspended all non-humanitarian assistance to Malawi until the government made serious efforts to improve respect for human rights.

Social and Economic Situation

Malawi has a population of some 9.5 million in an area of about 118,000 square kilometres; and one-fifth of that area is water. It is one of the poorest countries in the world: per capita gross national product is \$160, the infant mortality rate is 153 per 1,000

live births, and life expectancy is 46 years.¹ The country is divided into three administrative regions. The Southern Region comprises about 50 per cent of the population, the Central Region about 38 per cent and the Northern Region about 12 per cent.

The Malawian economy is dominated by agriculture. The country's main export products are tobacco and tea - and sugar to a lesser extent - much of it grown on large plantations in the south. The post-independence government has encouraged the development of smallholder agriculture in the Central Region. The increasing cultivation of cash crops has had a serious environmental impact, with widespread felling of trees causing soil erosion.

Until the mid-1980s Malawi exported food, but this trend has been reversed in recent years. The southern part of the country has been badly hit by drought in the past year and a significant proportion of the Southern Region - the most densely populated - is dependent on food aid.

An important though diminishing part of Malawi's foreign exchange earnings have come from the remittances of migrant workers travelling for work to the South African mines. There is a small industrial sector centred on Blantyre. Much economic activity, including retailing and tobacco farming, is dominated by the quasi-governmental Press Group. In the mid-1980s the group was restructured following advice from the World Bank after frequent allegations of financial irregularities. Nevertheless, the principal trustee of the Press Trust, which holds all the group's shares, is still President Banda. The President's personal wealth is believed to be great - for example, 40 per cent of Malawi's tobacco is reported to be grown on estates which he owns.²

In recent years the strain on the country's economy has been increased with the arrival of more than one million refugees fleeing the war in Mozambique - equivalent to more than 10 per cent of the Malawian population. They are concentrated in the south of the country. By most accounts Malawi's treatment of the refugees has been humane and generous.

General Human Rights Situation

For more than a quarter of a century the Malawi Congress Party (MCP) has dominated every aspect of life in the country. Party

members patrol public places demanding to be shown a membership card before people may obtain the necessities of life - such as admission to a market, permission to board a bus or access to health care. Many of those employed in the formal sector, including teachers and academic staff, have a 'voluntary' contribution to President Banda deducted from their salaries at source. An extensive network of spies and informers succeeded for many years in intimidating the population and preventing the emergence of coherent political opposition. Many individuals have been arrested for unguarded remarks made in conversations in bars or private houses. Those, like Jehovah's Witnesses, who refuse on principle to join the MCP, face harassment, imprisonment or worse. The Jehovah's Witnesses church is a banned organisation and thousands of its adherents have been imprisoned over the years.

The Preservation of Public Security Regulations allow for the indefinite detention without trial of anyone deemed a threat to public order. These powers have been one of the government's principal weapons in the suppression of political dissent. In mid-1992 a detainee was released who had been held for twenty-seven years, along with several others detained since the 1970s. Many of those detained are alleged to be members of illegal opposition groups, but many others are from within the ruling party. One detainee released in 1992, after being held for twelve years without trial, was a former secretary-general of the ruling party and managing director of Press Holdings. He had been arrested for criticising the payment of an 'unsecured loan' from Press Holdings into President Banda's personal bank account.

In some instances political opponents are brought before the 'traditional courts' where they receive unfair trials from judges personally accountable to President Banda. Thus Orton and Vera Chirwa, leaders of an exiled opposition party, were tried in 1983 on charges of treason. They were allowed no defence counsel and could not call witnesses. They were subject to repeated verbal abuse and extraordinary procedural bias. For example, the police officer leading the investigation into their case gave evidence as an 'independent' handwriting expert. They were sentenced to death and only escaped execution after widespread international appeals on their behalf. Vera Chirwa remains in Zomba Prison serving a life sentence. Orton Chirwa died in prison in October 1992.

Prison conditions in Malawi are extremely poor and often appear to be deliberately exacerbated as an additional punishment to political prisoners. Thus political detainees are often denied family visits or correspondence. Punishments are cruel, and include the holding of prisoners for long periods in dark cells and the use of leg irons and handcuffs. Under a special regime known as 'hard-core', persistent criminal offenders are sent to Nsanje or Dzeleka prisons where they are stripped naked, beaten and given reduced rations. Many die as a result. Deaths in custody are never investigated, despite the requirement of the Inquest Act that they should be.

On occasions prominent dissidents have been the victims of political killings. The leader of one exile group, Attati Mpakati, had one of his hands blown off in a parcel bomb attack in 1979 and was murdered in Zimbabwe in 1983. In 1989 an opposition journalist, Mkwapatira Mhango, died when his home in Zambia was firebombed. In 1983 three government ministers and a member of parliament died, ostensibly in a car accident. The last time they were seen alive, however, was in a government prison. It appears that they had favoured greater discussion of policy within the ruling party.

When the Catholic bishops issued their pastoral letter in March 1992, the government's initial reaction was in a similar vein. Tapes leaked from the Malawi Broadcasting Corporation revealed that senior party officials had discussed murdering the bishops after the pastoral letter had been read out in Catholic churches throughout the country. Chakufwa Chihana, a trade union official who spoke out openly in favour of multi-party government, was arrested and detained for three months. But, international pressure forced some concessions. The government gave public guarantees of the bishops' safety and eventually Chakufwa Chihana was brought to court and charged with sedition. Dozens of long-term political detainees were released.

However, in the months that followed, hundreds of people were arrested and held for several weeks at a time because they were suspected of having copies of the pastoral letter or other literature in favour of multi-party government. Some people were released without charge, others faced trial for sedition. In many cases, these detainees were held in very poor conditions and beaten or tortured with electric shocks. Women prisoners reported having pliers applied to their genitals. Prisoners were

forced to clear up human excrement with their bare hands and were subjected to other forms of humiliating treatment.

The Education System

Elementary education

Primary education is not compulsory in Malawi. According to official figures, 1,202,836 children attended primary school in 1988, somewhat more than half of the relevant age group. Although ultimate control of Malawi's schools lies with the ministry of education, responsibility for government primary schools rests with local education authorities. Historically, Christian missions, particularly Presbyterian and Catholic missions, have been important providers of education at both primary and secondary level. More recently Islamic schools have emerged. In 1989 the government closed a Muslim primary school in Zomba, apparently after lobbying from Christian denominations. Unlike government and Christian schools, the Muslim school was free and becoming increasingly popular. Between the unassisted religious schools and the government schools is a sector of 'assisted schools', which are run by religious or other institutions but receive grants from the ministry of education for the salaries of trained teaching staff.

Primary education lasts for eight years from an entry age of about six. In Standards One to Three the language of instruction is Chewa, which is the mother tongue of less than half the population (see pages 63-5). From Standard Four upwards all teaching is in English, but examinations in Chewa - along with English and arithmetic - are compulsory.

Soon after independence new syllabuses were introduced which were intended to reduce rote learning, involve the pupil more actively in learning and stress the acquisition of analytical skills. By the early 1970s a new science method was in use, as well as the 'new mathematics'. But President Banda publicly criticised these teaching methods and in 1972 he called a national education conference which reversed these 'progressive' methods and reverted to 'traditional' teaching.

Secondary education

Primary education had seen a considerable expansion in the decade before independence, as a result of the enthusiasm of

many Malawians for education as a means of self-advancement. There had been no corresponding expansion in secondary education and it was left to the post-independence government to preside over a quadrupling of secondary-school places in the late 1960s. The most significant new development in secondary education since that time, however, has been the founding of the elite Kamuzu Academy (see next section).

All government secondary schools are under the control of the ministry of education rather than local education authorities. The full secondary course is four years - Forms I to IV. Pupils sit the Junior Certificate of Education at the end of Form II and the Malawi Certificate of Education at the end of Form IV. According to official figures only 28,564 pupils were enrolled in secondary schools in 1988, although an estimated 40,000 were taking courses with the Malawi College of Distance Education.

The Right to Education: Limitations and Violations

Violations of the right to education can be identified in three main areas: first, a systematic policy of regional and linguistic discrimination in schools; second, the submission of all textbooks, set books and course materials to a state Censorship Board; third, the government's failure, despite significant progress in the early years after independence, to provide universal free primary education and generally available secondary education. The first two of these - discrimination and censorship - will be discussed in later sections.

Since independence in 1964 there has been a certain expansion of educational provision at all levels. According to World Bank figures, 64 per cent of primary school age children were enrolled in 1986, compared with 44 per cent in 1965. At the secondary level the corresponding figures are 4 per cent and 2 per cent. At the tertiary level there was no university before independence so the figures are 1 per cent and 0 per cent.³ Adult literacy has doubled since independence.

Sexual inequalities are a cause for concern. According to the World Bank, 72 per cent of boys are enrolled in primary school, compared with 55 per cent of girls. At secondary level, the figures are 6 per cent and 3 per cent. Observers note that at both primary and secondary level girls tend to drop out after the lower grades.⁴

The main reason for low school rolls is the relatively high level of school fees: all government and assisted schools charge a fee, usually between about 5 kwacha and 20 kwacha each year (1 kwacha is equivalent to about US\$3). Clearly, there are serious objectives constraints on the provision of education: the absolute poverty of the country and its high rate of population growth - 3.8 per cent between 1980 and 1987. However, some commentators have argued that the high level of school fees is discriminatory against the Northern and Southern Regions, since economic development tends to be channelled to the Central Region (see next section). For example, farmers in the Northern and Southern Regions are prohibited from growing tobacco. Another grievance is the inadequacy of educational spending, when it is compared with the high level of official corruption and the vast personal wealth accumulated by senior officials.

The pastoral letter of the Catholic bishops was particularly critical of failures in the educational system:

It is more and more widely recognized that standards of education are not only not rising, but are actually falling. Clearly there can be little hope of creating an environment favourable to the emotional, intellectual and spiritual development of pupils when schools are grossly overcrowded and suffer from a serious lack of teachers. While the present acute shortage has been made much worse by the policy of requiring all teachers to remain in their own regions, final solutions to these problems will also demand generous increases in the resources made available to education. This will have very practical implications for the way in which our national priorities are established and the budget distributed.⁵

The greatest inadequacy in provision of schools is clearly at secondary level and above. This has led many observers to question the priority accorded to the elite Kamuzu Academy, opened in 1981. The school is near the site of the tree where President Banda received his own primary education in the early years of the century. Modelled on an English public school, it gives a classical education to some 360 pupils chosen on academic merit. They learn Latin, Greek and ancient history. English literature is taught, but not Malawian or other African literature. There are no African teachers at the school. School fees

are some 400 kwacha a year. Running costs of about 5 million kwacha a year are paid out of presidential funds. This compares with a ministry of education budget of less than 40 million kwacha in 1988-9. The Catholic bishops commented:

The criteria used in selection of pupils for secondary schools and third-level institutions should be known to all and should be seen to operate fairly. Nor should they work to the disadvantage of particular individuals or groups. Access to education should not depend on whom the candidate knows or how much he possesses.⁶

Discrimination

Official discrimination against Tumbuka-speakers from northern Malawi has had a serious impact on the quality of education provided not only for northerners, but for Malawian pupils generally.

Historically, the Northern Region of Malawi has been the economically least developed part of the country. Its elite has benefited from a better standard of education, however, primarily because of the impact of the Free Church of Scotland mission at Livingstonia. President Banda, John Tembo and others in control of the Malawian government are Chewa-speakers from the Central Region. Under colonial rule their education, largely under the control of the Dutch Reformed mission at Nkhoma, was of a lower standard. An important effect of this disparity has been that northerners have had a disproportionately high representation in the civil service and education - a source of resentment to the politically dominant Central Region elite. There have been periodic purges of northerners in these sectors, which have had a disastrous impact.

Parts of the south have also suffered from systematic discrimination, notably Mangochi District and other Yao-speaking areas. There are two principal reasons for this. One is the support given by the Yaos to Henry Chipembere and other political rivals of President Banda who were expelled from the government in the cabinet crisis of 1964. The other is the high proportion of Muslims in that part of the south, who have been systematically excluded from public life and from the Christian-dominated educational system. Muslims comprise at least 12 per cent of the country's population.

In 1965, in order to promote pupils from the Central Region

at the expense of the Northern, the government introduced quotas for secondary school entrance: 40 per cent Central, 40 per cent Southern and 20 per cent Northern. The effect was that northerners had to achieve higher examination grades than pupils from other regions in order to gain admission to secondary schools. As a method of promoting central and southern pupils it seems to have largely failed, since the drop-out and failure rate for them was higher.

In 1988, the government alleged that the chairman of the Malawi National Examination Board, Danton Mkandawire, had packed the board with his fellow northerners in order to influence the results of the Malawi Certificate of Education. No evidence was presented to support the allegation. Most northerners were removed from the board and Mkandawire fled to Botswana.

In February 1989, President Banda ordered that all teachers should return to schools in their district of origin. He claimed - again without substantiation - that northern teachers in the centre and south were deliberately teaching badly in order to favour their own region. The redeployment caused chaos, partly because such a high proportion of teachers came from the north - three-quarters of, for example, science teachers in the Southern Region were northerners. Thus, the impact was felt not only by the teachers themselves but by pupils in other regions. Teachers who returned to the north often faced unemployment or demotion. Many families were split down the middle in cases where both the male and female were teachers but came from different regions (linguistic divisions are extremely fluid and intermarriage between the regions is very common). Eventually, the government ruled that a woman teacher could be deemed to originate from her husband's home district.

The redeployment of teachers was widely criticised in educational and civil service circles, as well as by the public. A number of cases were documented of individuals being arrested for criticising the move. Thoza Konje, for example, a manager with the Sugar Company of Malawi, was detained without charge for two years after he had been overheard telling drinking companions that the redeployment was impractical and would have disastrous effects on the education system.

In 1968 Tumbuka, the main language of northern Malawi, ceased to be an official language. At the same time Chewa, President Banda's own language, was made the sole national

language (English remains an official language). The effect of this was to eliminate Tumbuka as a medium of expression in the press and broadcasting, even though Chewa is spoken as a mother tongue by less than half the Malawian population.

Chewa is used as a medium of instruction in schools, whereas Tumbuka is not. A school examination in Chewa is compulsory; those who fail it are required to resit all their examinations. The paramilitary Malawi Young Pioneers - school drop-outs who enjoy powers of arrest - have been used to drill 'correct' Chewa into schoolchildren in non-Chewa areas.

These and other discriminatory measures are officially justified as attempts to overcome the discrimination and regional privileges that are a legacy of colonialism. In practice, however, such measures are aimed as much against the Southern Region as the Northern. The south suffered the worst depredations of colonial rule, particularly through the *thangata* system of forced labour on agricultural plantations. Educational discrimination, far from repairing the damage of colonialism, exacerbates its effects.⁷

Institutional and Legal Status of Higher Education

The University of Malawi was founded in 1964, the year of the country's political independence, with Dr Banda as chancellor. In the previous decade, Nyasaland (as Malawi was known) had been part of the Central African Federation and Malawians seeking higher education had to attend either University College in Salisbury, Southern Rhodesia, or a foreign institution.

The university initially comprised five constituent institutions. Two had been created before independence: Soche Hill Teacher Training College in Blantyre and the Institute of Public Administration at nearby Mpemba. In addition, three new institutions were created: Chancellor College for the liberal arts and science, Blantyre Polytechnic and Bunda College of Agriculture near Lilongwe. In 1973 Chancellor College moved from temporary accommodation in Blantyre to a newly built campus in Zomba. Soche Hill College and the Institute of Public Administration were incorporated into Chancellor College, creating a structure which continues to the present. The University of Malawi had 2,331 students in 1988.

Controls by the state and other sectors

The governing body of the University of Malawi is the University Council. Its composition reflects an ambivalence about whether the university is a state institution or an autonomous seat of learning. The council consists of fourteen members, and an additional six members can be coopted. Members include a chairman who, in common with two other members, is a direct nominee of the chancellor - that is, President Banda. Two other members are senior civil servants. The vice-chancellor is a member, along with a person nominated by him. Four members are nominated by the University Senate, the assembly of senior members responsible for academic life.

The vice-chancellor in turn is appointed by the council. The collegiate structure of the university places considerable power in the hands of the college principals. The principal of Chancellor College for many years was Dr Z.D. Kadzamira, brother of the Official Hostess and nephew of John Tembo. It would have been unrealistic to view Chancellor College as an independent institution when its head was so close to the centre of political power. It was hardly surprising that Chancellor College as a body raised no protest when one of its heads of department, Jack Mapanje, was detained without charge for four years (see pages 73-4). However, the crucial political power in the university lies with the Chairman of the Council. He is none other than John Tembo, Minister of State in the President's Office, uncle to the Official Hostess, chairman of many public and parastatal bodies and the effective day-to-day head of government. Until Tembo took over there had been little interference with academic life, despite the intense repression which already prevailed in the country at large. Tembo's arrival meant that the university became subject to the same reign of silence as the rest of Malawi.

Much state interference in academic life is covert and difficult to pinpoint. Clear examples of such interference are given in the following sections, including the imprisonment and expulsion of academic staff and students and the banning of publications. It is important to stress, however, that state power is primarily exercised through a system of unwritten boundaries, with a well-paid network of informers to police them. Malawian academics know what they can and cannot say, what they can and cannot research and, for the most part, they do not breach these hidden constraints. Malawian academics comment in

private that the self-censorship imposed by the system is its most damaging effect since it undermines intellectual honesty. Perhaps equally damaging is the almost universal lack of trust among colleagues, since one is never sure who is reporting back to the police, the MCP or the Chairman of the University Council. There is no possibility of 'academic freedom' in the university when freedom of thought and conscience is so manifestly absent in society as a whole.

Discrimination in Higher Education

Staff and students from the Northern Region face similar discrimination in higher education to that which afflicts Malawi's schools. A regional quota system for university admissions was introduced in 1969, but because of the high drop-out rate for central and southern students, northerners remained the dominant force. In 1987 a revised district quota system was introduced, since the Northern Region, with about 12 per cent of the population, continued to account for about half of university places. Under the new system each district is allocated a guaranteed number of places. The measure is unpopular not only because it is discriminatory, but also because it is seen as undermining academic standards. It was a major grievance expressed in a student magazine, which in 1988 resulted in the expulsion of its four editors (see pages 76-7).

Earlier, in the 1970s, many university administrators and academic staff from the Northern Region had been purged and, in some cases, detained. They included John Banda, the university registrar, Peter Mwanza, principal of Chancellor College, Allan Mtegha, agricultural economist, Chifipa Gondwe, historian, James Chipasula, political scientist, Peter Chiona, educationist, and Mupa Shumba, head of drama. A number of those who were driven out in the early 1970s went on to distinguished careers in international organisations or academic institutions elsewhere, notably in Botswana, where the university has a large Malawian contingent. It has been a characteristic of Malawian academic life that many of the most creative and independent intellectuals have been unable to remain within the country.

In a number of instances staff members at the university or other institutions have been victimised for their presumed political sympathies or because they have objected to discrimination against others. An important recent case was that

of Professor George Mtafu, a neurosurgeon at the country's only teaching hospital, the Queen Elizabeth in Blantyre. He was detained without charge for two years from 1989 because he had objected to the redeployment of teachers and other measures of discrimination against northerners.

An early example of such victimisation took place in 1972 when three Jehovah's Witnesses on the staff of the Bunda College of Agriculture had their houses burnt to the ground by members of the MCP youth wing. Two were killed and the third had his hands cut off. Shortly afterwards MCP youth stopped a bus carrying the children of college staff and made them look at the bodies of the dead Jehovah's Witnesses. The principal of the college, Professor Ted Pinney from the United States, protested and was expelled from the country.

Another foreigner expelled from the country was Father Patrick O'Malley, an Irish priest who was formerly Catholic chaplain to Chancellor College. On 8 March 1992, Fr O'Malley was officiating at student mass at Chancellor College, so it fell to him to read the bishop's highly critical pastoral letter to the congregation. The authorities inferred from this that Fr O'Malley was involved in writing the letter and that he instigated subsequent student demonstrations in defence of the bishops. On Good Friday, 17 April 1992, Fr O'Malley was served with a deportation order, along with Monsignor John Roche, a member of the same missionary order who had been one of the authors of the pastoral letter.

Also in March 1992, Christina Chihana, a senior lecturer at the Kamuzu College of Nursing in Lilongwe, was sacked from her job without warning. The college is part of the University of Malawi. Christina Chihana was dismissed at the same time as her husband, trade union official Chakufwa Chihana, was issued with an arrest warrant in connection with a speech he had made in Zambia. As well as losing her job, Mrs Chihana was evicted from her university house. She later sued the university for wrongful dismissal and was awarded substantial compensation by the High Court.

Freedom of Association

Students at each of the colleges in the University of Malawi have students' representative councils (SRCs), which are affiliated to

the Malawi University Students' Union. In practice, however, any attempt to organise collectively in defiance of official policy is met with rapid repression.

In society at large freedom of association is effectively nonexistent. The Malawi Trades Union Council is affiliated to the Malawi Congress Party and has never organised any industrial action in defence of its members. Thus, the possibility of non-academic staff taking effective action within the official structures is minimal. Organisation of any political party other than the MCP is prohibited. In 1983, four students at Chancellor College - Zangaphe Chizeze, Edge Kanyongolo, Mack Willie Killion and Tubby Chibwana - were detained without charge for a year because it was alleged that they were organising a political party.

During 1992, students at all three colleges have been active in support of the new movement for a multi-party system. Many students have been arrested because of their alleged involvement in these protests and at various times the colleges have been closed. Leaders of the SRCs have been singled out for criminal charges and disciplinary action, and all students have been required to sign an undertaking not to involve themselves in 'student disturbances'.

The first protest was at Chancellor College on 15 March, when about 700 students organised a march in support of the Catholic bishops. The army, which is generally regarded as being hostile to the Tembo-Kadzamira family, was present and dissuaded the police from taking violent action against the demonstration. The college was closed shortly afterwards.

At a subsequent meeting of department heads and deans, college administrators asked for information about the role of academic staff in organising the student protests. Some lecturers were informally questioned and warned by police or security personnel.

In Blantyre on 17 March, police raided halls of residence at the polytechnic after a sometimes riotous protest in town. They arrested some sixty or seventy students, many of whom apparently had taken no part in the demonstration. Twelve were later charged with public order offences. There were reports that students held at Chichiri prison and at Chilomoni and Ndirande police posts were severely beaten. Two SRC officials, Samuel Mkandawire and Kenneth Govati, are alleged to have been tortured by having their genitals squeezed. They were among the

twelve charged. An initial hearing of the case was postponed, reportedly because Samuel Mkandawire was unfit to appear as a result of torture.

On 25 March, the Protestant College of Theology in Blantyre closed voluntarily. It was argued that in the situation of political ferment students could not concentrate on their examinations. The lecturers announced their support for the Catholic bishops' pastoral letter.

Chancellor College reopened at the start of the new term on 21 April. All university students were required to re-register, signing the following declaration:

In the University of Malawi, I will not engage myself in any student disturbances and/or activities that would bring the University of Malawi into disrepute. I understand and accept that in the event of my being involved in any student disturbances and/or condoning, supporting, inciting such activities, serious disciplinary action will be taken against me including dismissal from College.

On 27 April, junior non-academic staff - cleaners, laboratory assistants, messengers, junior library staff and kitchen staff - went on strike in support of a wage claim. Students supported the strike and broke windows in the Chancellor's Pavilion. The following day the college was closed again and the campus was ringed with armed police. Eleven students were expelled from the college as alleged ringleaders of the protest. Four were later reinstated after a High Court ruling in their favour.

Freedom of Expression

All teaching and intellectual life is circumscribed by the activities of the Malawi Censorship Board, which controls all publications. The purpose of the 1968 Censorship and Control of Entertainment Act is as follows:

. . . to regulate and control the making and the exhibition of cinematographic pictures, the importation, production, dissemination and possession of undesirable publications, pictures, statutes and records, the performance or presentation of stage plays and public entertainments, the

operation of theatres and like places for the performance or presentation of stage plays and public entertainments in the interests of safety, and to provide for matters incidental thereto or connected therewith.

A 'publication' is defined broadly enough to encompass works such as academic papers, as well as any newspaper, book, periodical, pamphlet, poster, playing card, calendar or other printed matter, plus any writing or typescript that has in any manner been duplicated or exhibited or made available to the public or any section of the public.

Publications are banned if they are 'likely to give offence to the religious convictions or feelings of any section of the public, bring anyone into contempt, harm relations between sections of the public or be contrary to the interests of public safety or public order'. The Censorship Board is established under the act. Possession of a banned publication can be punished by imprisonment. Hundreds of books are banned. These include political works, overwhelmingly ones that are left-wing. No serious study of Marxism or other socialist political theory would be possible in Malawi. Nevertheless, the majority of banned books are works of literature, including works by Emile Zola, George Orwell, Graham Greene, Ernest Hemingway, Wole Soyinka, Simone de Beauvoir and a host of other prominent writers.

In 1977, a former secretary general of the MCP, Albert Muwalo Nqumayo, was tried for treason. One of the counts against him was that he had been found in possession of a banned publication, George Orwell's *Animal Farm*. He was also found to have political and historical works about the Soviet Union. The judges found that although these works were not banned, they undoubtedly would have been if they had been imported legally. Possession of them was clear evidence of subversive intention. Albert Muwalo was found guilty and sentenced to death.

Drama is subject to different rules. Play texts are not included on the banned list, but they have to be approved before performance. The vigorous drama department at Chancellor College has been particularly badly hit. In 1972 there was a university drama festival with eight short plays, all of which had been approved by the censors. After the first performance a member of the audience objected to some of the plays (there is a

provision in the act allowing for members of the public to complain anonymously about material which has 'caused offence'. The Censorship Board insisted on seeing all the plays in special performance and proceeded to ban four of them. After that it became a requirement that the board had to see a play's dress rehearsal.

A number of plays have been banned, including *The Burdens* by John Ruganda, *The Two Paupers* by Kamchedzera Sandifolo and *The Lion and the Jewel* by Wole Soyinka. The latter was banned because of a reference to 'open breasts' and a supposed ridiculing of African traditions. The chairman of the Censorship Board described the Nobel Prize winner Soyinka as 'a bad man who has been chased out of his country' and ruled that none of his plays could be performed. (The ban on *The Lion and the Jewel* was later lifted and the play was performed.) The same chairman also banned Samuel Beckett's *Waiting for Godot*, but again one of his successors relented.

A collective play produced by the drama department at Chancellor College - *They Call it Africa* - was approved and had one tumultuous performance, but was then suspended. Other plays produced by the drama department have had sections cut, notably *Woza Albert* by Percy Mtwa, Mbongeni Ngema and Barney Simon, *The Curse* by Kole Omotoso, and *Ulemu Unlimited* by Chilimira Katundu and David Kerr. The latter had a whole scene cut which satirised corrupt religious leaders.

Sometimes the interference comes from the police rather than the Censorship Board. In two instances - Omotoso's *The Curse* and *M'memo*, a collective play about workers' conditions and an unsuccessful strike - the Censorship Board approved plays but the police intimidated performers and technical staff, threatening actors with imprisonment and by hanging around backstage during performances.

It has been suggested that the censorship regime has been liberalised since 1980. This followed a visit which President Banda made to Meharry Medical College in the United States where he had trained as a doctor. There he was presented with a book, which he recommended to his cabinet - only to discover that it was on the banned list. However, most of the examples of censorship cited here have occurred since 1980 and a similar embarrassing incident occurred in 1987 when the Prince of Wales, on a visit to the country, publicly recommended the film of E.M. Forster's *A Room with a View*. It too had been banned.

All textbooks or set reading for any course of study, whether in schools or at university, must have the approval of the Censorship Board. In one case the board refused to approve a book on the Green Revolution for an economics course on the strength of its title alone - revolution cannot be countenanced in Malawi. In another instance, an English textbook for schools that had previously been used in Kenya and Zimbabwe was refused approval because it contained a comprehension passage from *Song of Lawino* by the Ugandan poet Okot p'Bitek, which is on the list of banned books. In a third case the board banned *Song of a Goat*, by the Nigerian writer J.P. Clark, from use as a set text. The censors appear to show a particular hostility to contemporary African literature.

In 1985, the Censorship Board instructed schools to hand in all copies of two books of Malawian poetry: *When Sunset Comes to Sapitwa* by Felix Mnthali and *Of Chameleons and Gods* by Jack Mapanje. At the same time police Special Branch officers went to the university bookshop, bought all copies of Mapanje's book in stock and dumped them in a pit latrine. Mapanje at the time was both head of the English Department at the university and chairperson of the English syllabus committee of the Malawi Certificate of Education and Testing Board. The book was never formally banned, although its author was later detained without charge for nearly four years (see below).

Over many years a sustained challenge to censorship was mounted by the Writers' Group, organised under the auspices of the English Department at Chancellor College. The group was set up in 1970 in an effort to encourage new Malawian writing and became the only relatively free forum for the discussion of literature. Its membership was drawn from both inside and outside the university. At weekly sessions, often attended by as many as sixty people, participants would read and discuss short stories and poems. Texts are kept in an archive in the English Department. Although the group remained active and vibrant for many years, it was forced into decline by state harassment of many of its most experienced and talented members.

An earlier literary generation had already been driven into exile, including novelist Legson Kayira and poet David Rubadiri. Jack Mapanje has written of the censorship they too experienced:

I remember, when I first joined the staff of the university, seeing the late Professor James Steward going through the

humiliation of ripping David Rubadiri's poems out of the Heinemann anthology called 'Poems from East Africa', edited by David Cook and David Rubadiri.⁸

In 1975 Felix Mnthali, a member of the Writers' Group, was arrested and detained for a year at Zomba Central prison. When he was arrested, police officers seized from his house some of his collection of records of classical music. They took those works by Russian composers or featuring Soviet musicians - an indication of the paranoid anti-communist witch-hunting that Malawian academics have to endure. After his release Mnthali went into exile and, like David Rubadiri, he now teaches at the University of Botswana.

In 1983, Zangaphe Chizeze was detained for a year; one by one, members of the Writers' Group went into exile: Lupenga Mphande, Frank Chipasula, Steve Chimombo, Innocent Banda. Jack Mapanje remained as the key figure in the group, a poet of international reputation and a highly respected theoretical linguist. On 25 September 1987 police arrested him in Zomba and detained him, without charge or explanation, for nearly four years at Mikuyu prison.

Even since his release, the reasons for Jack Mapanje's detention remain a matter for speculation. It seems likely that the authorities were concerned about Mapanje's plans to publish a second collection of poetry and about an invitation for him to take up a post as writer-in-residence at the University of Zimbabwe. When the authorities arrested him, they seized copies of a paper he had delivered at a conference in Sweden in 1986. Entitled 'Censoring the African Poem: Personal Reflections', the paper includes an account of his problems with the police and Censorship Board over *Of Chameleons and Gods*.

In January 1988, Blaise Machila, one of Jack Mapanje's former colleagues in the English Department, was arrested and joined him in Mikuyu prison. A diagnosed schizophrenic, he had been distressed by Mapanje's arrest and voluntarily admitted himself to a mental hospital, where he began to criticise President Banda and other political leaders for his friend's detention. The hospital authorities called the police to the hospital. The same night he was discharged from the hospital and arrested. Much of his time in Mikuyu was spent naked and in leg irons. He was released in January 1991.

For the first twenty-two months of his detention Jack Mapanje was allowed no visits from his family; throughout his imprisonment he received no visit from a priest - he is a practising Catholic. He was finally released - still without a word of explanation - in May 1991.

Another head of a university department who was detained briefly was Dr Matembo Nzunda of the Department of Law. He was arrested after a letter of his had been published in the July 1991 issue of a Catholic magazine, *Moni*. He criticised the recent arrest of a number of women for wearing or selling culottes (under Malawian law women are not allowed to wear trousers). He and the publisher of the magazine were held for two days. In its next issue, *Moni* devoted its editorial column to an apology for 'inadvertently' publishing Dr Nzunda's letter, which it described as 'erroneous and misleading'.

On a number of occasions foreign academics, of whom there are many at the university, have been expelled from the country for offending the government. Historian Landeg White was deported in 1972 after *Vanguard*, a student magazine to which he was editorial adviser, had published a poem critical of old men. President Banda is reported to have ordered the university not to use the services of a linguist from the University of London, Professor Wilfred Whiteley, after he commented in a report that the number of Chewa speakers had been exaggerated in official estimates. In the late 1970s a member of the English Department, Robin Graham, was deported after he failed to submit to the Censorship Board some of the contents of *Odi*, a literary magazine produced in the department.

Clearly the most vulnerable disciplines are those like English, law, the social sciences - and linguistics - where honest research may come up with conclusions that directly challenge the official view. History presents a particular problem. Post-independence history is out of bounds for obvious reasons, but the period of the independence struggle is also extremely problematic. An honest examination would have to consider the roles of many political figures who later fell out with Dr Banda, some of whom are still alive and all of whom remain anathema. The Life-President's political credibility rests upon the assertion that he single-handedly defeated the colonial Central African Federation and achieved independence. Malawian historians do not need to be told that this is an area to be avoided. The historians Vail and White have commented:

The Cabinet Crisis [of 1964], despite its central significance to Malawi's history and despite the fact that it occurred well over twenty years ago, remains a wholly embargoed topic. The names of those who contributed to the rise of Malawian nationalism in the 1950s can be mentioned only in secret. During the show trial of Orton and Vera Chirwa in 1984, when Vera Chirwa began her testimony with the statement, 'When I founded the Malawi Women's League ...', a tremor of excitement ran through the spectators. The simplest historical fact has become subversive.⁹

But subversion can be detected in the most bizarre places, making teaching a high-risk profession in Malawi. Thus Dr Ishmael Mazunda, a staff member at the Malamulo Seventh Day Adventist Hospital, was arrested in 1989 and detained for more than a year for remarks he made during a lecture on the human reproductive system. Dr Mazunda had said that while an old woman was incapable of bearing children, an old man could still father them. It was alleged that he had said 'the old man' - that is, President Banda. The background to the case is that Dr Mazunda, as secretary of the hospital's disciplinary committee, had expelled a number of students for stealing drugs. One of the students was related to a senior official in the ministry of health and they had used that connection to denounce Dr Mazunda. The case shows how ludicrous official sensibilities are often exploited because of personal and professional jealousies.

Students suffer equally severe restrictions on their freedom of expression. In 1972 two student publications, *Vanguard* and *Expression Supplement* were banned. Up to that point there had been an informal agreement that any publication circulated solely on campus did not have to be submitted to the Censorship Board. The bannings coincided with John Tembo taking over from John Msonthi as chairman of the University Council.

The student editors of a Chancellor College campus magazine, the *Chirunga Newsletter*, ran into similar problems in 1988. An issue of the magazine reported on a number of student grievances, of which the most serious was the government's introduction of the district quota system for admissions. Another grievance of almost equal sensitivity was a complaint that the national women's organisation, the CCAM, had ruined one of the college hockey fields by holding its annual convention on it. The

magazine published a poem that lamented the lost hockey pitch under the title 'Come, Come and Mend' - the initials of the title being CCAM. Since Cecilia Kadzamira, the Official Hostess, is head of the CCAM no criticism of its activities is permitted, however cryptic. The *Chirunga Newsletter* also carried articles criticising the refusal of the university authorities to readmit students who had interrupted their studies for maternity leave, and the high rates of interest under a student loan scheme that was funded by foreign aid grants.

The editor of the *Chirunga Newsletter*, George Chazama, and two of the magazine's reporters were summoned before the British vice-chancellor of the university, John Dubbey, and told that they were suspended for the rest of the academic year. In February 1989 a total of four students were expelled from the university, at least three of whom fled the country in fear of arrest.

The *Chirunga Newsletter* episode prompted the first student demonstrations at the university for many years. Since then there have been many more, as both students and academic staff have become emboldened. So far, however, there have been few signs that the authorities are prepared to relax their restrictions on freedom of expression.

Notes

1. World Bank, *Sub-Saharan Africa: From Crisis to Sustainable Growth*, Washington DC, 1989.
2. *Guardian*, London, 18 February 1987.
3. World Bank, *Sub-Saharan Africa*.
4. *Malawi: A Country Study*, Federal Research Division, Library of Congress, Washington DC, 1975, pp. 128-30.
5. 'The Truth Will Set You Free', statement by the Bishops of Malawi, March 1992.
6. *Ibid.*
7. Leroy Vail and Landeg White, 'Tribalism in the Political History of Malawi' in Leroy Vail (ed.), *The Creation of Tribalism in Southern Africa*, London, Berkeley and Los Angeles, 1989.
8. Jack Mapanje, 'Censoring the African Poem', reprinted in *Index on Censorship*, 9/1989, p. 8.
9. Vail and White, p. 184.

6. Palestine

Penny Johnson and Mark Taylor

Human Rights: An Overview

The Occupied Territories endured two lengthy and punitive curfews in 1991. The first was imposed on the entire Palestinian population during the Gulf War of January-February 1991. This was followed by a fourteen-day curfew imposed on the 70,000 residents of the West Bank towns of Ramallah and Al Bireh in December 1991. The year before, 1990, was etched in Palestinian memories by two massacres: the killing of seven Palestinians by an Israeli gunman at Rishon Le Zion in May and the killing of an additional eleven Palestinians by the Israeli army in this incident's aftermath, followed by the October 1990 massacre of seventeen Palestinians by Israeli soldiers, police and Border Guard units at the Al Aqsa mosque in Jerusalem.

These events placed the issue of protection of the civilian population high on the human rights agenda in 1990-91. Under occupation, Palestinian universities have frequently called for international protection for higher education. In the wake of the Al Aqsa Massacre, United Nations Security Council resolution 681 urged Israel 'to accept the *de jure* applicability of the Fourth Geneva Convention of 1949 to all the territories occupied by Israel since 1967 and to abide scrupulously by the provisions of the said Convention'. It then went on to call on the signatories ('the high contracting parties') to ensure respect for the convention and asked the UN Secretary-General to develop a plan for a meeting of the signatories. This resolution is an important milestone in affirming the international community's responsibility to enforce ('ensure respect') for the convention. To date, however, Israel has rejected the *de jure* applicability of the convention and no meeting of the signatories has been held.

Israeli Justification

As the Israeli human rights organisation B'Tselem noted in its publication *Violations of Human Rights in the Occupied Territories*,

1990/1991:

Human rights violations in the territories are generally committed in the name of security. 'Security needs' are a pretext for imposing lengthy curfews, 'security risks' are a basis for arrest without trial and for deportation, and 'security considerations' are cited to justify the demolition of homes of suspects' families.¹

Security is also invoked in closing universities and other educational institutions. For example, the military closed these institutions under Military Order 378 'for reasons of security and public order'.

Marked Violations in 1990-91

A dramatic increase in this period in summary executions of Palestinians by special undercover units of the Israeli army marked a new trend in Israeli violations of Palestinian right to life. As the US State Department report on human rights noted: 'In 1991, non-uniformed security personnel are known to have killed 27 Palestinians, many of whom were unarmed ...'² Human rights organisations have documented many of these executions, which often occur without warning. This targeting of activists for assassination falls within the context of a well-established pattern of killings, which a January 1990 Amnesty International report found 'suggests the Israeli authorities are effectively condoning, perhaps even encouraging, extrajudicial executions as a means of controlling the unrest'.

An important report on torture, issued in March 1991 by B'Tselem, threw a spotlight on the systematic use of torture and maltreatment by General Security Services (GSS) interrogators. The most common methods of torture included beating on all parts of the body including the sexual organs, hooding, forcing detainees to remain in painful positions for extended periods of time, exposure to cold, confining detainees in a cell termed the 'closet', sleep deprivation, limitation of access to toilet facilities, humiliation of detainees, and threats to family. In addition, the Palestinian Human Rights Information Centre released documented evidence of the use of electric shock in at least eleven cases in the Hebron and Bethlehem regions. The

information in both reports was later incorporated into the US State Department's human rights reports, as well as those of other organisations.

After the Gulf War, in the spring of 1991, the Israeli authorities instituted a new pass system. Palestinians are now required to hold permits to enter or pass through Israel and Jerusalem (including East Jerusalem). These measures have created a choke-point at Jerusalem - which straddles the centre of the West Bank - preventing students and faculty travelling the north-south axis: students and faculty from the southern part of the West Bank are denied access to the northern section where Birzeit and Al Najah universities are located. The same is true for those residing in the north, who cannot reach Bethlehem and Hebron universities south of Jerusalem. Gaza residents are particularly isolated, requiring permits to pass through Israel and permits to study in the West Bank.

Other human rights violations, in particular illegal administrative punishments like administrative detention (detention without charge or trial), house demolitions, and deportations continued to mark Israel's treatment of the Palestinian population.

The year 1991 ended with the convening of the Madrid Middle East Peace Conference and the launching of bilateral negotiations between Israel and the Palestinians. The process was not accompanied by a lessening of human rights violations in the Occupied Territories. On the contrary, both Palestinians and international commentators have noted that the peace process has been accompanied by an alarming escalation in Israeli settlement activity, and by an increase in repression directed at the captive Palestinian population. Human rights violations, in effect, became a tool to enforce Israel's version of the political future of the Occupied Territories, which at the end of 1991 was best summed up as *de facto* annexation, or military occupation by another name.

Status of the Right to Education

The Israeli military authorities are the final arbiters in regard to the educational system in the Occupied Territories. Schools are divided into government, private and UNRWA (United Nations Relief Works Agency) schools, the majority being in the first

category. All administrators and teachers are Palestinian.

In both 1990 and 1991, individual school closures, ordered by the military authorities, combined with prolonged curfews to seriously disrupt the school year. The combination of the Gulf War curfew, school closures and other disruptions meant that UNRWA schools in the West Bank lost 48.2 per cent of their school days between September 1990 and March 1991, whilst schools in Gaza lost 51.3 per cent in the same period. The end of the Gulf War did not result in the immediate re-opening of schools: high schools in the West Bank were not allowed to reopen until 17 March.

School closures continued in the spring of 1991. For example, the five UNRWA schools in Tulkarem, with over 2,200 students, were ordered to close on 8 April until the end of the school year, which the military authorities later decreed would end a month early. Vigorous efforts by principals, teachers and other educators later succeeded in extending the school year into mid-summer. Teachers unions and prominent community members wrote to the military-appointed Directors of Education:

Since the end of the Gulf War, the Israeli military authorities have continued to carry out their policy of closing large numbers of individual Palestinian schools for arbitrarily varying periods of time. Many of the closures last more than one week. Some last longer than a month. Each of these actions is a collective punishment against all students in a school for the 'presumed' actions of one or a few students at or near the school. As collective punishments, they are inhumane and violate international law.³

Closures of all types have had a hugely damaging effect on educational achievement. The first in-depth study, published in 1991 by the Tamer Institute in Jerusalem, surveyed the mathematics and Arabic skills of fourth- and sixth-grade students in the central region of the West Bank. It found that 73 per cent of fourth-graders could not add $\frac{1}{2} + \frac{1}{4}$. Sixth-graders' responses to the reading comprehension components were correct in only 30 per cent of instances.⁴ This negative assessment is echoed repeatedly in the comments of teachers: when children returned after the fourteen-day curfew in Ramallah at the end of 1991, one kindergarten teacher at the Ramallah Friends School felt her

five-year-old students were so unnaturally listless that she inquired of parents whether their children were on drugs.

Efforts by Palestinian educators to redress the deterioration of the schools also meet with obstacles. On 14 June 1991, the Council for Higher Education and the Education Network jointly sponsored a conference on the crisis in the educational system. The military authorities issued a memo to all district education officers barring them and all government school teachers from attending the gathering (government schools constitute over 75 per cent of schools in the West Bank).

Violations of Academic Freedom

The six universities in the West Bank and Gaza - Birzeit, Bethlehem, Hebron, Al Najah National, Jerusalem (Al Quds) and the Islamic University of Gaza - are private institutions governed by boards of trustees, composed of Palestinian community leaders and educators. A Palestinian Council for Higher Education serves as a coordinating body. The Israeli authorities have not supported the universities financially or otherwise, and stumbling blocks to university development - such as the Israeli refusal to grant building licenses, exorbitant and illegal taxes and custom duties on educational equipment and other administrative restrictions - accompany a range of other measures that restrict students and faculty. Among them is collective punishment of universities in the form of military-ordered closures.

From January 1988 to May 1990, all six Palestinian universities in the Occupied Territories were closed by a succession of military orders, in violation of the right to education and to academic freedom. In May 1990, *Middle East Watch*, in a special newsletter on the situation of Palestinian higher education, noted 'the closures are a form of collective punishment which is forbidden by Article 50 of the Hague Regulations of 1907 and Article 33 of the Fourth Geneva Convention'.⁵

On 14 May 1990, Israeli officials announced that Israel would 'gradually' reopen Palestinian universities, a move clearly spurred by increasing international condemnation, including a January 1990 recommendation by the European Parliament to freeze new scientific cooperation agreements with Israel. However, Israel's intention was to make the minimal gesture

possible and extract the maximum effect: on 22 May, it announced the re-opening of the Arab College of Medical Sciences, one of the four small units that make up Al Quds (Jerusalem) University, and which serves only 2 per cent of currently enrolled college students. A new closure order issued on 31 May kept the other five universities firmly shut.

Whilst the other units of Al Quds University opened over the summer of 1990 and Bethlehem University opened in October 1990, the three largest universities, containing 70 per cent of the student population, stayed closed until August 1991, when the authorities announced the reopening of Al Najah National University and the Islamic University of Gaza (Hebron University was reopened in June 1990). The Occupied Territories' leading university, Birzeit University, remained closed for another nine months.⁶

During this period, Israeli spokesmen conducted a cynical public relations exercise, ranging from outright announcements that all universities 'opened a few days ago' (Israeli UK Ambassador Yoav Biran, 1 May 1991), to media events; for example, the administration of Al Najah University was summoned on 15 May 1991 and told to prepare for reopening, an event that was widely reported. But its aftermath - a new closure order - received scant attention.

The Rights of Students

The closure of universities effectively destroys the freedom of expression of students as no public gatherings of students are possible and student life virtually disappears. When universities are open, the campuses offer students a rare opportunity to express their ideas openly and to elect their own representatives. In all the Palestinian universities, student councils, elected by the student body, play a major role in shaping student life. Two community colleges, one in Nablus and one in Hebron, are the only institutions of higher learning that ban student councils. The Islamic University of Gaza practises sex segregation, and has instituted religiously inspired dress codes for women.

The steady increase in female enrolment in higher education since 1967 appears to have suffered a reversal, caused by a variety of interrelated factors, including an increase in the numbers of high-school drop-outs, early marriages, economic

crisis and the general and prevailing insecurity.

Arbitrary arrests of students and faculty continued in 1990-91. At Birzeit University, for example, 130 students were detained in 1991, almost 25 per cent of them under administrative detention (arrest without charge or trial). Another 37 per cent of Birzeit University detainees were released without charge after spending anything from a few days to a few months in prison.

Academic Freedom and Faculty Rights

Academics have played an important role in Palestinian society in articulating the hopes and problems of the community, and have been targeted for this role. Birzeit biology professor Dr Abdel Salam Abdul Ghani was detained on 6 February 1991 during the Gulf War amidst a wave of arrests of supposed Iraqi spies, amongst which was the widely protested arrest of Dr Sari Nusseibeh.⁷ Dr Abdul Ghani's interrogation, however, did not focus on this matter: instead, he was questioned about his role as founder of a cultural museum in Sakhnin, and his participation in an appeal for an Arab heritage centre.

The right of faculty 'to carry out research without interference' (Article 18 of the Lima Declaration) was further limited by the pass system instituted after the Gulf War which severely restricted access to Jerusalem, home to most research centres and specialised libraries. The military authorities continue to bar academics on occasion from participating in research visits and conferences abroad. The years of military-ordered closure, during which academic staff were banned from libraries and laboratories, severely limited research, especially in the sciences.

In the course of 1990, twenty-one books were added to the list of 585 prohibited books. No book-banning orders were issued in 1991. Censorship none the less is exercised as books enter the country; in particular, academic books and periodicals from the Arab world remain extremely difficult for Palestinian universities to receive.

Settler University Violates International Law

While Palestinian universities were still closed, Bar Ilan

University of Haifa opened a campus in the Nablus area settlement of Ariel, in clear violation of international law. The Faculty of Agriculture at the Hebrew University also offers courses at this campus. As one Israeli academic wrote, 'the funds which should have been earmarked for legitimate academic purposes are being used as part of a campaign to sabotage any chance for peace in the region'.⁸

Notes

1. *Violations of Human Rights in the Occupied Territories, 1990/1991*, B'Tselem, Jerusalem, p. 12.
2. *Israel and the Occupied Territories*, State Department Country Reports on Human Rights Practices for 1991, Washington DC, p. 3.
3. *Educational Network*, no. 5, June 1991, Ramallah, p. 1.
4. 'Assessment of Achievement in Arabic and Math of Fourth and Sixth Grade Students in the Central Region of the West Bank', Tamer Institute for Community Education, Jerusalem, 1991.
5. *Palestinian Universities*, special bulletin of *Middle East Watch*, New York, May 1990, p. 1.
6. The new campus of Birzeit University was reopened on 29 April 1992 but the army specified that only the faculties of Engineering and Science were allowed to return to campus; the faculties of Arts and Commerce were banned until 1 October 1992.
7. Dr Sari Nusseibeh, Assistant Professor of Philosophy at Birzeit University, was arrested on 29 January 1991 and served with a six-month administrative detention order, later reduced to three months. Israeli media reported that he was accused of spying for Iraq, although no specific evidence was ever produced. The French government protested at Dr Nusseibeh's detention, as did Amnesty International, which wrote 'All available evidence suggests to Amnesty International that he is a prisoner of conscience, held on account of his peaceful political opinions and activities.' Many academics in the USA and Europe protested against the detention of Dr Nusseibeh, who is a prominent peace activist and participant in Israeli-Palestinian dialogue and negotiations.
8. Letter from an Israeli academic: an administrator from the Hebrew University circulated this letter without using his name. It is quoted in *Birzeit Human Rights Record*, July-December 1991, No. 9, p. 8.

7. Paraguay

Jorge Lara Castro

Throughout Paraguay's history its political process and institutions have been strongly influenced by its armed forces; this has generated an authoritarian culture and an intolerant and autocratic form of government.

The long dictatorship of General Alfredo Stroessner (1954-89) was another in a long line of military dictatorships and helped to perpetuate the increased powers of the state over civil society. The dictatorship was sustained by a nationalist and authoritarian ideology, on the one hand, and an iron-clad repressive apparatus, on the other. Two institutions served as organs of the state: the army at the core of state power, responsible for the repressive apparatus, and the official Colorado Party, charged with the task of generating a consensus in civil society. In actual fact, it was a wedge of state power in the body of the community.

The Stroessner regime operated within an institutional framework designed to exercise tight social control. The National Constitution (1940) which essentially gave full power to the executive branch, hid this fact behind a fictitious division of power. Later, in 1987, this system was perfected through an amendment to the constitution whereby the President of the Republic could be re-elected indefinitely.

In more concrete terms, the government resorted to legal instruments, such as Public Law 294/55 on 'defence of public order and personal liberties' and Public Law 209/70 on 'defence of democracy', which placed restrictions on freedom of thought and expression, the right to hold meetings and everything connected with political rights. The absence of precision in these two laws, for example, in their definition of punishable offences, left the judicial authorities, under the control of the executive branch, wide discretion in their implementation.

In addition to these repressive laws, the constitution contemplated a legal device for a 'state of exception', which 'could be applied in case of international conflict or war, of foreign invasion, of internal unrest or in case of serious threat of one of these factors'. The state of exception will be declared for a limited period of time and only for the reasons for which it

was established' (Article 79). The constitutional 'state of exception' prohibited the exercise of all civil rights guaranteed under the constitution. The executive branch of the government used this constitutional device as a repressive instrument against the people, renewing this measure of exception every ninety days, so that it acquired a permanent character. Cases are known of political opponents being imprisoned for between ten and twenty years without trial; others were condemned under these laws and kept in prison after the expiry of their sentences.

While the state of emergency was in force (1954-87), the executive branch of the government had discretionary powers enabling it to imprison, torture and expel its opponents or cause them to disappear completely. Although a state of emergency was not in force between 1987 and 1989, the system as described hardly changed.

Under such conditions academic freedom was only utopian. Basically, the educational system conformed to the authoritarian model. Under this system, curricula were oriented to a depersonalisation of the student using texts in which the official ideology was the only one permitted; teaching methods were repetitive and lacked any critical concept. Before teachers could be admitted to government-run educational institutions, they had to become members of the official state party. The ministry of education had a monopoly over teacher training, qualifications and continued training. At university level, all posts and scholarships were controlled by the official party. Considering the mediocrity of the education offered, it was not surprising that the quality of Paraguayan education as a whole deteriorated.

In February 1989, a *coup d'état* was staged by the armed forces under the leadership of General Andrés Rodríguez. Three months later, Rodríguez was elected Constitutional President in an atmosphere of liberalisation. The change aroused great expectations in the public that there would be a return to democracy. Furthermore, the new regime took a number of measures to improve the country's international image, such as signing and ratifying international agreements and conventions on human rights. A case in point was the new regime's ratification in April 1992 of the International Convention on Civil and Political Rights, which had been adopted by the United Nations twenty-five years before.

Internally, during the three years since the new regime took power, the process of democratisation has encountered a series of

obstacles related to the peculiarities of the country's historical development. Transition to democracy in Paraguay does not suppose a recovery of democratic rights taken away by power factions, as in most other countries of the region, but rather a real installation of democracy for the first time. The very fact that the transition grew out of the entrails of the old party in power makes this process even more difficult since the armed forces consider themselves to be the godfathers and managers of this process and hold that the country has them to thank for the civil liberties it now enjoys. Nevertheless, the possibility still exists, even though these elements continue in power, that the concessions can bring about changes to a closed and conservative society.

As far as education is concerned, the political changeover has had very little effect. Until now it has not been possible to implement educational reform because of structural difficulties. The universities have been the least inclined to change. Thus, although political conditions exist that could open the way to greater academic freedom, the process is hampered by structures inherited from the previous system, which are in force within the ministry of education as well as at the level of the universities.

The Right to Education

According to available official data, there has been a considerable increase in the number of people attending schools and universities in Paraguay over the past twenty years. Primary-school enrolment increased by about 42 per cent, that in secondary schools by about 65 per cent and university enrolment by about 241 per cent over the two decades. This expansion can be attributed to the considerable increase in capital invested in education, with foreign sources being a decisive factor. During the same period the number of primary schools increased by about 80 per cent.

Notwithstanding this expansion, and despite the considerable improvement during only one generation of the average educational level of the population, educational opportunities continued to be unequally distributed. Although the present generation has received more education than the previous one, this education is selective in character inasmuch as the principal and almost exclusive beneficiaries have been the urban

middle classes. Furthermore, throughout this period, the regime exercised tight control over the educational system, subordinating it to its political aims. This has been reflected in the absence of research and study of the social sciences. Whilst enrolment has increased, there has been no discernible increase in knowledge. The expansion of the school system in terms of attendance has essentially been due to the fact that international organisations made their technical and financial cooperation dependent on such an increase.

School attendance is an important indicator of the real exercise by Paraguayans of their right to education, since it reflects the coverage of the educational system at the present time. Available data shows that attendance at university level is about 7 per cent of those eligible, at the secondary school level it is about 31 per cent and at primary school level around 103 per cent. This last figure does not imply total coverage in terms of registration of the population of an age corresponding to this level of education. In fact, available data suggest that at present there is a school attendance deficit of about 10 per cent at the primary level, meaning, in absolute terms, that approximately 60,000 Paraguayan children between the ages of seven and twelve are excluded from the educational system. Thus, this 100 per cent plus level of primary school attendance actually masks other dimensions of the educational problem such as over-age pupils, together with repetition, reintegration and late registration.

Taken as a whole, this situation shows the low level of efficiency attained until now by the country's primary schools. It is officially admitted that the present illiteracy rate is roughly 23 per cent, and this figure would be much higher if account was taken of the average national school drop-out rate, much of which occurs in the lowest grades. In the country as a whole, fewer than 43 per cent of the population manage to complete primary school, roughly 29 per cent enter secondary school and about 9 per cent enter the universities. Due to the high drop-out rate, the percentage of illiterates in the country is increased since those who drop out without having basic education, including the indispensable basic requirements of reading, writing and arithmetic, are bound to become functional illiterates through lack of practice.

The above particularly applies to the inhabitants of marginal rural and urban areas, who suffer both from a high drop-out rate

and from failure to achieve. In areas of this kind, of 100 children entering primary school, only 28 manage to complete education at this level.

Other problems now openly admitted by the very educational authorities who obstruct the improvement of educational services from the point of view of efficiency and quality include inadequate training and pay of teachers at all educational levels, the irrelevance and inappropriateness of teaching and learning methods and of the syllabus; the inadequacy of school facilities, resources and teaching aids, an excessively centralised and bureaucratic administration and, last, the absence of any periodic review of the curricula. All this is due not so much to an inadequate budget as to lack of sensitivity on the part of politicians.

A further limiting factor is the country's bilingualism. According to the most recent census, some 40 per cent of the population is monolingual, speaking only Guarani, 1.2 per cent are monolingual natives (seventeen ethnic groups with 38,000 aborigines making up five linguistic families), and 48.6 per cent of the population are bilingual, speaking Guarani and Spanish. Thus, the Guarani language is the mother tongue or second language of 88.6 per cent of the country's inhabitants. The predominance of Spanish as a teaching language conditions the education of the majority of the population.

The grave problems faced by the Paraguayan educational system are only a continuation of certain practices introduced by the previous regime, which used the educational system as one of its principal means of political propaganda and indoctrination. It should be remembered that to this end it exercised an iron control over the shaping of the body of teachers and the educational content.

In summary, limitations on the exercise of the right to education by the Paraguayan population are reflected in the apparently paradoxical nature of the educational system. Whilst it expanded in some respects, it contracted when account is taken of the high incidence of educational failure as measured by all pedagogical, economic, social and cultural indicators. The politically imposed, severe restrictions on the possibilities for acquiring an integral education run counter to the function of education as set forth in Article 13 of the International Convention on Economic, Social and Cultural Rights.

Higher Education

Higher education in Paraguay is provided by universities, non-university higher institutions of learning and other institutions outside the regular educational system, all of which require a secondary school diploma for admittance. The latter institutions offer on the whole educational programmes of short duration (generally between one and three years) in occupational training for various trades. They operate, on the whole, outside the regular educational system because they are not officially recognised.

Non-university institutions of higher learning are those that offer post-secondary training courses and programmes in specific professions, such as teaching, which, although requiring specialised training, are of relatively short duration (between two and four years). To function, these institutions must have the approval of the Ministry of Education and Religion and be authorised to issue diplomas entitling the bearer to enter a profession.

The universities provide training and education to prepare for the traditional technical and liberal professions. Their academic programmes generally last between four and six years. From a legal point of view, they are covered by the Law on Universities; their organisation and internal functioning are defined by statutes and regulations framed in accordance with that statute.

Currently, the following universities exist in Paraguay: the National University in Asunción, (founded in 1889), a state institution, and the Catholic University of Our Lady of Asunción, founded in 1960 and dependent upon the Paraguayan Episcopal Conference. Beginning in 1990, government recognition was given to a number of private universities, reflecting a trend towards the privatisation of higher education. Those so recognised were the Colombia Private University, the Northern University, the Independent University of Asunción and the University of Pilar. Nevertheless, the National University and the Catholic University retain a virtual monopoly on higher education with some 87 per cent of total university students attending these two institutions.

Universities in Paraguay are covered by Public Law 828/80, 'De Universidades'. This establishes that universities are autonomous entities for advanced research, study and professional training, are non-profit making, created by the state

or by private or mixed associations, and integrated into the national educational system. They have the following aims: (a) scientific research; (b) integral education of human beings through the cultivation of the sciences, arts and letters; (c) promotion and dissemination of culture, especially as related to the country's spiritual heritage; (d) extension activities as a service to the national community; and (e) academic assessment of national problems.

These aims, clearly, are based on a traditional university model that focuses on teaching, research and services. However, the statute contains a number of provisions that severely restrict the autonomy these educational institutions should have to carry out their functions harmoniously and in full. One such article in the public law expresses the central role of the state in planning by requiring that all study plans and programmes in the country's other universities must be equal in number and content to those at the National University. Under this provision, any reform effort is dependent on the strictures and attitudes of the state university, demonstrating the academic dependence of the non-state universities. Additionally, the provision emphasises the role of the state university as a legitimising instrument of surveillance and control over all universities exercised on behalf of the executive, the body responsible for seeing that the provisions of the public law are met.

The National University

The internal administration and governance of university institutions in Paraguay are defined in their respective charters. The National University is governed at the present time by Public Law 1291 of 1987, which considerably amended Public Law 356 of 1956 establishing the new university's charter. Law 1291 defines the National University of Asunción as an autonomous public entity with legal personality, governed by the new law and by the regulations which it itself establishes. The law provides that the university be made up of faculties, institutes, schools, centres of higher education, scientific research and the arts. According to this law, the National University aims at:

- (a) the cultivation, teaching and dissemination of science, technology, letters, the arts and physical education;

- (b) the education and training of professionals and technicians, imbuing them with a knowledge and awareness of Paraguay's cultural tradition, and which promotes in students an ability to learn, academic curiosity and qualities enabling them to act effectively and with moral and intellectual integrity in their profession, in public and in private life;
- (c) Scientific research in the various branches of human knowledge, including study of the country's technological and socio-economic condition and its advancement and development.

The university charter sets forth that the university will be governed by a Rector and Higher University Council composed of the Rector, as presiding officer, deans of faculties and institutes, a full professor or assistant professor for each faculty, one holder of an academic title who is not a teacher, and one student delegate. The minister of education and religion acts as honorary chairman of the council. Whilst he may speak at its meetings, he is not entitled to vote.

The Rector is appointed by the executive branch of government from a list of three candidates nominated by the Higher University Council. Office is held for five years with indefinite prospects for re-election. It could thus be a lifelong post. The powers and responsibilities of the Rector are laid down in Article 10 of the law, in accordance with which the Rector is the legal representative of the institution and has power to appoint deans from a list of three candidates nominated by the governing councils of the faculties, after consultation with the executive power; he also appoints and replaces the administrative staff, as well as assistant professors and candidates for academic posts proposed by the governing councils.

The Higher University Council is the supreme body in the university in respect of academic and administrative functions. It is competent to establish general rules and regulations and approve, based on proposals of the Governing Councils, the internal rules and regulations of the faculties, including study plans. According to Article 13, the Higher University Council has power to create new academic units, award scholarships, establish tuition fees, appoint full and assistant professors, review the annual budget prior to its submission to the ministry of education and religion, and, finally, decide on the intervention of

any of the university's academic units for reasons outlined in Public Law 828/80 'De Universidades'.

The faculties are governed by their respective deans and governing councils. A dean holds office for five years, but can be re-elected indefinitely. By this legal device, deans tend to occupy their posts so long as they are loyal to the regime. This holds true for most of the educational units of the National University.

The governing council is the highest collegiate university authority. It is made up of a dean presiding over seven counsellors, of whom five are teachers, one a non-teaching graduate and one a student. Counsellors are elected by committees of their peers at meetings called and presided over by the dean.

Public Law 1291 establishes the charter of the National University of Asunción. This law was passed by the National Congress in 1987 and essentially has the same characteristics as Public Law 356 of 1956, the new university charter being basically the same with respect to its concept, organisation and educational functions as that which operated under the dictatorial regime. Among the new law's key provisions, however, it is worth noting the concentration of power in the hands of the Rector, and the fragmentation of the academic units, which consist of a mosaic of study programmes without any connections or articulation among them.

The Catholic University of Our Lady of Asunción

This university is governed in accordance with statutes approved under National Decree 11.079 of 1960. It aims to:

- (a) increase and transmit human knowledge through scientific research as well as teaching and training for the proper exercise of the liberal and technical professions;
- (b) make the abiding relation between the humanities and faith effective in accordance with the Christian view of humankind and the world;
- (c) encourage an institutional dialogue between its constituent bodies and the society which it serves, in particular higher educational entities;
- (d) collaborate in a positive way in the promotion of the integral development of the human person and of the Paraguayan people.

The highest authority of the Catholic University is the Paraguayan Episcopal Conference, represented by the High Chancellor, who is assisted by an Episcopal Commission for the Catholic University. Day-to-day administration of the university is in the hands of the University Council and a Rector, the latter representing the university. The University Council is made up of the Rector, acting as chairman, the Vice-Rector, deans of faculties, directors of institutes and departments, five permanent professors in office, one graduate who is not a teacher, three students representing their respective departments, and the secretary-general of the university. The Rector is appointed by the Paraguayan Episcopal Conference from three candidates nominated by the University Assembly. The University Assembly is made up of the deans and directors of institutes, two professors, one graduate who is not a teacher and one student from each faculty and institute, the latter elected by their respective peers. The Rector has a term of office of five years and may be elected for one more term, like the Vice-Rector.

The powers and responsibilities of the Rector are laid down in Article 13 of the rules and regulations. He is entitled to represent the university and to appoint professors from lists of three candidates presented by the faculty councils.

Each of the faculties and institutes of the Catholic University is governed by a faculty council made up of the dean or director, acting as chairman, four permanent professors, one graduate who is not a teacher, and one student. The dean is appointed by the University Council from a list of candidates proposed by the Assembly of Representatives of each faculty or institute, and elected by their respective peers. Deans have a term of office of three years and may be re-elected for one more term. The faculties and institutes which have academic departments are governed in turn by a departmental council consisting of a director, who is chairman, four professors and two students representing their respective peers.

The principal limitations on autonomy and academic freedom within the Catholic University stem from its character as a religious institution. This has been particularly evident since 1987, when the Paraguayan Episcopal Conference established as compulsory paragraph 810 of the Canon Law. This means that when professors are selected, account is taken not only of their academic capabilities 'but also of their degree of commitment to the Church'. Disqualified, according to the Canon Law, are 'those

who live publicly in family situations which are disapproved of by the Church (public concubinage, public adultery)', and 'those who sustain doctrines expressly condemned by the Church (atheism, Marxism, positivism, etc.)'.

Under these rules, some professors have been relieved of their functions, and others have not been admitted to teach, because they did not meet the requirements of 'correctness of doctrine and personal integrity' established in the Canon and interpreted by the university authorities. Hence, this legal instrument, as has been shown in its operation, is a measure that restricts liberty and justifies arbitrary measures.

Violations of Academic Freedom

Official figures show that only 7 per cent of the population of university age actually make it to university. This feeble representation of the population in Paraguay's universities is the result of several factors: first, the high drop-out rate at the lower levels of education; second, the university's high admission criteria which result in 50 per cent of candidates failing the entrance exams or preparatory courses; third, the high costs, which include incidental costs and direct costs such as teaching materials and matriculation and tuition fees (which the state university has also begun to charge).

Another factor which restricts academic freedom relates to the conditions under which university teachers and professors have to work. Although the statutes of Paraguayan universities provide for both permanent and temporary professors and instructors, most are temporary. The result is an insecure situation; such teachers have no guarantee of employment beyond their contract, which normally is for one term or one year. Other factors also cause concern. One such is the condition of professors' study rooms, which are not designed as places of reflection and thought but simply as places for the reproduction of information. Professors and teachers are engaged for the purpose of transmitting that knowledge which the institution considers to be pertinent. Under the circumstances described, it is very difficult for a teacher or professor to discharge his academic functions adequately.

Practically no infrastructure exists to make research possible. In fact, whilst the country's universities do include courses on

social research methodology in some cases, they do no research themselves. In some faculties, a few research projects of a highly specific character are carried out with foreign financial support. The dearth of research, together with the authoritarian environment previously described, helps to explain why Paraguay's universities have until now been able to provide no good professional academic training.

The academic community does not influence decision-making. This is the result partly of the heritage from the previous regime and partly of the precarious situation of teachers and professors obliged to renew their contracts term by term, the consequence of which is that the academic community is hardly in a position to militate in favour of reform.

Paraguayan universities have suffered on the whole from the same isolation as the country itself. During the previous regime they were deprived of the stimulus of international contacts, particularly as far as teachers and students are concerned. They were subject to surveillance and operated under the thumb of the state security apparatus.

Although the new regime has opened up unrestricted possibilities for interchange and communication with the outside, these possibilities have not been exploited due to the weak organisation of students and professors.

To sum up, the principal limitations on academic autonomy and freedom in Paraguay stem directly from the continued predominance of authoritarian methods and institutional models, as demonstrated by the external control that is exercised on academic life and by the reductionist philosophy underlying academic programmes. It is thus not surprising that the country's universities have contributed so little to the rounded education of citizens who are both economically productive and democratically inclined, as well as having some sense of commitment to society at large.

Conclusions

Despite deposition of the former dictatorial regime, the absence to date of the social sciences in the country's university curricula as subjects of study, teaching or research, the recent political change notwithstanding, indicate that authoritarian practices are continuing and are even dominant in university institutions.

There is little room in Paraguay's universities for academic activity in the social sciences. It is worth noting that the country's only faculty of sociology and political science, which was part of the Catholic University from 1973 to 1984, was closed down by order of the Rector because of the alleged 'ideologisation' of its curricula.

The suppression of this branch of knowledge, which has now been reduced to the level of a minor subject, prevents Paraguayan universities from developing and using the instruments and methodologies that are required for a critical approach in keeping with the exercise of academic freedom.

Despite the change in regime, many structural conditions persist that prevent real independence in the classroom. These are as follows:

- The feeble, or even non-existent, political will of the academic authorities to achieve autonomy. This is reflected in an absence of proposals and petitions to the authorities demanding that they repeal the severe legal restrictions on the exercise of academic freedom;
- The absence of a research policy oriented to a project of academic improvement. This is reflected, for example, in the pronounced institutional unpreparedness for research and the professional mediocrity of university graduates;
- The feebleness of the demand by teachers and professors to be given more academic freedom. This weakness is fundamentally the result of the conditions under which the faculty has to work, including low salaries, short-term contracts and a reductionist concept of teaching;
- The limited participation of students in university life, which is connected with legal restrictions limiting the channels for institutional participation.

8. Sri Lanka

Hema Goonatilake

The Human Rights Situation

The war in the north and the east of Sri Lanka and the continuation of gross human rights violations remained of particular concern in 1991 and 1992. In the period since the summer of 1990, indiscriminate bombings, especially in the Jaffna area, caused around 30,000 civilian casualties. After the withdrawal of the Indian Peace Keeping Forces (IPKF) in March 1990, the Liberation Tigers of Tamil Eelam (LTTE) seized control of the Jaffna peninsula and assassinated rival Tamil politicians and members of the Tamil National Army, a combat unit forcibly recruited by Tamil factions with the help of the IPKF. In June 1990, as the LTTE broke off negotiations with the government, the Sri Lankan army moved back to the north and fighting resumed between government forces and the LTTE.

In the east, the LTTE attacked police stations, and several hundred Sinhala and Muslim policemen were murdered. The LTTE also killed large numbers of Sinhala and Muslim villagers. In response, security forces carried out a number of abductions and extrajudicial killings. In July 1991, 5,000 Tamil militants attacked an army base at Elephant Pass, and 2,000 combatants and hundreds of civilians were killed. The government forces summarily murdered thousands of Tamil civilians who had nothing to do with the LTTE, simply for being in the area.¹ Government forces are held responsible for a mounting toll of disappearances in the east.

By the end of 1990 there were 850,000 internally displaced persons, and over 240,000 Tamils had left Sri Lanka for southern India, Western Europe and America.²

By August 1992, according to the University Teachers for Human Rights (UTHR) (Jaffna), around 4,000 Tamils, among them a considerable number of women, were detained by the LTTE; many were intellectuals, students and former grassroots activists. The LTTE had also brought education and public examinations to a total standstill and large numbers of school-age boys and girls were coopted into the LTTE.³

In the south of the country, much of the leadership of the militant People's Liberation Front (JVP) had been captured or summarily executed by the end of 1989. In March 1990, according to some sources, extrajudicial executions by death squads of persons suspected of sympathising with the JVP and other opponents and critics of the government had reached up to 300 a day.

One year later, in March 1991, President Premadasa admitted that over 13,000 JVP suspects were in government custody, a situation described by some observers as the largest detention operation in the world.⁴

The estimated number of disappearances between 1987 and the end of 1990 was at least 60,000 in the south alone, and although the rate of disappearances has greatly reduced since then it is still considered to be high in the south, north and east of Sri Lanka. Until the end of 1992, torture of detainees was considered to be widespread, especially in the north where some sources indicate that it has become a daily routine.

The year 1992 saw an increasing number of attacks on journalists and other media personnel. There was ongoing severe repression of any form of human rights activity. Human rights lawyers and those applying to the courts with habeas corpus petitions were harassed and intimidated. Institutions set up by the government such as the Commission of Inquiry into Disappearances and the Human Rights Task Force reportedly had little effect 'either by way of protection or in increasing the accountability of the government for gross violations of human rights in recent years with failure to prosecute identified police and security personnel'.⁵ The Parliamentary Committee for Human Rights revealed that habeas corpus petitions had reached 20,000 by June 1992.⁶

In 1991 Canada and a number of countries in northern Europe suspended bilateral assistance or reallocated funds to other programmes because of the human rights situation. In August that year, over a hundred parliamentarians, including forty from the ruling United National Party (UNP), moved to bring impeachment proceedings against President Premadasa on charges of treason, bribery, misconduct and intentional violation of the constitution. The president responded by suspending the Parliament and ejecting leading dissidents from the UNP.

Universities in the South of Sri Lanka

Universities and schools in southern Sri Lanka reopened in January 1990, after being closed for nearly three years. However, a new emergency regulation banning political meetings and demonstrations at schools and campuses was imposed. A number of students were picked up, and some were expelled from university hostels for 'disruptive' behaviour. Under the new emergency regulation, prior permission had to be obtained from the head of the institution to hold any meetings, distribute leaflets or conduct any other student activity. This gave additional powers to vice-chancellors to ensure student 'discipline'. Security guards ensured that no outsiders visited campuses without prior permission. The Emergency Regulations apply to universities and, therefore, any action could be taken at any time to control the situation in universities.⁷

Plans began to be made to amend the existing University Act, to elect vice-chancellors by an electoral college consisting of the corresponding university council and senate, a potentially beneficial move. The Federation of University Teachers' Associations (FUTA) formally submitted that representatives from students' councils should be included in senates.

Threat to academic freedom

An intolerance of dissent on the part of the government was reflected in the increasing friction between the government and the university community. When FUTA made a statement deploring the actions of certain persons during the impeachment proceedings in August 1991, armed policemen surrounded the home of the president of FUTA at night and entered it by scaling the gates. They took him to the Crime Detective Bureau for interrogation, and released him only after several hours.⁸

Seventeen students and faculty members from the University of Ruhuna were arrested and released three months later for having discussions opposing the establishment of nine affiliated university colleges (AUCs) in each province in November 1991.⁹ The proposal to set up AUCs came partly from a select committee of the parliament, and partly from the Youth Commission appointed in 1990 to look into the grievances of the youth. The students for AUCs were to be chosen from among those who had qualified to enter the university, but failed to get admission. Each year, around 30,000 to 35,000 qualify to enter

universities, but only around 5,500 are accommodated.

The university community, both students and teachers, raised objections to the proposal, which they felt would lead to a deterioration in the standard of the degrees awarded by the national universities. Between October 1991 and January 1992 severe clashes between rival student groups over the issue were reported, and some students were injured and hospitalised. Leaders of the Students' Council of the University of Colombo alleged that when a 'democratic and peaceful' protest was launched, members of the so-called Independent Students' Union had assaulted the student leaders. The brutal attack on the former president of the Students' Council of the University of Colombo, allegedly by members of pro-government death squads, was described by the Students' Council as 'part of a plan to bring in a period of terror to clamp down agitation against the high cost of living and unemployment'. The president of the Students' Council of the University of Ruhuna was reportedly physically attacked some time before, over the same issue.¹⁰

During the same period, tensions ran high as armed policemen entered the University of Sri Jayawardenapura to end fighting between two student factions; two days earlier, students of the Institute of Aesthetic Studies of the University of Kelaniya had protested against moves to grant external degrees to outsiders. It was reported by the government that all 'anti-subversive units' of the government were alerted to 'deal with' those who 'tried to instigate violence' in the universities.

A member of the academic staff of the University of Sri Jayawardenapura was abducted on his way back home in January 1992 by a group of men in civilian clothing, allegedly for 'subversive' activities. Subsequently, the vice-chancellor was informed that the Criminal Investigation Department was responsible. In a statement, the University Teachers' Association of Sri Jayawardenapura deplored the manner in which the staff member had been taken by the police, and requested that any arrests should be made with the knowledge of the vice-chancellor.¹¹

In March 1992, there was a wave of student arrests and abductions, including that of the president and secretary of the University of Colombo Students' Union. Raids on student hostels and residences and harassment of families of students by the police were also reported during this time. Students' unions staged peaceful *satyakriya* (literally, 'truth acts') to protest against

these acts of repression by the police.

As intimidation of students continued, in April 1992 newspapers reported political interference in student union elections at the Faculty of Law of the University of Colombo. The candidate for the presidency put forward by the Students' Solidarity Organisation, who was tipped to win, was abducted and released only after three days. Subsequently, he withdrew his candidature under threat. It was widely believed that the abduction was instigated by a supporter of the Independent Students' Union who is presently an adviser to the president of Sri Lanka. Student leaders from the University of Kelaniya and the University of Puhuna who are opposed to the ruling political party also were threatened prior to the student union elections, allegedly by the Independent Students' Union.¹² In November 1992, it was revealed in the government-owned *Sunday Observer* (in a lead news story whose main purpose was designed to discredit the Mothers' Front) that the Independent Students' Union had helped the PRRA (the so-called People's Revolutionary Red Army) in its death squad activities.¹³

According to student sources, over 125 university students have been held in custody without being charged since the events of 1989.¹⁴ About 450 university students and around 5,000 school children have disappeared.¹⁵ In June 1991, sources at the University Grants Commission of the Ministry of Education reported that 202 university students were missing.

University closures

On a number of occasions in the recent past, universities have been closed because their administrations failed to provide the necessary facilities to the students. One such occasion was the closure of the Sri Jayawardenapura University in early 1992 because there was no water. Students at the University of Colombo have been complaining since its reopening after the disturbances of the late 1980s, not only about insufficient residential accommodation, but also that insufficient lecture halls are available.

The failure of the University of Colombo administration to solve the problem of student residential accommodation, even temporarily, triggered off major student unrest in May 1992 on the eve of student council elections. The University of Colombo was closed down as a result of a dispute about examination standards, and about 500 students who came to the university on

the next day were baton-charged by the police, according to all reports without provocation by the students. The students then launched a hunger strike both against the government decision to close the university and to declare the precincts of the university out of bounds, and on the question of examination standards for the students. In solidarity with this action, students of Sri Jayawardenapura University too launched a hunger strike.¹⁶

Universities in the North and East

Except for brief periods, during 1987-89 universities in the north and east operated as normal, despite an atmosphere of fear, violence and chaos. The University of Jaffna, according to UTHR, succeeded to a remarkable extent in confronting the activities of the IPKF and LTTE; the university continued to stand up for the rights of the students. In September 1989, however, Dr. Rajini Thiraganama, a prominent member of UTHR, was assassinated; her murder signalled 'a new and menacing challenge to the university'.¹⁷ When the university organisers of a peace march did not comply with the LTTE's demand that it call for a withdrawal of the IPKF, a student leader who had challenged the LTTE over the disappearance of a student in 1986 was murdered by the LTTE.¹⁸

Following the outbreak of civil war once again in June 1990, intimidation of the students and staff by the LTTE increased. A number of students and staff left Jaffna because they were physically threatened; Muslim students and staff were physically prevented from being in Jaffna, and the university was closed until November 1990. A number of Jaffna University students are in LTTE custody for 'unpatriotic' activity.¹⁹

The Eastern University managed a refugee camp which served as an information centre, hospital and food distribution centre. By August 1990, as the fighting between the LTTE and the army escalated, the number of refugees at the camp increased fourfold to 46,000. In June 1991, the camp was surrounded by the army, and five inmates were taken away. In reaction, the camp was closed by the LTTE. Early in September, members of the Eastern University were rounded up, and 159 students were taken away by the LTTE.²⁰

* * * *

A Personal Testimony

Hema Goonatilake

During 1991 and 1992, issues of academic freedom in Sri Lanka have remained complex and fluid. The complexity with which the various factors pertaining to academic freedom play themselves out on the ground can be illustrated by my own experience.

As a university teacher, I was close to students, functioning as an adviser in many of the students' literary, social and cultural organisations, both in my university and in other academic institutions. I was also active in the University Teachers' Association for over twenty years, holding several offices such as treasurer and vice-president; I was national vice-president of the Federation of University Teachers' Associations (comprising teachers from all eight universities in the country), and the national chair of WUS until I left Sri Lanka in September 1989.

By late 1980s, the situation in the country was such that fear of reprisals prevented many academics from speaking out or having contacts with students. Having such contacts was cause for discomfort and even suspicion. I vividly remember the occasion of the *satyagraha* (non-violent sit-in) by student monks in support of a demand for residential facilities at my university. They had had no communication whatsoever with the authorities. On seeing me they requested some alms for their mid-day meal. The invisible barrier preventing student communication with staff was such that when I gave some money for alms, my action was interpreted by the university authorities as instigation of students.

By mid-1987, all universities had been closed following student protests. Yet student unrest continued; students began to be arrested and to disappear. In order to understand this situation, a brief outline of the background is necessary. In 1983, in an ill-conceived policy of repressing student opinion, the government banned all students' unions on the grounds that they were sympathetic to opposition parties. The Inter-University Students' Union (IUSF) was the strongest union at the time, representing the bulk of opposition forces. Among the other students unions, the Independent Students' Union (ISU), based in

the University of Colombo, was significantly smaller. The rivalry between the ISU and the IUSF intensified over the years, and as a consequence violence among students within and outside the campus took place. The first president of the ISU was killed in 1986, allegedly by the People's Liberation Front (JVP), the political party which influenced and later dominated the IUSF. In the late 1980s most of the leadership of the IUSF were killed, allegedly by pro-government groups.

The two major demands of all student unions from around 1983 were restoration of the students' unions and nationalisation of a private medical college established in 1981. The latter was seen as a critical issue as the private status of the college enabled those without adequate examination marks to pay to enter the university system, a very sore point in the context of the severe competition for university places in Sri Lanka. Both student unions, with the IUSF the major force, persisted in their protests against the private medical college. Peacefully demonstrating students were often baton-charged: two were killed. Many students were arrested for putting up posters. Some students remained in police custody for more than two years without being charged in a court of law. Armed men often crept into university hostels without informing the vice-chancellors and harassed students. Armed forces occupied several universities for periods of several months.

Contemporaneously, the Tamil insurgency that had raged in the north of the country, and to a lesser extent in the east, took a dramatic turn. In July 1987 the Indian government, which earlier had supported the insurgency and supplied it with arms, because of Sri Lanka's pro-Western stance, withdrew its support and agreed to disarm the insurgents based on a hurriedly imposed Peace Accord.

This event marked the beginning of deep political turmoil. Unprecedented countrywide demonstrations against the accord were held, supported by large segments of the population. Over 140 unarmed civilians were gunned down by the security forces during these protests. A JVP-connected Patriotic People's Movement (DJV), a militant organisation, and the JVP were the most vociferous in their campaigns against the accord, against the presence of the Indian army brought in under it and against the authoritarian rule of the government. The Sri Lankan Freedom Party (SLFP), the main opposition party, and several other parties also protested. The old left political parties

supported the Peace Accord. The student rivalry between the IUSF and the ISU deepened after July 1987, since the former backed the political parties protesting against the Peace Accord, and the latter was linked with the parties who favoured it.

As a response to the students' protests against the accord, as well as against the regime, universities were closed down. In November 1987, a second-year medical student was tortured and killed, allegedly by a pro-government group. His funeral procession, which was organised by students and held in Colombo, was joined by university teachers' associations, non-political, non-governmental associations and trade unions. The numbers attending the procession (newspapers reported 40,000) were unprecedented.

By the beginning of 1988, further repressive measures were introduced by the government. People were increasingly arrested indiscriminately, and many 'disappeared'. University students and schoolchildren were increasingly amongst those held.

In March 1988, Students for Human Rights (SHR) was formed with a second-year medical student as its secretary. In April 1988, the SHR secretary was arrested when he was found near a group of students putting up posters which read 'down with the private medical college'. I met a senior police officer, and got the SHR secretary released after a couple of weeks.

In July 1988, I helped co-found the University Teachers for Human Rights (UTHR), and became its joint secretary. Its functions included the setting up of a database on rights violations, taking up disappearances and arrests with the authorities, and organising public seminars on human rights education.

By November 1988, several repressive laws such as the 55FF Law (giving the authorities the right to dispose of dead bodies without inquests or handing them over to the family) and the Indemnity Law (protecting police officers who commit excesses) were in operation. Violence by the JVP and DJV, and counter-violence by security forces and government vigilante groups was now rampant. Summary executions of civilians by security forces, disappearances and torture escalated. Most of the executions were carried out in public, by means of necklacing - tying the victim's arms, filling a tyre around his or her neck with kerosene and lighting it. Corpses - floating down rivers, hanging from trees or smouldering by the roadside - became common sights.

About this time, the Colombo Citizens' Committee was formed with Prins Gunasekera, the human rights lawyer who had filed the largest number of habeas corpus applications in Sri Lanka, as its president; Charitha Lankapura, another human rights lawyer, and Karunaratne, a final-year law student at the University of Colombo, were joint secretaries. I became its treasurer. The committee helped to file habeas corpus applications for hundreds of the disappeared. Its members visited police stations and army camps to get people held in custody without charges released. Many of us who attended the committee's meetings realised that we were watched by unknown men in civilian clothes.

On 10 December 1988 (International Human Rights Day), students had planned a photographic exhibition of human rights violations and a public meeting, but permission for it was denied. That same weekend, my husband and I drove towards the south with two students and another university lecturer, and saw dozens of dead bodies burning on the roadside; others were being buried in the presence of armed men.

In December 1988, the country's presidential election was held without heed to several specific demands designed to enable fair conduct of the elections (particularly the demand to disband paramilitary groups) made by religious dignitaries and organisations of academics, professionals and trade unions. The election was marked by violence and death threats against voters by the JVP/DJV, and counter-violence by paramilitary groups.

Universities which had closed in July 1987 in connection with the Peace Accord reopened in November 1987, only to close within a few weeks when students went on strike in support of several demands, including abolition of the private medical college.

Every time the universities reopened, often after negotiations with the IUSF, within a few weeks the army conducted cordon-and-search operations on campuses, made mass arrests of students, and closed the universities again. This pattern continued for nearly two years. There was a total breakdown of negotiations between the IUSF and the minister of higher education during the period September 1988 to April 1989. The UTHR took a decision in April 1989 to bring back the IUSF and the minister for negotiations.

Since I knew the minister as well as the students personally, I privately sounded out each side on their views. Finding that

both wished to have the universities opened, I facilitated a series of meetings. These meetings were attended by the minister, his staff, officials of the army and the police, vice-chancellors of all the universities, representatives of UTHR, the Federation of University Teachers' Associations, the Federation of Parents' Associations, and students' representatives. The student representatives came to the meetings wearing masks, because they feared they would be identified and later killed, which had been the fate of student activists on earlier occasions. Despite their precautions, by the end of 1989, all the students who participated in these discussions had been killed or had disappeared, except for one who was taken into custody while trying to leave the country.

One outcome of these discussions was that, a committee to monitor the arrest and release of students was appointed by the government in April 1989; it included the president of the UTHR and myself, as UTHR secretary. During this period the minister of higher education was often in telephone contact with me because I was a key link to the students. I was also officially introduced to certain senior officers of the army and the police, in order to facilitate the process of intervening in cases of illegal arrest of students. My house soon began to be flooded with various persons whose family members had been arrested or disappeared.

By April 1989, I had begun to get death threats by telephone and mail. Telephone callers said that my husband and I would soon be killed. One set of threatening letters I received was signed by the PRRA death squad. Another set contained a death list of well-known people in Sri Lanka: two leaders of a political party, the leader of the largest non-political, non-governmental organisation, a non-political Christian priest, a group of Catholic priests, Prins Gunasekera, the president of the Colombo Citizens' Committee referred to above, a Buddhist monk who edited a human rights journal, an editor of another journal that was critical of human rights violations by the government, an anti-government journalist, my husband and I. The common denominator seemed to be that these individuals were perceived as concerned citizens.

Soon we were the subject of another set of letters, more malicious and sick, falsely purporting to have been issued by an anti-government journalist. These letters were blatantly designed to malign many of us who were standing up against injustice,

accusing us of the very crimes with which we were charging the authorities. As soon as I read one particularly sick letter, I rushed to the minister of higher education, and consulted him as to what action I should take. He said, 'This is an anonymous scurrilous letter, you shouldn't get upset. But if you are not afraid to, you should make a complaint to the authorities.' I took these letters to the Deputy Inspector of Police, Criminal Investigation Department, who directed me to the head of the National Intelligence Bureau, who asked me whom I suspected to be behind this smear campaign. I could not give any definite names. He kept a set of copies of the letters, and I did not hear from him again. The last letter in the same series stated that the newly elected president of Sri Lanka was a recruit to the JVP, which indicated that these letters - which had been posted to many people - were not written by government representatives, but by one of the private death squads that had emerged.

Towards the end of April 1989 Mr Premadasa, the newly elected president, sent a message to me, through Walpola Rahula Theri an acclaimed Buddhist monk, that he wished to see me for an informal discussion. Although very surprised as I had never met him, I went for the meeting. The president came half an hour late saying that he had been held up by a discussion with the LTTE, who were then just establishing contacts with the Sri Lanka government. Mr Premadasa offered coffee and the atmosphere was informal and friendly. In reply to the president's pleasantries, in order to make my convictions clear, - and perhaps over-defensively - I said, 'As you know from our writings and public speaking, both I and my husband have never been members of any political party, and we would continue to be critical, whenever the situation demands, whatever the political party is'. His response was, 'That's good, as long as it is constructive criticism.'

The discussion centred largely around students and young Buddhist monks, two communities with whom I was in touch and many of whom had by then become close to the JVP. Mr Premadasa spoke very sympathetically of the JVP and was critical of the former president, J.R. Jayawardene, who had signed the Peace Accord. I got the impression that he wished through my student and monk contacts to reach the JVP. I told him categorically that I was close to a very large number of students and young monks, but did not know specifically who had contacts with the JVP - which was the truth.

By May 1989, many members of the Monitoring Committee for Students' Arrest and Release had received death threats from so-called 'vigilante' groups. We heard that the senior assistant secretary of the ministry of higher education, who served as the secretary to the committee, had been so threatened that out of fear he spent every night at a different house. I was perhaps the most vulnerable next to the student members of the committee, because I was closest to the students. By now, for safety, my husband and I visited our house only by day and slept elsewhere at night. We were followed several times by unmarked vehicles, the sign of death squads. I stopped driving my car, and from then on I was always accompanied by somebody for protection.

In June 1989 I was a member of a five-person delegation from several human rights organisations who were given an interview by the president and the cabinet to discuss the escalating violence and abuse of human rights. Also present were the security chiefs. A joint resolution was agreed upon to be released to the press. However, the release issued by the government was not accurate and left out important segments of the resolution.

On 7 July, 1989, Charitha Lankapura, the secretary of the Colombo Citizens' Committee, who was also on the advisory committee of SHR, was shot dead in his home by a death squad. His body was brought by the SHR to the Colombo Medical Faculty, the official premises of the SHR, for the funeral ceremony, but later it was forcibly removed by security forces on the orders of the government.

Illustrative of the tensions of the times, I can recall the killing of a student which was taken up by the monitoring committee as a case for investigation. The student was said to have been murdered and buried by death squads in Kuliypitiya, a small town beyond the larger town Kurunegala, some eighty miles from Colombo. The team that proceeded to locate the buried body of the student included the head of the department the student belonged to, the dean of the faculty, the secretary of the University Teachers' Association, the secretary of the monitoring committee (who was the senior assistant secretary of the ministry of higher education), and two students. Twenty miles before reaching their destination, the team members were threatened by a security official of the area and told that 'university persons coming beyond Kurunegala will be killed'.

The house of the retired Supreme Court judge whom the team visited in Kurunegala was bombed. The members of the team were refused food or lodging in guesthouses, through pressure brought by the security forces; and after a sleepless night at Kurunegala, they returned to Colombo without fulfilling any of the objectives of the mission.

By this time, my husband and I had stopped answering the doorbell. We made it a point not to sit around in the living room downstairs, but to spend most of our time upstairs in the bedroom. We often saw strangers walking down the pathway to our house, taking a hard look at it.

On 4 September, 1989, security personnel searched our house. All my documents relating to human rights activities, as well as my personal diaries, were taken. My husband and I were interrogated for several hours - I must add, very civilly. My husband was interrogated the same day, I on a following day. My husband mentioned that our views on the current situation were public knowledge and he invited the interrogating officer to a talk he was giving to the Annual Sessions of the Organisation of Professional Associations (OPA) comparing the armed uprisings in the north and south of Sri Lanka. The senior police official who was head of interrogation insisted that he drop my husband home personally. After questioning and release, many persons had 'disappeared' as a result of action by informal groups. The officer apparently wished to see that the same fate did not befall my husband.

Following the killing of Charitha Lankapura, another active human rights lawyer of the Colombo Citizens' Committee, Kanchana Abhayapala, who had been threatened with death for filing habeas corpus applications, had been shot dead on 28 August, 1989. The president of the committee, Prins Gunasekera, received death threats and fled Sri Lanka in September 1989. In April 1990, Karunaratne tried to flee to London, but was taken into custody at the airport; he continues to be held in custody.

My female colleague Rajini Thiranagama of the Faculty of Medicine at the University of Jaffna and a founding member of UTHR was shot dead on 19 September, 1989. I was deeply saddened over her death, and felt furious at myself, and even guilty for helping to initiate the UTHR.

About a week later, my husband and I were given a telephone ultimatum: we would be killed within four weeks unless we totally ceased supporting the JVP by helping students

and by publicising alleged abuses by the authorities. When I started to explain that we were not members of the JVP, the caller shouted at me and hung up. When I went, agitated, to the minister of higher education, he suggested, 'Why don't you go abroad on a holiday?'

I decided to leave the country as soon as possible, making use of an invitation to a conference in Geneva. My husband, who had accompanied me as I followed up student disappearances, was also at the receiving end of several threatening calls. His car was followed several times by unmarked vehicles. He gave his talk on the social dynamics of the northern and southern insurgencies to nearly 500 professionals at the OPA Annual Sessions. He too then left Sri Lanka. At the airport I was searched and a set of documents detailing a massacre just south of Colombo was confiscated before I was allowed to proceed.

It has been several years since these events. The psychological shock and the stench of death has faded somewhat from memory. I often sorrow over the loss of the flower of the land, many of whom we came to know and love like our own children. The question we have asked many times is could it have been otherwise? Could we in our own limited ways have influenced some of the events in a different direction?

Most of the principal actors were caught in the logic of their own or others' actions. Some of the students in leadership positions were closely allied to the JVP and were presumably taking their orders directly from it. At the time I assumed they were largely only sympathisers, but on hindsight their autonomy now appears to have been more limited than I then imagined. Many of the other students had been at one time strong sympathisers of the JVP, but as the conflict became increasingly violent they became disenchanted or distanced themselves. The influence of outsiders on the students and their capacity to listen to other voices - even those that they liked - were constrained by these factors.

As a pointer for action in Sri Lanka, I gave student human rights groups multiple copies of reports about the student agitation for democracy in China and how it mobilised world opinion. Such suggestions were taken positively by the students, whilst other suggestions - especially those on more fundamental political issues facing the country - were given at the most a polite hearing by the more influential students. On these, it now

appears, opinions came from elsewhere and were not subject to negotiation.

With the universities mostly closed, without the possibility for students to meet in open discussion and reach collective decisions, events occurred at whirlwind speed. The possibilities for considered reflection and action became increasingly limited. The state in the meantime lost its earlier conciliatory tone. It now embarked on a course of extreme repression which was unrelenting. The giddy pace of events during the last few months of 1989 saw all actors, even somewhat peripheral ones like ourselves, being dragged by the logic of events into situations not of our making. Answers to questions such as 'Could it have been otherwise?' thus cannot be given as yet. They must rest on the availability of correct data, on correct analysis and on reflection.

Yet correct data is difficult to obtain, not least because those who are the gatekeepers of data and analysis have to an unprecedented degree also become distorters. The distinction between what is true and what is false becomes blurred. The search for truth, academic freedom's highest goal, is a casualty.

Some bizarre happenings, unheard of perhaps anywhere else in the world, occur. A youth commission adduces all sorts of imagined indirect causes to the student unrest, except the very ones that were so biting displayed in the students' protest slogans. The editor of the leading English-language 'alternative' journal is at the time of the highest number of human rights violations taken to advise the state on its foreign image and sent around Sri Lankan embassies abroad. And, *post facto* histories written by academics who were influential at the time when student unions were effectively disbanded now present student protest as largely a problem of law and order,²¹ it is a far cry from the time in 1988 when the vice-chancellors admitted that events like banning student councils were strong contributory factors.²² History, perhaps, might once again be readying itself to partially repeat itself.

The role of the university as the arena for the clash of ideas has been usurped. UTHR's Jaffna branch has detailed how deeply the violence has affected reasoned thinking in Jaffna University. In the south, the effect is less pervasive. Although the earlier violence caused by student rivalry no longer occurs, candidates opposed to the pro-government ISU are regularly kidnapped and threatened. More damaging is the marginalisation

of university academics; the university is no longer an arena where historians, political scientists and sociologists - including budding ones - apply their knowhow to pressing problems. The usurpation of this activity by others less informed could well be a contributory factor in the present crisis.

The various key actors in the Sri Lankan tragedy - the government, the Indian forces, the LTTE, the other Tamil militant groups and the JVP - have all been at different times perpetrators of violence, as well as its victims. They have all engaged in violence in pursuit of what they perceived as noble causes. Facilely and facetiously to condemn them would be to retreat from the dynamics of the real world. A more open arena for informed discourse could have helped clear at least some of the issues before they came to a head. The university should have been such a place. It was not. To that extent all those within as well as outside the universities, including the present writer, are culpable.

Notes

1. UTHR (University Teachers for Human Rights) (Jaffna), *Sri Lanka: Human Rights and the Issues of War and Peace*, Briefing No. 1, August 1992.
2. US Department of State Country Report on Human Rights, February 1991.
3. UTHR (Jaffna), *Sri Lanka*.
4. *Sri Lanka Monitor*, March 1991.
5. Sri Lanka Forum Mailing 33, October 1992.
6. Divayina and Lankadeepa, June 1992.
7. The Prevention of Terrorism Act (PTA) introduced in 1979 and the Emergency Regulations (ER), renewed monthly with the extension of the state of emergency in effect since 1983, continue to be in force. Under the PTA, a person may be detained without charge for up to eighteen months, but sometimes they are held longer. Under the ER, a suspect may be detained by security forces for up to three months before he must be presented to a magistrate, who is empowered only to remand him to a prison indefinitely, and not to investigate the arrest. Rights such as visits by family and access to lawyers are restricted under these laws. Although detainees may challenge the legality of their detention through habeas corpus petitions or fundamental rights suits, the thirty-day limit within which the latter

should be filed with complete documentation makes it virtually impossible to bring such suits.

8. Statement by the Federation of University Teachers Associations, 7 December 1991.
9. *Ceylon Daily News, Sunday Times, Island*, November 1991 - January 1992.
10. Statements by the Students' Council.
11. Letter from the University Teachers' Association, Sri Jayawardenapura, to the president of Sri Lanka.
12. *Lakdiva*, May 1992.
13. *Sunday Observer*, 27 November 1992.
14. *Sri Lanka Monitor*, March 1991.
15. Statement by Students for Human Rights, issued in London, October 1991.
16. At the beginning of 1993 no universities, with the exception of Jaffna, were functioning as a result of trade union actions by academics and non-academic unions. Staffing conditions in universities are very poor because of the increasing brain drain within and outside the country.
17. University Teachers for Human Rights (Jaffna), *The Politics of Destruction and the Human Tragedy*, Report No. 6, February 1991.
18. UTHR, (Jaffna), *Sri Lanka*.
19. *Ibid.*
20. *Ibid.*
21. Minerva de Silva Kingsley, *A Review of Science Learning and Policy*, Summer 1990.
22. *Daily News*, 8 August, 1988.

9. Sudan

Leah Leatherbee and Hibaaq Osman, The Fund for Peace

Although several countries in Africa are moving towards democracy, Sudan is not one of them. Indeed, it has become ever more brutal and repressive since Lieutenant-General Omer Hassan al-Bashir seized power in a military coup in June 1989. Current political and social conditions are appalling and affect millions of Sudanese. Most of what was once an active human rights community has been forced to flee or risk imprisonment, torture or death. Despite a sporadic history of democracy and democratic institutions unusual in its part of the world, Sudan now labours under one of the most repressive regimes on the continent.

In the years since independence in 1956, Sudan has at times experienced a level of democracy unknown in many African countries. It has had democratic parliamentary governments during three different periods: 1956-58, 1964-69 and 1985-89. In 1964 and 1985, democratic governments were established by popular movements which overthrew unpopular military dictatorships by means of general strikes, demonstrations, and other peaceful activities.

Sudanese civil society included well-organised professional and ethnic associations, trade unions, political parties and university professors, and an independent judiciary. Among the most prominent organisations were the Sudan Journalists Union, the Writers Union, the Sudan Bar Association, the Doctors Union, and the Sudan Human Rights Organisation.

One of the main demands of the April 1985 popular uprising that overthrew the dictatorship of Colonel Ga'afar Mohammed Nimeiri was for freedom of the press. During 1985-89, the Sudanese public enjoyed one of the freest presses in sub-Saharan Africa, with no fewer than forty-three newspapers. The press often exposed and checked the government's abuses of power. Elected governments attempted to control the press but were prevented from doing so by the constitution, the Constituent Assembly, the judiciary, the Sudan Journalists Union and public opinion in general.

Sudan's democratic experience elevated the status of women. Large numbers of women became students, as well as professors, at the University of Khartoum. Women held senior positions in government departments, and were even cabinet ministers.

Upon coming to power, Bashir immediately declared a state of emergency, suspended the constitution, and abolished all political organisations, trade unions and professional associations, confiscating their assets. All publishing licences were cancelled, and forty-three newspapers closed down. The regime then proceeded to dismiss thousands of civil servants and military and police officers from their posts. After eighteen months, 20,000 government employees had been fired, including judges, army officers, police officers and university professors.

In conjunction with the bannings and dismissals, Bashir's government arrested political and trade union leaders, lawyers, medical doctors, university professors, journalists, clergy, poets, human rights activists and writers. The detainees were arrested under emergency legislation that allows indefinite detention without charge or trial. Most have been denied access to their families and to legal counsel, and many are in need of medical treatment. Prisoners have been interrogated and tortured, and some have died in detention. Several thousand people have been detained at least once without charge and without trial.

Bashir also moved against certain military officers who had played a role in organising the April 1985 popular uprising. During 23 and 24 April 1990, twenty-eight army officers were executed for an alleged coup attempt. Several of the officers were arrested before the coup was said to have occurred and were shot without trial. The others had a two-hour trial without defence counsel and were shot immediately afterwards. At least thirty-four retired and serving military officers were arrested in August 1991 for alleged involvement in plotting a coup. Credible reports indicate that many of them were secretly tried and sentenced to death, but that the sentences were revoked following intense international pressure.

In October 1989, Bashir created the Popular Defence Force (PDF), giving official status to the tribal militias formed by previous governments to raid and destroy areas of the south believed to be sympathetic to the insurgent Sudanese People's Liberation Army (SPLA). These militias have massacred thousands of civilians from the Dinka tribe, from which the SPLA draws most of its recruits.

Several weeks after Bashir announced the formation of the PDF, the Misiriya tribal militia attacked a Nuba village killing an estimated 100-500 civilians, wounding many more, and producing 13,000 homeless families whose villages they had burned to the ground. The official recognition afforded to the PDF suggests that the regime gives tacit approval to the horrendous human rights abuses being committed by these forces and, in effect, offers a blank cheque to the militias to continue and escalate these abuses.

The government has also used famine as an instrument of control and as a weapon in its war against the south. Government officials have consistently denied the existence of a famine and have attacked Western governments and agencies for 'making trouble' by insisting on its existence. In order to maintain its official line on the famine, the regime has repeatedly undermined relief efforts; while large numbers of Sudanese face starvation, it has exported much of its grain reserve, primarily to help fund the war.

Famine and civil war have produced 2-3 million internally displaced persons, close to 2 million of whom are kept in destitution on the outskirts of Khartoum. Regarded suspiciously by the authorities as potential or real rebels because of their non-Islamic and southern origins, this extremely vulnerable population has been denied basic services ranging from adequate sanitation, water, food and medicine to schooling. Many of the displaced have been forcibly relocated in a brutal and wholly impractical manner and have become the latest victims of the regime's brand of Islamicisation. The government is increasingly prohibiting non-Islamic religious, educational and relief agencies from having access to the largely Christian population that is inadequately and prejudicially assisted by the government. Some inhabitants of the displaced persons' camps around Khartoum have converted to Islam in order to secure basic necessities for survival.

On 22 March 1991, the government introduced a new penal code based on an extremely harsh interpretation of Islamic law (*shari'a*). Three aspects of the new penal code raise significant human rights concerns: (a) non-Moslems and women are relegated to the status of second-class citizens; (b) apostasy (renouncing Islam) is a crime and carries the penalty of death; (c) penalties proposed for certain crimes involve cruel and

inhuman punishments including amputation, death by stoning, crucifixion and flogging.

The penal code is drawn from historic Islamic jurisprudence, but the legal provisions provide room for interpretation, making it vulnerable to political manipulation. In the hands of the Bashir government, the new penal code could easily become an instrument of terror for enforcing political and religious conformity.

Already, the position of women - once believed to be one of the most progressive on the continent - has been undermined by the alleged demands of Islamic propriety. The government has systematically dismissed women from public employment and has detained many women doctors, lawyers and politicians, maintaining that woman's role is in the home. Women market traders have been harassed and beaten and there is talk of limiting women's access to higher education and employment. A July 1991 family law gives husbands additional control over the movement of their wives; weddings, once festive and free occasions, are now segregated by gender and dancing is prohibited. Government pronouncements over the radio insist that women cover their bodies completely and wear a veil, while men are encouraged to act as 'dress police'.¹ Recently, the governor of Eastern State issued a decree requiring local women to be in their houses between the hours of 5.30 p.m. and 5.30 a.m. The government is also enforcing a rule that requires women to be accompanied by a *muhram* (a close male relative who acts as a guardian) when they travel.

In summary, human rights conditions took a drastic turn for the worse with the onset of Lt. Gen. Omer Hassan el-Bashir's regime, and have been deteriorating steadily ever since. As the war continues to rage, the economy to decline, and Sudan becomes increasingly isolated internationally, the government has responded to public outrage with further repression.

The Right to Education

Until the end of the nineteenth century, formal education in Sudan was exclusively of a religious nature. Emphasis was laid on the teaching of the Koran and few girls had access to education. Secular education was introduced at the end of the century.

Mainly as a result of the intensification of the long-standing conflict between the largely Muslim north and the southern part of the country, the economic situation in Sudan deteriorated, exacerbated by influxes of refugees from surrounding countries - Uganda, Ethiopia and Chad - who were driven by drought and war. Measures to stop inflation, increase exports and decrease imports failed to reverse the economic decline. Expenditure on defence and military activities and debt servicing weighed heavily on the national budget.

Whilst education in Sudan has witnessed a substantial expansion in the number of schools, pupils and teachers since independence and especially during the 1950s and the 1960s, little more than 1 per cent of the national budget was spent on general education at the end of the 1980s.² The country had an adult literacy rate of 24.4 per cent in 1985: 39 per cent for men against 10 per cent for women. A combined (male and female) primary and secondary enrolment ratio of 36 per cent existed in 1986-88.³ In Sudan, primary education often means final education. Female enrolment at all grades is significantly below that of boys, especially in the southern region, outside the main towns and in technical secondary schools.⁴ According to the United Nations Development Programme (UNDP), the tertiary education enrolment ratio for 1987-88 was not more than 5 per cent.

Any analysis of the above data must be made in the context of the differences between the north and the south of the country. As one source indicates:

In Khartoum and the northern region, the vast majority of children get to primary school, and over 40 per cent of sixteen-to-eighteen-year-olds are at secondary school. However, at the other end of the scale, the southern provinces of Upper Nile and Bahr al-Ghazal have very low enrolment rates, even at primary level. This is partly due to the effects of the war, which has caused massive damage to schools and displaced large sections of the population out of the southern provinces.⁵

In other parts of the country, such as the western provinces of Darfur and Kordofan, it is drought and the subsequent displacement of millions that causes low enrolment figures.

Violations of Academic Freedom

The universities have traditionally been the one group of institutions in Sudan which, even during previous periods of dictatorship, were relatively autonomous and independently run. Under the current military regime, no public institution has been spared intrusion by the state, and once-independent institutions are now required to espouse the regime's fundamentalist ideology. Like all public institutions, the universities and the school system as a whole are being severely affected. Professors and students have been dismissed, arrested, tortured and, in a few instances, killed. Student and faculty associations have been banned and replaced by new ones loyal to the National Islamic Front (NIF), the main backer of the current administration. University campuses have been occupied by security forces and parallel universities have been created to diffuse the influence of past 'liberal' practices. Human rights activists both in and outside Sudan have expressed grave concern about what is referred to as the 'Islamicisation' or 'Arabisation' of school and university curricula, a development with serious implications for the approximately one-third of Sudan's population that is non-Muslim.

In the face of increasing acts of civil disobedience, the regime and its NIF backers have been eager to maintain the fiction that the universities are functioning normally. The NIF has long relied on university campuses for political support. In view of the fact that the NIF has enjoyed significant support from the student population, to maintain the image of a functioning and 'expanding' educational system is, in their view, vital to their political longevity.

Decrees eroding the independence of the educational system

At the end of 1989, Bashir announced a number of decrees which set in motion a process of stripping the universities of their autonomy by intervening directly in crucial areas of university management. According to Professor Ali Abdallah Abbas, the former president of the Khartoum University Lecturers Union, the regime abolished the electoral system in which a chancellor, vice-chancellor and deans and heads of departments were elected by their peers.⁶ In December 1989, the regime appointed a new vice-chancellor of the University of Khartoum. After twelve months, he was forced to resign, reportedly because he was

unwilling to go along with all the regime's policies regarding the administration of the university. A new vice-chancellor, an NIF hardliner, was appointed to replace him. Hafiz el-Sheikh el-Zaki, a lawyer and longstanding member of the NIF, was appointed dean of the Faculty of Law at Khartoum University at the end of 1989.

The decrees also created five new public and private universities,⁷ doubled enrolment at the older universities and paved the way for Arabic to replace English as the language of instruction in institutions of higher education.⁸ One lecturer at Khartoum University complained to us that the government is taking over buildings and academic institutions and renaming them 'universities'. For example, the African Islamic Centre was renamed the African Islamic University.⁹ According to a number of Sudanese academics, the real effect of these changes has been to lower the standards of education for approximately 11,000 students at the University of Khartoum alone by overcrowding already inadequate facilities and replacing highly qualified professors by newly graduated students and less qualified professors. Overcrowding is apparently resulting in classes of up to 100 students and impeding access to laboratories, equipment and other crucial resources.

The creation of new private universities is even more disturbing. In the past, it was very difficult to establish such private institutions because of the prohibitive cost of meeting the stringent standards required for educational excellence. The regime has essentially waived these standards in order to expand student enrolment, with obvious consequences. The deregulation of requirements pertaining to the private universities, and the expansion and creation of new public universities threaten to undermine the whole system of higher education in Sudan.

Academics have expressed anger over what they have referred to as the 'Islamicisation' or 'Arabisation' of education, which deliberately excludes a significant portion of the southern Sudanese population from entering a university or continuing in it once admitted. Since 1991, official policy has required Arabic to be used as the medium of instruction in all public universities. Prior to 1991, reflecting the training of most university professors and the greater availability of English textbooks, most university courses were taught in English. In November 1991, the government announced that all students wishing to attend university would be required to pass an Arabic language exam.

Although this requirement had applied to northerners for some time, Southerners had been exempt since 1972.¹⁰

Efforts to Islamicise or Arabise the education system have not been restricted to the universities alone. In the southern city of Juba in September and October 1991, the government tried to introduce Arabic as the language of instruction for all subjects. Muslim brothers were sent to teach Arabic and one source informed us that in November 1991 two were killed in the street by outraged students.¹¹ Students in Juba also went on strike, and we were told in February 1992 that all schools there had been closed since September. Nevertheless, the regime continues to insist that schools use Arabic as the primary language of instruction.¹²

Two Catholic priests, Fathers Constantino Pitia and Nicholas Abdallah, were arrested by security officers early in March 1992. Their arrests are thought to have been connected with their suspected roles in the organisation of demonstrations that took place in Juba against 'Arabisation', as well as with their opposition to the arrest of students trying to flee Juba. According to Amnesty International, sixty-two school students have been arrested since November 1991 for trying to leave Juba in search of educational opportunities either in rebel-held SPLA areas or in neighbouring countries.¹³ Amnesty International has reported that the students were moved from the military barracks, where they were reportedly mistreated, to a police station where their situation, as of April 1992, was unknown. The two priests were flown to Khartoum and released early that month.¹⁴

Although many private schools have so far been able to continue their course work in English, the government has announced that all small private schools in Khartoum, such as those run by the churches, will be closed down and that students will be given several years of intensive instruction in Arabic. Once their Arabic training is complete, the schools will reopen with Arabic as the medium of instruction. Professors at the University of Juba (now located in Khartoum due to the insecurity of the south of the country) and other universities who are insufficiently versed in Arabic are reportedly also being made to take a six-month intensive Arabic course. Although most non-Arabic professors speak Arabic, few can comfortably teach and write in it.

Two schools that continue to use English as the medium of instruction are the American School and the Unity High School

in Khartoum. The parents of pupils at Unity High School resisted the changeover to Arabic on the grounds that it would put their children at a severe disadvantage since they had been taught for years in English. The regime apparently agreed to allow the continued use of English, but only on condition that the parents signed documents waiving their children's right to sit for the Sudan School Certificate Examination; this condition effectively excludes them from entering university in Sudan.

Sudan University of Science and Technology (SUST) in the north now has four hours a week of compulsory Islamic instruction, to which its few Christian students are also subjected. One source told us that such compulsory instruction is happening in all public institutions. Nevertheless, despite official announcements and initial moves to Islamicisation, implementation has been hindered by a shortage both of textbooks and of professors trained to give instruction in Arabic - particularly in the sciences and other highly technical fields. Recent reports indicate that the regime is actively seeking arrangements with Arab countries to secure 'Arabised' textbooks.

The government's education decrees were apparently designed to create the impression that the current government is expanding educational opportunities at a time when no resources are available to do this in a genuine way. Indeed, the regime refers to its new educational policies in general as its 'Education Revolution', and minister of education Abdel Basit boasts that by the year 2000, every Sudanese will attend primary school.¹⁵

The decrees were evidently meant to enhance NIF recruitment among Sudan's future elites. Efforts to Islamicise education are regarded by many Sudanese as political rather than religious and cultural, as the authorities claim. The result of this educational reform is likely to be the creation of separate and unequal educational opportunities for non-Muslim and non-Arab Sudanese. If the current plan to stop the English Pattern Exams by 1993 is implemented, as promised by Minister Abdel Basit in December 1991, a generation of southern Sudanese will lose out on education.

The Crackdown on Khartoum University

In October 1990, for the first time since 1986, the NIF was defeated in the students' union elections at Khartoum University

by a coalition of students who had joined together primarily for that purpose. The NIF was defeated again in the October 1991 elections. Over the course of the year, tensions between NIF students and supporters of the students' union escalated and on 16 September 1991 the newspaper *Ahari al-Awsat* reported that students fought a 'pitched battle' outside the students' union building. The authorities responded by banning all activity by politically affiliated student groups (such as those associated with the UMMA and DUP parties, etc.) on campus. Although the students' union was dissolved, university authorities instructed students to carry out their political activities at the students' union headquarters, which is off-campus. Although this restriction has not entirely stopped non-NIF students from organising meetings or producing literature in their capacity as opposition political groups within the university, the inability to organise openly and to access the student union budget makes it impossible for members of the banned union to function properly.

On several occasions when tensions between non-NIF students and the university administration have been particularly high, faculty members have attempted to mediate in order to avoid violent confrontations. The government has preferred to use force and has sent its security forces to occupy the campus. (Khartoum University was occupied during the entire exam period in March and April 1992). In the past two years, over thirty-five students have been expelled on political rather than academic or behavioural grounds.

Khartoum University was closed after a number of violent incidents over the summer of 1991 in which students protested against the announced closure of their boarding houses,¹⁶ the cessation of free meals, official efforts to undermine the students' union and efforts to 'Islamicise' the curriculum. Violent clashes left two students, Ms Al-Taya Ahmed Abu Agla and Salim Mohamed Abubaker, dead, and many others injured, at the hands of the security forces. Another student, Bariq Mohamed Ibrahim from Kosti district, was killed by NIF student Aiman Hassan Omar, whose brother is the Director of the Ministry of Information.

In the past, the University of Khartoum provided housing, meals, medical care and even one home visit to the vast majority of students free of charge. This system of more or less automatic benefits offered by the university has been dismantled and in

late 1991, the regime started talking about setting up a government fund to which students seeking financial assistance would have to apply. If implemented, this measure would enable the government to exert further control over the student body through the use of financial aid as a carrot and stick. The move to close down student associations and halls of residence at the University of Khartoum was apparently designed to save money, curb student protests and alter existent campus life, which was thought to encourage secularism. As an alternative, the government proposed that students be lodged on mosque grounds, presumably to consolidate control over the student body and facilitate 'education' according to the regime's interpretation of Islam. A number of first-year students are apparently already living on mosque grounds.

The university reopened in January 1992 for first-year students as well as to enable fourth- and fifth-year students to take their final examinations, which had been postponed because of the closing of the university four months earlier. On 8 February 1992, second- and third-year students were permitted to resume their studies. The regime's staggering of student admissions to the university appears to have been designed to avoid student initiatives to organise a new round of protests. The reopening of Sudan University of Science and Technology was similarly staggered to avoid protests over the closure of its boarding houses, the withdrawal of free meals, etcetera. Subsequently, the university was closed again for a short time. Similar incidents occurred at the University of Gezira in which at least two students were killed.

The detention of students

In early 1992, widespread arrests without charge took place at what one senior academic called the 'occupied campus' (Khartoum University). Twenty-six students were reportedly imprisoned or detained. In addition, two Gezira University economics graduates were reportedly detained. Nine students connected with the disbanded students' union were reportedly arrested in March 1992. They were detained for at least one month. Some student leaders are now in hiding. British government scholarship award winner and human rights lawyer Issam Akrat Mukawi was arrested the day after receiving his award for allegedly carrying some opposition literature. Although he was released after a few days, his passport was confiscated.

The examination boycott

In late February 1992, thousands of students at the University of Khartoum refused to sit their year-end examinations. As the university had been closed, the students had been unable to take their final exams and they were given only two weeks' notice of the rescheduling. Upon receiving the news that exams would be held, non-NIF students held a referendum on whether or not to comply with the new schedule and decided to boycott the exams as a form of protest. The authorities reacted with a variety of coercive measures. Some students were taken at gunpoint from their rooms at night to off-campus testing centres, some in military barracks and police stations.¹⁷ In an effort to induce recalcitrant students to take the exams so that the illusion of stability could be maintained, the authorities suspended time limits on the exams; they advised clinical staff to issue medically certified excuses for those students who missed the earlier exams but who ultimately succumbed to pressure and sat later; and they failed to carry out identity checks to ensure that students took their own finals. This failure apparently resulted in numerous instances of impersonation.

Concerned that the atmosphere of terror engendered by the authorities was not conducive to study or examinations, a number of Khartoum University lecturers submitted a strong letter to the university Senate and the vice-chancellor. It expressed their objection to the conduct of the authorities regarding the boycott and the fact that thirty more students had been dismissed. By early May, approximately 300 students had been dismissed, according to one well-placed source.¹⁸ The letter also conveyed their dissatisfaction about the undemocratic manner in which the university was being administered. The minister of higher education, Ibrahim Omer, called the signatories to this letter 'disloyal' at a speech to the newly appointed Transitional National Assembly and four of the faculty members involved in organising the letter were told by the vice-chancellor to 'stop causing problems'.

Whilst the regime proudly announced that about 90 per cent of the student body had sat their examinations, they neglected to mention that of these less than 30 per cent are estimated to have taken the full quota of examinations. In a move apparently designed to intimidate those who participated in the boycott, the security forces made public a list of all students who were absent from their examinations. The grades of students who

missed more than one exam and did not hand in a medical report were withheld. It is not clear whether these students will have to repeat the year, or whether they will be disciplined more severely.

Other Student Actions

In April 1992, first-year students at Juba University organised a widespread and successful 'mass cheat' for their first preliminary examinations, in a conscious act of civil disobedience. An examination supervisor told one of our sources that everyone had participated in organised cheating, which he thought was the result of widespread student resentment over the training students were being forced to undergo in the Popular Defence Force camps.

Students from SUST organised peaceful demonstrations following a two-week period in 1991 in which there were acute shortages of water and electricity in SUST boarding houses. These demonstrations led to clashes between protesters and NIF students, in which one protester's eye was torn from its socket. Following the inter-student conflict, a number of non-NIF students staged another peaceful demonstration and requested a meeting with the deputy vice-chancellor in the hope of resolving the crisis. The deputy vice-chancellor reportedly responded by banning the students' union and, in April 1991, dismissing forty-nine of the protesters. Fellow students attempted to raise the case of the arrestees but the deputy vice-chancellor refused to meet them. To date, the students have not been reinstated.

Dismissal of Faculty Members

The suspension of the 1986 Khartoum University Act and the introduction of a new act applying not only to Khartoum University but to all public universities in Sudan have curtailed academic freedom. The new act bestows upon the regime total control of the universities through powers vested in the chairman of the National Council for Higher Education (who also happens to be the number two man in the regime, Brigadier-General El-Zubeir Mohamed Salih) and its secretary-general (long-standing

NIF member Ibrahim Ahmed Omer). The recommendations of these two men to Bashir have informed decisions concerning the appointment of vice-chancellors, council members of the various universities, and the dismissal of faculty members regarded as unsympathetic to the regime and the NIF.

For the first time in recent Sudanese history, professors are being dismissed or pensioned off for purely ideological reasons. Those in the academic community who refuse to practise self-censorship risk dismissal, imprisonment and even torture.¹⁹ For more than a year following the June 1989 coup, university faculties were not affected by the mass dismissals to which other public sector employees were subjected. This was not to last, however, and starting in mid-1990 hastily thought-out policies inhibiting academic freedom were announced.

It was not surprising that teachers, most of whom were sympathetic to the students' grievances, became the next target of the regime's intrusions into university life. In autumn 1990, scores of teachers and administrators from the universities of Khartoum, Gezira, Juba, Sudan University for Science and Technology and the Islamic University of Omdurman were forcibly retired.²⁰ The majority of these dismissals were clearly based on the perceived political sympathies of the faculty members targeted. Khartoum University was spared the initial round of dismissals/retirements, reportedly because the then vice-chancellor, El-Tingari, was able to intervene with Zubeir to prevent the planned dismissal of forty faculty members.

Nevertheless, over the past two and a half years, the regime has continued to use administrative measures to rid itself of its political opponents in academia. A number of Khartoum University faculty members have been dismissed for failing to return to the country after going abroad on academic business. In most cases, those dismissed were opponents of the regime who wanted to stay abroad and had therefore applied either for secondment to academic institutions outside Sudan or for unpaid leave of absence. Khartoum University regulations make these options available, but all such requests have been denied by both the former and the present vice-chancellors.

Early in April 1992, a new tactic for dealing with academics emerged. Four professors at the University of Khartoum were dismissed by presidential decree. No reasons were given. In fact, the vice-chancellor of the university sent letters commending the dedication and service of the professors. Those dismissed were

Associate Professor Mohammed Saeed Qadal, who had published four books on the history of Sudan; Associate Professor of Agriculture Abdeen M.Z. Abdeen, an expert on bee breeding; Associate Professor Taisier Mohammed Ali, author of the only book on Sudan's political economy and vice-president of the Nairobi-based African Association of Political Science; and Professor Mohammed E. Al Tom, the only full professor of mathematics in Sudan. Omer Mohamed Abdel Rahman el-Agra, a professor in the Faculty of Engineering and Architecture and former dean of the graduate school, resigned in protest at these dismissals. According to some reports, nine administrators were also dismissed in March 1992.

The fact that no reasons were given for these dismissals makes it all the more apparent that these individuals were dismissed for political reasons. Professor Qadal had been a long-term detainee. Professor Abdeen has also been detained in the past. Professor Ali was active in mediation attempts between the former democratic government and the SPLA, his passport had been confiscated immediately after the June 1989 coup and he had been interrogated by security forces on numerous occasions. He was also barred from leaving Khartoum. Professor Al Tom is a prominent trade unionist and was one of the leaders of the 1985 uprising which overthrew the Nimeiri regime. The decree terminating the professors' employment also bars their employment in other academic institutions and government departments. Moreover, very few NGOs or private establishments are likely to risk using their services. The dismissals, in combination with these further restrictions, effectively blacklist the professors, creating obvious emotional as well as economic hardships.

During the 1990-91 academic year, eight lecturers were dismissed from Gezira University for refusing military training. An additional thirty staff members were forcibly retired from other public universities. Clearly concerned with external as well as internal opposition, the Bashir regime has gone as far as harassing and threatening Sudanese nationals abroad. Anonymous death threats have been reported, passports have been confiscated and political 'undesirables' have apparently been warned not to return to the country.

Forced Training in the Popular Defence Force Camps

According to government policy, every Sudanese who is of age will be trained in the militia camps of the Popular Defence Force (PDF) during the course of the next five years. Professors and school teachers are now being called up to undergo the training, although a number of lecturers at SUST have simply refused. It is not yet clear what the repercussions of refusal will be. The headmaster of Gezira secondary school, a man in his fifties, died in early 1991 of physical exertion in Hassa Haisa camp in Gezira province.

New students who have already passed their Sudan School Certificate examinations, and have already been accepted at institutes of higher education, are now required to undergo two months' training in PDF camps before taking up their studies. This policy is regarded by many Sudanese as yet another means of controlling the student body and inculcating it with the regime's fundamentalist ideology. The location of university registration has reportedly been moved from the universities to the militia camps.

It appears that NIF students are given preferential treatment in the camps, and that such treatment is used as a means of recruiting other students to the NIF. The differential treatment has apparently aggravated already existing tensions between NIF and non-NIF students. According to several reports, life in the PDF camps is harsh for non-NIF students. The camps are essentially re-education centres which 'brutalise and browbeat' students into submission prior to their matriculation at university.²¹ Students at Hassa Haisa camp were reportedly beaten frequently and made to stand in the sun for hours as punishment for 'infractions'. Another tactic that has been used on new students in the camps to 'break them down' is to ask them what is the sum of two plus two. When a student answers 'four', he is beaten and told, 'We have the answers, not you!' Students are required to attend daily religious lectures. Although non-Muslims are usually exempt, they must perform extra physical exercise in place of the lectures. One graduate of a PDF camp described her experience:

We were told that the training would give us discipline. Some of us brought extra food, but this was disallowed because they said that this was not some kind of picnic. The

curriculum includes reciting Koranic verses and hearing extensive lectures on Islam's rules and history. In the final three weeks, they brought us Kalashnikovs and taught us to use them. Since we graduated, we are required to meet with our former 'trainers' and leaders once a month to discuss what we learned at camp.²²

Notes

1. A number of women expressed concern at the government's attempt to turn every man into a policeman. Men are apparently empowered to take action ranging from telling a woman (even a stranger) to go home and dress herself properly, to informing the police and having her arrested. Several women feared that this new licence to humiliate women publicly could lead to street beatings of women deemed to be improperly dressed.
2. Sarah Graham-Brown, *Education in the Developing World*, Longman, London, 1991.
3. UNDP, *Human Development Report 1991*, Oxford.
4. Sarah Graham-Brown, *Education in the Developing World*, Longman, London, 1991.
5. *Ibid.* p. 140.
6. Ali Abdallah Abbas, 'The National Islamic Front and the Politics of Education', *Middle East Report*, September-October 1991, p. 24.
7. Recent reports indicate that by April 1982, as many as ten 'new universities' had been created. Minister of higher education Ibrahim Omer is advocating one new university for every new administrative area (about 65 in all).
8. This latter policy is particularly disturbing since a significant portion of the southern Sudanese population is not fully or competitively literate in Arabic.
9. Other 'new' universities include: Al-Sharq University (University of the East), Wadi el-Nil University (Nile Valley University in Atbara, established in 1990), El-Fadih min September University (First of September University), Kordofan University, Sudan University for Science and Technology (formerly Khartoum Polytechnic), Revolution University (established in 1990 in El Obeid), Islamic Science University (established in Omdurman in 1991), Sudan University for Girls (private university established in 1991 in Khartoum), Malakal University (established in Khartoum in late 1991 or early 1992) and Wau University. The regime also declared its intention to open a number of additional

'new' universities in 1992: University of Ismail al-Azhari, Imam al-Mahdi University, Upper Nile University and Bahr al-Ghazal University. Sudanese academics are also expecting the announcement of universities in Kassala or Port Sudan and in Rafaa in Gezira province.

10. It looks as though new attitudes regarding admissions policy may already be having an impact on tertiary education for southerners. Southerners used to account for roughly 80-90 per cent of the student population at the University of Juba. In 1992, southerners comprised only about 25 per cent of the student body. Approximately 5 per cent of the student body at University of Khartoum is from the south, despite the higher figures of the past. At Sudan University of Science and Technology, there are only 11 full time students from the south, out of a total of 1,650. Southerners are severely under-represented at private universities as well because most cannot afford them.
11. One merchant, apparently an innocent bystander, was also reportedly stoned to death in the mob atmosphere that ensued. The Fund for Peace was unable to independently verify this incident.
12. A number of southern schools use Arabic, particularly in Upper Nile and Bahr el-Ghazal provinces. Schools in the large province of Equatoria, however, primarily use English. A number of primary schools use a dual system, and displaced persons' schools in Khartoum also use both languages, although English is predominant.
13. One academic in Sudan recently reported that as many as thirty to forty students were shot trying to leave Juba. The Fund for Peace was unable to confirm this.
14. Amnesty International, *Legal Concern/Fear of Torture*, AFR 54/14/92, April 1992.
15. One academic estimated that currently only about 50 per cent or fewer of primary-school-age Sudanese children are enrolled in schools.
16. The boarding houses are apparently being phased out. No new students are being housed in them, so that in four years they will be completely shut down. The student residences were temporarily opened for students taking their year-end exams in February and March.
17. For example, students were forced to take an early biology examination at night at the Police College in Omdurman.
18. Approximately 300 students will not be permitted to return to the university next year, but they will apparently be permitted to take examinations next year as external candidates. If they pass the examinations, they could be readmitted for the following year.

19. One of the most effective weapons for stifling academic freedom in Sudan is the provision of the March 1991 Islamic Penal Code concerning apostasy (the renunciation of Islam). Many Sudanese and human rights advocates have expressed concern that the 'crime' of apostasy is vaguely defined, despite the fact that it carries the death penalty, and that the provision will become a tool for ensuring religious and political conformity.
20. Ali Abdallah Abbas, 'National Islamic Front'.
21. Ibid.
22. Mohamed Osman, 'Sudanese Government to Introduce Strict Islamic Rules', *Associated Press*, 20 December 1991.

10. Swaziland

John Daniel

The Swazi state emerged in the early nineteenth century in the wake of the turmoil generated by the rapid expansion in the power and size of the Zulu state under Chaka. At the time, dissident Nguni elements living under King Sobhuza I in what is today northern Natal fled across the Lebombo mountains and conquered groups of non-Nguni clans living in an area considerably larger than present-day Swaziland. Over time, these groups became assimilated into a coherent and ultimately homogeneous nation.

Under Sobhuza's successor, Mswati II, the Swazis developed into a powerful military nation largely as a defensive response to the threat of Zulu expansionism. This did, however, also secure Swaziland's independence until the late nineteenth century when a series of disastrous land, mineral and other concessions by the then monarch, Mbandzeni, resulted in Swaziland first ceding considerable territory to the Transvaal Boer Republic and then, in 1894, falling under its direct administrative control. With the British defeat in 1902 of the Transvaal in the Anglo-Boer War, Swaziland came under British colonial rule.¹

Under colonialism, Swaziland was partitioned internally and the Swazi people were confined to one-third of the territory. In that sector, the political and somewhat limited judicial authority of the Swazi monarchy was recognised. Large numbers of British and South African settlers moved into the rest of the country and developed a prosperous individual-tenure farming sector. The period after World War Two generated considerable foreign investment in mining and in the development of corporate-controlled agro-industry (forestry, sugar and citrus). It produced too a small but militant labour movement which, embracing the rhetoric of radical pan-Africanism, began in the early 1960s to demand independence.

A series of strikes in 1962-63 resulted in British military intervention which the then king, Sobhuza II, supported. It also prompted the king to enter the electoral arena through the formation of a political party, the Imbokodvo National Movement (INM). By the time of pre-independence elections in 1966, a *de*

facto coalition of the INM, local settlers and multinational capital had emerged and all seats in that election were won by the INM. Power at independence in 1968 was transferred, therefore, to the traditional aristocracy, a rare occurrence in the history of African decolonisation.²

Swaziland inherited an independence constitution which, though it contained most of the standard Westminster features, empowered the king to nominate 20 per cent of the lower house of elected representatives and half the Senate and, even more significantly, gave him exclusive control over all mineral rights and the revenue generated from them.

The first post-independence general election, in 1972, saw the opposition gain three seats from the INM; soon after that, an attempt by the government to bar one of these opposition MPs from taking his parliamentary seat was overturned by the courts.³ The upshot was, in effect, a coup by the king when in April 1973 Sobhuza scrapped the constitution, closed down the parliament, banned all political parties, including his own INM (on the grounds that political parties were a foreign imposition and therefore 'unSwazi' and divisive) and announced the formation of a national army. Until then, Swaziland had only had an anti-riot police unit. Simultaneously with these actions, Sobhuza declared that henceforth he would rule by decree, bolstered by a state of emergency and powers to detain individuals without trial for periods of sixty days.

In 1978, parliament was reopened but as a largely toothless body, its membership determined by a palace-controlled and non-secret electoral procedure, known as the *tinkhundla* system. Sobhuza's death in 1982 after a reign of sixty-one years precipitated six years of internecine struggles within the royal family, during which power for a period shifted to a reactionary clique closely aligned ideologically with the South African government. This alignment was particularly close in regard to this clique's attitude to the African National Congress (ANC). In 1984, the ANC was declared a banned organisation in Swaziland, and a ruthless crackdown ensued in which the Swazi security forces worked hand-in-glove with the South African authorities.

The years of palace infighting and collaboration with the Pretoria authorities had two important negative consequences for the Swazi monarchy. First, it undermined its legitimacy as an institution in the eyes of many Swazis while, second, it crystallised various opposition tendencies within the kingdom.

These latter came together clandestinely in July 1983 to form the People's United Democratic Movement (PUDEMO), essentially an alliance between students/youth and the educated middle class. By the late 1980s PUDEMO was becoming increasingly bold and articulate in both its criticism of the monarchy and its advocacy of parliamentary democracy.

Largely in response to this growing challenge and in an attempt to restore unity to the monarchy, the accession of a new king was brought forward by several years when, in 1986, the eighteen-year-old Prince Makhosetive was crowned King Mswati III. While the early coronation restored calm in royal circles, it did not dampen the slowly growing opposition to monarchical rule. Indeed that opposition has in the years since 1986 been fuelled by the conduct and lifestyle of the new king, who has developed a extremely luxurious lifestyle.

In the growing challenge to Mswati's rule, tertiary-level institutions, most notably the University of Swaziland and William Pitcher Teacher Training College, have emerged as the most fertile breeding grounds of support for PUDEMO. An attempted crackdown on PUDEMO in the early 1990s, which involved the arrest of several students and academics, backfired badly and resulted in rare public criticism of the lack of democracy in the kingdom, particularly by the United States government.⁴ The government's response was to launch a review of the electoral system, the so-called Vusela I Commission. It spent most of 1991 travelling the country, where it encountered a consistent barrage of criticism of the no-party system and a general demand for the reintroduction of multi-party politics.

Concurrently with these rare public attacks on the status quo, the local press became emboldened and almost overnight developed into a medium for outspoken attacks on the government. Often these broadsides verged on the libellous as allegations of corruption and other misdemeanours were levelled against numerous public figures. The press also began to reflect an increasing sympathy for PUDEMO's positions. Public dissent was reflected in a wave of strikes and in the activities of a youth offshoot of PUDEMO, the Swaziland Youth Congress (SWAYOCO).

The conclusion of the Vusela round of hearings led to the appointment in early 1992 of a second commission (Vusela II) charged, *inter alia*, with designing a new electoral system. In

something of a break with past precedent, some known opposition figures were named by the king to the commission. By custom, no individual - whether commoner or aristocrat - refuses a summons to public duty by the monarch. No need is therefore seen to consult in advance as to an individual's availability or wish to perform an assigned public task. The Swazi people were therefore stunned when one of the named commissioners, Mandla Hlatshwako, organising secretary of PUDEMO, rejected his appointment.

Shortly prior to the setting up of Vusela II, PUDEMO had held its second congress at a secret location in Soweto in South Africa, at which it had decided unilaterally to unban itself. This it did at a public gathering in Mbabane on 25 February 1992 where its president, Kilson Shongwe, read a 'Message to the Nation' in which the Vusela review of the *tinkhundla* system was rejected and a call was made for a national referendum on the future of the system.

In October 1992, the king made public the major recommendations and conclusions of Vusela II. For the most part, these turned out to be something of a damp squib amounting to little more than a tinkering with the present *tinkhundla* system. Rejecting the trend towards multi-partyism elsewhere in Africa, the commission declared that the Swazi people were not yet ready for party politics. It did, however, concede that its view should be tested in a referendum at some unspecified time in the future. In the present, however, elections would continue to be conducted through the chieftaincy-controlled *tinkhundla* system, though with some procedural changes. The most important of these was that the casting of votes would henceforth be by secret ballot, although the choice of candidates would continue to be limited and centrally controlled.

Not surprisingly, these recommendations received a mixed reaction. They fell well short of the demands of PUDEMO and SWAYOCO, and PUDEMO's president, Mr Kilson Shongwe, declared that the report did not reflect majority Swazi opinion and challenged the government to call a national convention to discuss the nation's future. He also announced a national petition campaign to collect the signatures of those who rejected the report and favoured multi-party democracy.

One section of the Vusela II report that was universally welcomed was its recommendation that the sixty-day detention provision be repealed, along with the state's power to hold

political trials in camera and to deny an accused representation. In his address to the nation, however, the king made no reference to these proposals; instead, he announced the dissolution of parliament to pave the way for elections under the revamped system. No date has yet been set for these elections and as of the end of 1992, King Mswati was ruling Swaziland by decree in consultation with his cabinet and advisers - a situation little different from the time when nearly twenty years earlier his father had seized state power.

Socio-economic Conditions

According to the 1986 census, Swaziland had a resident population of 681,059 and an average growth rate of 3.4 per cent. Approximately 30,000 Swazis are estimated to work abroad, mostly as migrants in South Africa. The resident population today is likely to be in the region of 800,000. For a small, lower middle-income country (the World Bank's classification), health conditions are substandard and this is reflected in an infant mortality rate of 115 per thousand births (1989). This figure, however, represented a drop over the decade from 133 per thousand, a product of the considerable effort by mainly Western donors to improve rural health facilities.

By African standards, the Swazi economy is buoyant and viable and the country is relatively prosperous. In 1990, the World Bank estimated Swaziland's GNP to be US\$645 million, equivalent to \$820 per head; through the 1980s, the GNP was estimated to have grown at an average annual rate of 4.5 per cent and individual income at a rate of 1.1 per cent. Despite this good record, many of the classic features of the contemporary African political economy are present, including a skewed distribution of wealth, corruption, rising unemployment and a slow spread of benefits to the rural sector where most Swazis reside.

Agriculture (including fishing and forestry) makes the largest sectoral contribution to the GDP (between one-fifth and one-quarter) and engages two-thirds of the employed labour force. Within the sector, sugar is the principal export earner (36 per cent in 1987) and employer. Manufacturing contributes about 20 per cent of the GDP, more than half of which comes from agro-industry in the form of wood pulping and sugar refining.

An important force in the economy and probably the primary vehicle of domestic capital accumulation is the Tibiyo Fund. Created in 1968 by King Sobhuza to manage the financial assets of the Swazi Nation (including the revenue generated from mineral rights and royalties), Tibiyo has become a powerful and wealthy investment company entering joint ventures with the principal foreign investors in the country, purchasing vast amounts of land, and launching a variety of projects (sometimes seemingly in competition with the government) and businesses. The significant point to note, however, is that Tibiyo functions as a private royalist fiefdom. It is run by a board appointed by the king and its revenues do not accrue to the government; neither does it pay taxes and nor is it accountable to parliament or any public body. Over a 25-year period, Tibiyo has become a powerful instrument in the hands of the traditional aristocracy and the means by which they have acquired a major stake in the economy.

General Human Rights Situation

The monarchy dominates every aspect of life in Swaziland. Its authority is absolute, unhindered by any constitutional checks. Despite the regime's relative tolerance of PUDEMO, Swaziland is in political terms a no-party state. The dictatorship of the monarchy is, however, somewhat benign. For example, the state's arbitrary detention powers have been used only sparingly over a twenty-year period and may shortly be repealed. In a somewhat curious irony, most victims of this draconian provision have been members of the aristocracy itself, arrested during the years of palace infighting between 1982 and 1986.

Swazi law allows for the death penalty but executions have been few and far between in the post-independence period. The last hangings in Swaziland took place more than ten years ago and were of a group of convicted ritual murderers. There has been talk in recent months, however, of a resumption of executions in the wake of a rising crime rate.

Throughout most of the independence era, the mass media (television, radio and the press) have uncritically presented the official state line on domestic and international issues. Dissident opinions were rare and free political debate nonexistent. This still applies to radio and television, but in the past two years the

press has undergone a dramatic transformation. Several new newspapers have emerged and even though usually only short-lived, they have adopted a decidedly anti-government - even at times anti-monarchist - position. The lack of political freedoms, the undemocratic nature of the electoral system, corruption, the financial excesses of the monarchy have all been particular targets. One of these papers, the fortnightly *Weekend Sun*, was actually established as a PUDEMO initiative and heavily promoted its views. It failed commercially, however, mainly because of poor management, and was forced to close in mid-1992. Despite occasional threats, the state has as yet taken no action against these dissident newspapers.

Three groups in Swaziland can be identified as having borne the brunt of state repression in the independence period. The first has been students, of whom more later. The second has been workers. The right to strike is severely circumscribed in Swaziland and more often than not force has been used when workers have resorted to strike action. Attracting foreign investment into Swaziland and creating a favourable investment climate is an economic priority and labour unrest is perceived as a threat to that objective. Unsurprisingly, therefore, strikes have been dubbed ideologically by the state as 'unSwazi' and trade union officials have on occasions been detained.

A prime target of state action in the labour arena has been the Swaziland National Union of Teachers (SNUT). After a national teachers strike in the late 1970s, SNUT was banned. In response, teachers imposed a ban on all extramural activities and extended only the minimally necessary cooperation to the education ministry. Ultimately, the state relented and in the early 1980s, the ban was lifted.

The third group to have experienced repressive state action are peasant farmers forced to leave their lands either to make way for such state ventures as dams and plantations or when absentee-owned farms have passed into Swazi ownership. Frequently, these new owners have been senior state officials or members of the royal family who have forced the tenants to leave, often without compensation. In recent years, newspapers have carried numerous accounts of such dispossessions with many of the victims claiming that alternative land sites were not made available or, if they were, they were inadequate. In legal terms, these farmers have no means of redress.

The Education System

Primary and secondary education

Education is neither free nor compulsory in Swaziland. Primary education begins at six years of age and lasts for seven years; secondary education lasts for five years and culminates in the taking of the Cambridge 'O' level examinations. In 1989, 82 per cent of primary-school-age children were at school (80 per cent of boys, 84 per cent of girls) but this dropped to 43 per cent of secondary-school-age students, reflecting both the burden of school fees and a shortage of school places.

In sectoral terms, the government has targeted the primary level and has embarked on an ambitious building programme as a means of coping with the high birth rate. In 1989, there were 490 primary schools in the country, with new schools being built at the rate of ten per year.

Education represents the largest element of recurrent budgetary expenditure; in 1991-92, education's share of the total budget was 33 per cent. In 1985, UNESCO estimated the average adult literacy rate to be 32.1 per cent (males 29.7 per cent, females 34.3 per cent).

There is a small private school sector in Swaziland, most operating at the pre-school and primary levels. There are also a number of mission- and church-operated primary and secondary schools but all are financially supported by the state and operate within the framework of the Swaziland government's curriculum. At the secondary level, there is only one fully independent school, Waterford-Kamhlaba, an institution with an historic pedigree.

Established in 1963, Waterford-Kamhlaba pioneered non-racial education in southern Africa in that it was set up as an alternative to the segregated educational system in South Africa and with the specific goal of educating black and white South African pupils together. Over the years it has enrolled the children of such prominent South African political activists as the Mandelas, Sisulus and Cachalias. With the development in recent years of non-racial schooling inside South Africa, Waterford has transformed itself into an international school and is affiliated to the United World College group. Its students sit for the International Baccalaureat examination, equivalent to the British 'A' levels. Apart from one funded teaching post, it receives no state assistance. Whilst its student body is international in

composition, a majority of the students are Swazi. As an expensive fee-paying school, these are largely the children of the Swazi state and business elite, including some members of the royal family.

The right to education

As mentioned earlier, education in Swaziland is neither free nor compulsory. Nevertheless, in terms of expenditure, the government has accorded a high priority to at least providing school places for its populace. At the primary level, its achievements in this regard have been impressive, but they are less so at the secondary level. Acquiring a high-school place is difficult each year and many hundreds of would-be students fail in this objective. Inevitably, in these circumstances, it is the children of the poor, those without elite connections and especially those from the rural areas, who are most disadvantaged.

The enrolment statistics cited above reveal that there is no gender discrimination in Swaziland in regard to access to education. Whilst women in Swaziland suffer from numerous disabilities and disadvantages, the right to learn is not one of them. Even at the level of the university where all Swazi students are state-sponsored, there is an approximately equal number of male and female students and there is no known case of a female student having been denied a government scholarship on gender grounds.

Institutional and legal status of higher education

The tertiary education sector comprises the University of Swaziland, the William Pitcher and Ngwane teacher training colleges, and several technical and vocational colleges including the Swaziland College of Technology, the Swaziland Institute of Management and Public Administration and the Institute of Health Sciences.

The origins of the University of Swaziland (UNISWA) date back to the establishment in 1964 of the University of Bechuanaland, Basutoland and Swaziland (UBBS) at Roma in Lesotho. With the independence in 1966 of Bechuanaland and Basutoland, the institution was renamed the University of Botswana, Lesotho and Swaziland (UBLS). At the time, UBLS was one of only three tri-national universities in the world, the others being the University of the West Indies and the University

of East Africa. Like the latter, the UBLS experience was short-lived. In 1976, the Lesotho campus unilaterally seceded from the entity; Botswana and Swaziland retained an association for a further five years but in the early 1980s, both became autonomous national universities.

UNISWA is comprised of two parts, the Swaziland Agricultural College at Luyengo and the main branch at Kwaluseni, near Manzini, which houses the faculties of commerce, education, humanities, law, science and social science. Total enrolment at the two centres in 1992 was a shade under 2,000.

The governing body of UNISWA is the University Council, comprising a mix of the university's senior administrators, representatives of the academic faculty and of past students, and government nominees. The chancellor of the university is the king and the council chairperson is a government nominee. Often this has been either a senior cabinet member or a prince of the royal family, as in the case of the present incumbent, Prince Phinda.

The vice-chancellor is appointed by the University Council on a fixed-term but renewable contract. Unusual in the Swazi context and also possibly unique in Africa, the present vice-chancellor is a woman, Dr Lydia Makhubu. Daughter of a traditional chief, Dr Makhubu was the first Swazi national to gain a doctorate (in chemistry from a Canadian university). She joined the university in 1964 and rapidly rose through the ranks to become Dean of the Science Faculty, Professor of Chemistry and, in the late 1970s, deputy vice-chancellor. She was appointed to her present position in 1986, after having been acting vice-chancellor for several years.

Though wholly dependent on the state for its funding, UNISWA enjoys a degree of autonomy. By and large, the university is left to run itself. State interference, when it occurs, is normally discreet and covert, exercised through its council nominees or other informal routes. The one major exception to this occurred in 1984-85 at the height of the palace infighting and at a time when the South African government was under growing internal pressure from the township rebellion which, in its view, was fomented by external forces operating through the neighbouring states. To counter this threat, in the early 1980s the regime in Pretoria adopted an interventionist and aggressive posture towards the region in an attempt to 'persuade' these

states to cease any support for the ANC and other liberation groups. Swaziland was under particular pressure from Pretoria at the time with the South African government even going so far as to declare the university one of the ANC's principal bases in the country and threatening to launch raids inside the country, as it had in Mozambique and Angola.

The 1984-85 academic year opened with a series of protests and boycotts around domestic campus and national issues. The government, however, blamed foreign students and expatriate lecturers for 'importing' foreign ideologies into the country and inciting local students. At this point, it arrested the recently retired student government president, Bhabalazi Bulunga, who was a South African refugee and known ANC supporter. Despite his known status as a refugee and in violation of Swaziland's own immigration procedures, Bulunga was deported to South Africa where he was placed under detention. He later alleged that he had been tortured under interrogation.

This action precipitated another student strike, to which the government responded by appointing a commission of inquiry to determine whether outside elements were responsible for the wave of student unrest. The commission was headed by a Sri Lankan magistrate on contract to the Swaziland government and packed with conservative and traditionalist figures, and its findings were pre-determined. In due course it confirmed the government's view and recommended that action be taken against foreign staff and students. In January 1985, the University Council was presented with a long list of staff and students whom the government wished to be removed from campus. To its credit, the council under Dr Makhubu's leadership refused, and the university was closed while negotiations proceeded between the government and the university. Ultimately twenty-one students were expelled and two staff members (one Swazi and one non-Swazi) were dismissed with all their benefits. This number of expulsions was much smaller than that demanded by the government and was something of a victory for the council.

Four years later, the Makhubu administration revealed a less benign and less principled face when it dismissed Dominic Mngomezulu from his post of junior lecturer in law. President of the Swaziland National Union of Students in the early 1980s, Mngomezulu had been amongst the twenty-one students expelled in 1984. Thereafter he had fled to Lesotho where he completed a law degree. He had been allowed to return to Swaziland after

the accession of King Mswati III in 1986. The administration alleged that Mngomezulu had ignored his teaching duties. A more widely held view was that it had acted, possibly with government approval, as a reprisal for the fact that Mngomezulu had been instrumental in organising the non-academic staff into a trade union in defiance of the university administration's wishes.

State-Student Confrontation: The Rise of PUDEMO

The events of the mid- to late 1980s showed that the tertiary-level campuses had by then become the primary sites of political struggle in Swaziland, the one area capable of mounting a sustained challenge to the legitimacy of the existing order. The motor for that challenge was provided by PUDEMO, an organisation which grew out of the Swazi student movement of the early 1980s and which was heavily influenced by developments in South Africa. Especially influential was the formation of the multi-organisational coalition the United Democratic Front (UDF).

PUDEMO was formed at a secret meeting in a remote Swazi town in July 1983, a month before the UDF's launch in South Africa but at a time when details of the UDF's planned formation, structure and strategy was well known. PUDEMO's founding meeting was attended by twenty-five to thirty individuals, just over half of whom were current UNISWA students. Others present were recent UNISWA graduates, as well as one or two trade union officials and former leaders of the youth wing of the banned Ngwane National Liberatory Congress. The meeting adopted a manifesto based on the Freedom Charter of the South African ANC and resolved to form committees based in the four regions of the country.

By 1985, PUDEMO was in a position to hold its first congress, which it did under the guise of a picnic at a popular recreational spot near the administrative capital of the country, Mbabane. At this gathering a trade unionist, Mario Masuku, was elected president and Dominic Mngomezulu secretary-general, a post he still holds today.

One of the strategies decided upon at that first congress was to attempt to occupy a space in civil society by creating a series of civic organisations ideologically aligned to PUDEMO.

Mngomezulu's organising of UNISWA's non-academic staff was in line with this strategy. So too was the formation of the Human Rights Association of Swaziland (HUMARAS), SWAYOCO, the youth congress organisation, and the Swaziland National Association of Unemployed People. An attempt was also made to form a Congress of Swazi Trade Unions in competition with the conservative Federation of Swazi Trade Unions, but registration was refused by the government.

Another group aligned to PUDEMO is the Swaziland National Union of Students (SNUS), to which all tertiary educational institutions in the country are affiliated. Only at UNISWA and the William Pitcher Training College, however, does the organisation have strong support.

The confrontation between the Swazi state and students/PUDEMO escalated sharply in 1990. From the beginning of that year, PUDEMO stepped up its activities and attacked the monarchy in a series of clandestine pamphlets, posters and public slogans. These criticised Mswati's allegedly extravagant lifestyle, demanded the reintroduction of party politics and a limiting of the powers of the king to that of a ceremonial head of state in the pattern of the British monarchy. This upsurge in PUDEMO's activities reflected, in part, its growing strength amongst the youth and broadening base of support within the state bureaucracy at all levels; it was also a response to the radically changed political scenario across the border in South Africa. The unbanning of all political parties in February 1990 and the opening of constitutional talks with the ANC created a euphoric atmosphere in progressive circles in the region and the sense that fundamental change was in the offing. Soon after Nelson Mandela's release, the formation of a Nelson Mandela Reception Committee, composed of several well-known opposition figures, was announced in Swaziland with plans to stage welcome rallies in various parts of the country. Given the regime's well-known antipathy to the ANC, this was a particularly provocative move and it seemed to spur the state to action.

In May 1990 the formation of a special police task force was announced to crack down on PUDEMO. In the third week of May, police began a round-up of alleged members of PUDEMO. Among the more than twenty people arrested were members of the Mandela Reception Committee, senior civil servants (all UNISWA graduates, mostly in law), trade unionists, students and

academics. Amongst these latter were the current UNISWA student government head, Sabelo Dlamini, the SNUS president Professor (his given name) Dlamini, Mphandlana Shongwe and Boy Magagula (student activists at William Pitcher College), Ray Russon (a lecturer in sociology at UNISWA), and the recently fired law lecturer Dominic Mngomezulu. All these students and academics, along with five civil servants and trade unionists, were charged with forming an illegal political party (PUDEMO) and the treasonable offence of planning the government's overthrow.

Though many of the accused will now freely admit to having been PUDEMO members, the state failed to secure a single conviction on the treason charge. The prosecution was something of a fiasco; first, it was entrusted to two white South African prosecutors from the right-wing Pretoria bar - a fact which caused uproar in both the local press and legal circles - and, second, several state witnesses refused to testify. Minor convictions of six of the accused were obtained for attendance at an illegal gathering.

At this point the UNISWA administration entered the picture. With the trial over, Sabelo Dlamini, who during the course of the trial had been elected secretary-general of SNUS, sought readmission to the university. This was refused on the entirely specious grounds that he had been a defendant in the treason trial and therefore involved in politics. There was no basis in law for the administration's position; it was nothing less than an attempt to keep a perceived troublemaker off the campus. The William Pitcher administration went even further and expelled Mphandlana Shongwe from the institution.⁵

At the time of his arrest in May 1990, sociology lecturer Ray Russon had been suspended without pay by the UNISWA authorities on the basis of a hitherto uninvoked regulation providing for such action in the case of academics arrested on any charge; where a conviction ensued, dismissal from the university would follow. Having been convicted of the technical offence of attending an illegal gathering, Russon lost his job. His subsequently successful appeal resulted in his reinstatement with back pay. Shortly thereafter he resigned his position and after an attempt was apparently made to kidnap his young child, he and his family fled to South Africa. He now has a research position at Witwatersrand University in Johannesburg.

These actions against the students and Russon precipitated

class boycotts at the two institutions, to which the respective administrations responded by issuing ultimatums to the students to return to classes. When both were ignored, the police detained under the sixty-day provision the two William Pitcher trialists, Shongwe and Boy Magagula, as well as Dominic Mngomezulu; on the same day (14 November 1990), police and army units raided the Kwaluseni campus of UNISWA to evict all students and enforce the closure of the facility. Considerable force was used as, according to eyewitness reports, the security forces 'ran wild'. Over 300 students were hurt in the raid; close on 100 were hospitalised and there were rumours and an unconfirmed report of one student death.⁶

The events of this so-called 'Black Wednesday' generated a considerable outcry from outraged parents as well as a barrage of press criticism, and ultimately the government was forced to appoint a commission of enquiry into the events. It took five months for the commission to be actually set up under Mr Justice Ben Dunn. Evidence in camera was taken during 1991 and a report was submitted to the ministry of education in early 1992. By the end of 1992, however, its contents had neither been tabled in parliament nor made public.

One day after the raid on the Kwaluseni campus, the police returned seeking to arrest Ray Russon and Sabelo Dlamini. The latter avoided the police whilst Russon demanded the production of an arrest warrant. Not having one, the police placed Russon's house under observation and went off to obtain the necessary document. Russon managed to avoid their detection and fled to Mbabane where he and Dlamini sought refuge in the US embassy. Refused admission to the embassy, the two fugitives spent nearly forty-eight hours in the embassy's foyer where they were refused access to toilets and food. Eventually they were forced to leave the embassy's premises; again they avoided the Swazi police, fleeing this time across the border into South Africa. Held within two days by the South African police, the pair were interrogated for four days about ANC activities in South Africa and then handed over to the Swazi authorities and detained.

All the detainees now began the first of a series of hunger strikes which continued intermittently for four months. On two occasions, the fasts were suspended when ministerial assurances were received of the detainees' imminent release, but renewed when those promises were not kept. In the process, the detainees

became dangerously ill and had to be hospitalised.

By this time, their plight had been taken up by Amnesty International, and by March 1992 the government was under severe international pressure. This culminated in an unprecedented public condemnation of Swaziland's human rights record by the United States embassy, an action which may have been an attempt to recover prestige lost by the refusal to offer sanctuary to Russon and Dlamini. As the US is the single largest aid donor to the country, the Swaziland authorities could not afford to ignore this public rebuke, and on 22 March 1992 all the detainees were released unconditionally.

At this point, Shongwe and Dlamini were readmitted to their respective colleges. But at the beginning of the subsequent academic year in August, the government refused to renew Dlamini's government scholarship. Dlamini responded by resorting to court action and the government was subsequently ordered to reinstate his scholarship.

The 1991-92 academic year began with the UNISWA administration promulgating new regulations governing elections for the Students' Representative Council (SRC). Hitherto, SRCs had not unnaturally been dominated by final-year students. The administration now decreed that no final year student could run for office. The subsequent elections produced a conservative and inexperienced SRC and the academic year passed largely uneventfully on campus. By this time, however, the foci of political activity in the kingdom had shifted to the Vusela commissions and to PUDEMO and SWAYOCO.

Conclusions

After a full ten years at the forefront of struggle against a repressive and authoritarian system of government in Swaziland, the tertiary educational sector seemed at the end of 1992 to have withdrawn to the sidelines. There can be little doubt, however, that withdrawal will be a temporary phenomenon and that Swaziland's campuses will again become battlegrounds as the struggle for democracy moves into the post-Vusela phase.

For the moment, Mswati III exercises supreme authority and, in some respects, a truly democratic order in Swaziland seems no closer than it did on that day in 1973 when Sobhuza usurped all executive and legislative authority. But there are

today important differences. Now there is organised and growing opposition to the monarchy; that institution itself no longer commands the unquestioned loyalty of its subjects and is, moreover, headed by an individual who has few of the qualities of charisma and shrewdness of his father and little of the people's love and respect which Sobhuza enjoyed.

Finally, there is the fact that time is running out for the regime across the border in South Africa with whom the Swazi monarchy in the 1980s became closely aligned. Indeed, the prospect is that the ANC, so brutally expelled from Swaziland in 1984, will in the near future be the dominant political player in the emerging South African political dispensation. This cannot but cause some trepidation in the ranks of Swaziland's royal family.

Notes

1. For fuller details on Swaziland's nineteenth-century history, see Philip Bonner, *Kings, Commoners and Concessionaires: the evolution and dissolution of the nineteenth-century Swazi State* (Ravan Press, Johannesburg, 1983).
2. For fuller details on the development of Swaziland's colonial economy, see John Daniel, 'The Political Economy of Colonial and Post-Colonial Swaziland', *South Africa Labour Bulletin*, Vol. 7, No. 6, 1982.
3. The grounds upon which the government sought to deport one of the MPs, Thomas Ngwenya, was that he had not been born within the boundaries of present-day Swaziland. Ngwenya countered that he had been born only a few hundred yards outside these boundaries and in an area long claimed by the Swazi government as rightfully belonging to Swaziland. The High Court ruled that Ngwenya was a person of Swaziland and entitled to a seat in its parliament.
4. See Economist Intelligence Unit, *Country Report on Swaziland*, No. 2, 1991, p. 47.
5. The students were not the only ones victimised. For example, the then PUDEMO president, Mario Masuku, was dismissed from his job with a local bank despite eighteen years of service. Maxwell Lukhele, despite his acquittal on all charges, was sent on compulsory leave from his post as the top legal adviser to the government's income tax department. He was later reinstated.
6. See *Africa Confidential*, Vol. 31, No. 24, 7 December 1990, p. 8.

Annex 1

THE LIMA DECLARATION ON ACADEMIC FREEDOM AND AUTONOMY OF INSTITUTIONS OF HIGHER EDUCATION

Preamble

The Sixty-Eighth General Assembly of WORLD UNIVERSITY SERVICE, meeting in Lima from 6 to 10 September 1988, the year of the 40th anniversary of the Universal Declaration of Human Rights,

Bearing in mind the extensive set of international standards in the field of human rights which the United Nations and other universal and regional organisations have established, in particular the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the UNESCO convention against Discrimination in Education,

Convinced that the universities and academic communities have an obligation to pursue the fulfilment of economic, social, cultural, civil and political rights of the people,

Emphasising the importance of the right to education for the enjoyment of all other human rights and the development of human persons and peoples,

Considering that the right to education can only be fully enjoyed in an atmosphere of academic freedom and autonomy of institutions of higher education,

Recognising the essential vulnerability of the academic community to political and economic pressures,

Affirming the following principles pertaining to education:

- a) Every human being has the right to education.

Annex 1

- b) Education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights, fundamental freedoms and peace. Education shall enable all persons to participate effectively in the construction of a free and egalitarian society, and promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups. Education shall promote mutual understanding, respect and equality between men and women. Education shall be a means to understand and contribute to the achievement of the major goals of contemporary society such as social equality, peace, equal development of all nations and the protection of the environment.
- c) Every State should guarantee the right to education without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition, birth or other status. Every State should make available an adequate proportion of its national income to ensure in practice the full realisation of the right to education.
- d) Education shall be an instrument of positive social change. As such, it should be relevant to the social, economic, political and cultural situation of any given country, contribute to the transformation of the status quo towards the full attainment of all rights and freedoms, and be subject to permanent evaluation.

Proclaims this Declaration.

Definitions

1. For the purposes of this Declaration

- a) 'Academic freedom' means the freedom of members of the academic community, individually

or collectively, in the pursuit, development and transmission of knowledge, through research, study, discussion, documentation, production, creation, teaching, lecturing and writing.

- b) 'Academic community' covers all those persons teaching, studying, researching and working at an institution of higher education.
- c) 'Autonomy' means the independence of institutions of higher education from the State and all other forces of society, to make decisions regarding its internal government, finance, administration, and to establish its policies of education, research, extension work and other related activities.
- d) 'Institutions of higher education' comprise universities, other centres of post-secondary education and centres of research and culture associated with them.

2. The above mentioned definitions do not imply that the exercise of academic freedom and autonomy is not subject to limitations as established in the present Declaration.

Academic Freedom

3. Academic freedom is an essential pre-condition for those education, research, administrative and service functions with which universities and other institutions of higher education are entrusted. All members of the academic community have the right to fulfil their functions without discrimination of any kind and without fear of interference or repression from the State or any other source.

4. States are under an obligation to respect and to ensure to all members of the academic community, those civil, political, economic, social and cultural rights recognised in the United Nations Covenants on Human Rights. Every member of the academic community shall enjoy, in particular, freedom of

thought, conscience, religion, expression, assembly and association as well as the right to liberty and security of person and liberty of movement.

5. Access to the academic community shall be equal for all members of society without any hindrance. On the basis of ability, every person has the right, without discrimination of any kind, to become part of the academic community, as a student, teacher, researcher, worker or administrator. Temporary measures aimed at accelerating *de facto* equality for disadvantaged members of the academic community shall not be considered as discriminatory, provided that these measures are discontinued when the objectives of equality of opportunity and treatment have been achieved. All States and institutions of higher education shall guarantee a system of stable and secure employment for teachers and researchers. No member of the academic community shall be dismissed without a fair hearing before a democratically elected body of the academic community.

6. All members of the academic community with research functions have the right to carry out research work without any interference, subject to the universal principles and methods of scientific enquiry. They also have the right to communicate the conclusions of their research freely to others and to publish them without censorship.

7. All members of the academic community with teaching functions have the right to teach without any interference, subject to the accepted principles, standards and methods of teaching.

8. All members of the academic community shall enjoy the freedom to maintain contact with their counterparts in any part of the world as well as the freedom to pursue the development of their educational capacities.

9. All students of higher education shall enjoy freedom of study, including the right to choose the field of study from available courses and the right to receive official recognition of the knowledge and experience acquired. Institutions of higher education should aim to satisfy the professional needs and aspirations of the students. States should provide adequate resources for students in need to pursue their studies.

10. All institutions of higher education shall guarantee the participation of students in their governing bodies, individually or collectively, to express opinions on any national and international question.

11. States should take all appropriate measures to plan, organise and implement a higher education system without fees for all secondary education graduates and other people who might prove their ability to study effectively at that level.

12. All members of the academic community have the right to freedom of association with others, including the right to form and join trade unions for the protection of their interests. The unions of all sectors of the academic communities should participate in the formulation of their respective professional standards.

13. The exercise of the rights provided above carries with it special duties and responsibilities and may be subject to certain restrictions necessary for the protection of the rights of others. Teaching and research shall be conducted in full accordance with professional standards and shall respond to contemporary problems facing society.

Autonomy of Institutions of Higher Education

14. All institutions of higher education shall pursue the fulfilment of economic, social, cultural, civil and political rights of the people and shall strive to prevent the misuse of science and technology to the detriment of those rights.

15. All institutions of higher education shall address themselves to the contemporary problems facing society. To this end, the curricula of these institutions, as well as their activities shall respond to the needs of society at large. Institutions of higher education should be critical of conditions of political repression and violations of human rights within their own society.

16. All institutions of higher education shall provide solidarity to other such institutions and individual members of their academic communities when they are subject to persecution. Such

solidarity may be moral or material, and should include refuge and employment or education for victims of persecution.

17. All institutions of higher education should strive to prevent scientific and technological dependence and to promote equal partnership of all academic communities of the world in the pursuit and use of knowledge. They should encourage international academic cooperation which transcends regional, political and other barriers.

18. The proper enjoyment of academic freedom and the compliance with the responsibilities mentioned in the foregoing articles demand a high degree of autonomy of institutions of higher education. States are under an obligation not to interfere with the autonomy of institutions of higher education as well as to prevent interference by other forces of society.

19. The autonomy of institutions of higher education shall be exercised by democratic means of self-government, which includes the active participation of all members of the respective academic communities. All members of the academic community shall have the right and opportunity, without discrimination of any kind, to take part in the conduct of academic and administrative affairs. All governing bodies of institutions of higher education shall be freely elected and shall comprise members of the different sectors of the academic community. The autonomy should encompass decisions regarding administration and determination of policies of education, research, extension work, allocation of resources and other related activities.

Annex 2

THE POZNAN DECLARATION ON ACADEMIC FREEDOM

Adopted by the participants of a seminar held at the Poznan Human Rights Centre from 7 to 9 January 1993

Considering the international standards in the field of human rights established by the United Nations, in particular the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966), and the International Covenant on Civil and Political Rights (1966);

Considering also the UNESCO instruments in the field of human rights and education, in particular the Convention against Discrimination in Education (1960), the Recommendation Concerning the Status of Teachers (1966), the Declaration of the Principles of International Cultural Co-operation (1966), and the Recommendation on the Status of Scientific Research (1974);

Acknowledging that certain rights recognized therein are of particular importance to academic freedom, such as the freedom of thought, conscience, religion, expression, assembly, association and movement;

Recognizing that academic freedom is an essential precondition for those educational, research, administrative and service functions with which universities and other institutions of higher education are entrusted;

Bearing in mind that, by pursuing truth and developing scientific knowledge, members of the academic community carry a special responsibility towards society;

Convinced that every state is obliged to guarantee academic freedom without discrimination on any ground, such as race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, birth or other status;

Annex 2

Paying tribute to the contributions made by the Lima Declaration on Academic Freedom and Autonomy of Institutions of Higher Education (1988), the Magna Carta of European Universities (Bologna 1988), the Dar es Salaam Declaration on Academic Freedom and Social Responsibility of Academics (1990), and the Kampala Declaration on Intellectual Freedom and Social Responsibility (1990);

Recognizing that the academic community consists of all those persons working or studying at an institution of higher education;

Participants agreed that members of the academic community shall enjoy, individually or collectively the following rights:

Article 1

1. Every person has the right, on the basis of ability and competence and without discrimination of any kind, to become a member of the academic community, to be promoted and protected against arbitrary dismissal from any institution of higher education.

2. Temporary measures aimed at accelerating *de facto* equality for those disadvantaged in access to or in the life of the academic community shall not be considered as discriminatory.

Article 2

1. Members of the academic community with research functions have the right freely to determine the subject and methods of their research in accordance with the acknowledged principles of scientific inquiry.

2. They have the right to communicate the findings of their research freely and to publish them without censorship.

Article 3

1. Members of the academic community with teaching functions have the right freely to determine, within the framework established by the institution of higher education, the content and

methods of instruction.

2. They shall not be forced to instruct against their own best knowledge and conscience.

Article 4

1. Students at institutions of higher education have the right to study, to choose the field of study from the available courses and to receive official recognition of the knowledge and experience acquired.

2. They have the right to participate in the governance of institutions of higher education and in the organization of the educational process.

3. States shall provide adequate resources for students in need to enable them to pursue their studies.

Article 5

1. All members of the academic community have the freedom, regardless of frontiers, to seek, receive, obtain and impart information and ideas of all kinds and in all forms, including by electronic means.

2. In case of restrictions, special facilities shall be granted to members of the academic community carrying out research functions in order to enable them to accomplish their tasks.

3. States and intergovernmental organizations shall actively support the mutual exchange of information and documentation for the advancement of research and education.

Article 6

1. All members of the academic community have the right to cooperate freely with their counterparts in any part of the world.

2. To this end they shall enjoy freedom of movement within the country and have the right to travel outside and re-enter their country. This freedom may be restricted only on grounds of

Annex 2

national security or public health, provided such restrictions are established by law and are necessary in a democratic society.

3. States and intergovernmental organizations shall actively support co-operation between members of the academic community.

Article 7

1. The exercise of the rights provided above implies special responsibilities towards society and may be subject to certain restrictions necessary for the protection of the rights of others.

2. Research, teaching, collection and exchange of information shall be conducted in accordance with ethical and professional standards.

Article 8

The proper enjoyment of academic freedom and compliance with the respective responsibilities demand the autonomy of institutions of higher education. Such autonomy shall be exercised with the participation of all members of the academic community.

Index

55FF Law (Sri Lanka), 107

Abbas, Ali Abdallah, 122

Abdallah, Nicholas, 124

Abdeen, Abdeen M.Z., 131

Abhayapala, Kanchana, 112

Abubaker, Salim Mohamed, 126

academic freedom, 1, 2, 155-7; and international instruments, 3-6; in Burma, 30-6; in Palestine, 84; in Paraguay, 96-7; in Sri Lanka, 105; violations of, 82-3, 122-9

administrative detention, 80, 84

African Islamic Centre (Sudan), 123

African National Congress (ANC), 137, 145, 147

Agla, Al-Taya Ahmed Abu, 126

AIDS, 19

Al Aqsa Massacre, 78

ALESCO, 48

Al-Agra, Omer Mohammed Abdel Rahman, 131

Ali, Taisier Mohammed, 131

All Burma Federation of Students Unions, 37

All Burma Students Democratic Association, 37

All Burma Students Democratic Front, 39

All the Burma Students Union, 37

American Convention on Human Rights, 10

American School (Khartoum), 124

Amnesty International, 20, 34, 46, 47, 79, 124, 151

Animal Farm, banning of, 71

Arabic, teaching in, 123, 124, 125

Arabisation, 124

arrests, 20, 118; of students, 69, 107, 127; of Tamils, 99; of writers, 74

Article 19, 20

artists, role of, 2

Asia Watch, 20

assassination, 47, 79, 100

Aung Din, 37

Aung San Suu Kyi, 17, 18, 20, 32, 36

Australia, 5

autonomy of universities, 1, 2, 6, 52, 53, 98, 122, 157-8

B'Tselem organisation, 78, 79

Banda, Hastings, 55, 57, 58, 60, 62, 63, 64, 66, 72, 75, 76

Banda, Innocent, 74

Banda, John, 67

Bangladesh, 18, 19

Al-Bashir Omer Hassan, 117, 118, 120

Basit, Abdel, 125

Beckett, Samuel, 72

Biran, Yoav, 83

British colonialism, 21

Buddhism, 21, 29

Bulunga, Bhabalazi, 146

bureaucracy, 90

Burma, 17-41

Burma Socialist Programme Party (BSPP), 17, 25, 26, 27, 29, 31, 32, 36

Campbell and Cosans case (UK), 11

Canada, 100

Catholic church, 55, 59, 62, 69, 70, 75, 95, 124

editorship, 47, 66, 67, 70, 71, 130; of books, 84; of poetry, 74; of plays, 72

Chaka, 136

Chazama, George, 77

cheating in examinations, 129

Chewa language, 64, 65

Chibwana, Tubby, 69

Chihana, Chakufwa, 59, 68

Chihana, Christina, 68

- Chimombo, Steve, 74
 China, 18, 113
 Chiona, Peter, 67
 Chipasula, Frank, 74
 Chipasula, James, 67
 Chipembere, Henry, 63
 Chirwa, Orton, 58
 Chirwa, Vera, 58, 76
 Chit Swe, 34, 39
 Chitukuko Cha Amai mu Malawi (CCAM) (Malawi), 56
 Chizeze, Zangaphe, 69, 74
 Christianity, 21, 94, 119, 125
 Citizenship Law (1982) (Burma), 28
 civil rights, 8, 88
 Clark, J.P., 73
 closure of schools, 81
 closure of universities, 17, 33, 34, 50, 82, 83, 84, 101, 103-4, 107, 108, 126, 128
 collective punishment, in Palestine, 81
 Colombo Citizens' Committee, 111, 112
 Colorado Party (Paraguay), 86
 Communist Party of Burma, 32, 36
 Congress of Swazi Trade Unions, 148
 corporal punishment in Scottish schools, 11
 correspondence courses, 33, 34, 35
 corruption, 27, 64
 curfews, in Palestine, 78, 81

 dancing, prohibition of, 120
 Dar Es Salaam Declaration, 5
 Daw Ni Ni Myint, 38
 death penalty, 141
 death threats, 109, 111, 112
 Democratic Alliance of Burma, 18
 deportations, in Palestine, 80
 disappearances, 100, 103, 107, 108, 109, 112, 113, 115
 discrimination, 28, 36, 53, 63, 67; in admissions to schools, 11; sexual, 29, 61
 dismissal of faculty members, 129-31
 Dlamini, Professor, 149
 Dlamini, Sabelo, 149, 150, 151
 Doctors' Union (Sudan), 117
 drop out from school, 22, 23, 50, 67, 89; female, 61, 83
 Dubbey, John, 77
 Dunn, Ben, 150

 education: free, 26, 45, 49; primary, 12, 22, 23, 24, 60, 88, 89, 121, 143, 144; right to, 144 (in Burma, 26-8; in Lebanon, 48-50; in Malawi, 61-3; in Palestine, 80-2; in Paraguay, 88-90; in Sudan, 120-1); secondary, 12, 24-6, 45, 60-1, 63, 88, 121, 143, 144; tertiary, 12, 50-1, 65, 91-2, 96, 121, 144 (in southern Sri Lanka, 101-4)
 El-Zaki, Hafiz el-Sheikh, 123
 English language: teaching in, 25, 123, 124, 125; teaching of, 23, 24, 39, 62
 European Court of Human Rights, 11
 European Student Relief organisation (ESR), 6
 examinations, 26, 27; boycott of, 128-9; leaking of questions, 25, 26
 executions, extrajudicial, 29, 100, 107

 famine, 119
 Federation of Parents' Associations (Sri Lanka), 109
 Federation of University Teachers Associations (FUTA) (Sri Lanka), 101, 109
 Federation of University Teachers' Associations (Sri Lanka), 105
 fees for schooling, 62
 forced labour, 65
 Forster, E.M., 72
 'Four Cuts' operation, 21
 free meals for students, 126, 127
 freedom of association: in Burma, 36-7; in Lebanon, 53-4; in Malawi, 68-70
 freedom of expression, 3; in Malawi, 70-7
 freedom of opinion, 3
 freedom to publish, 54

 Geneva Convention, 78
 Ghani, Abdel Salam Abdul, 84
 girls, access to education, 21, 22, 120, 121
glasnost, 10
 Gondwe, Chifipa, 67
 Goonatilake, Hema, 105-16
 Govati, Kenneth, 69
 Graham, Robin, 75
 Green Revolution, 73
 Guarani language, 90
 Gulf War, 78, 80, 81, 84
 Gunasekera, Prins, 108, 109, 112

 habeas corpus, 100, 108, 112
 Hassa Haisa camp (Sudan), 132
 heroin, production of, 19
 Hlatshwako, Mandla, 139
 house demolitions, in Palestine, 80
 Human Rights Task Force (Sri Lanka), 100
 Human Rights Association of Swaziland, 148
 hunger strikes, 150

- Imbokodvo National Movement (INM), 136
 imprisonment, 66, 87
 Indemnity Law (Sri Lanka), 107
 Independent Students' Union (ISU) (Sri Lanka), 102, 105, 106, 107, 114
 India, 18, 106
 Indian Peace Keeping Forces (IPKF), 99, 104
 Inter-University Students' Union (IUSF), 105, 106, 107, 108
 International Convention on Economic, Social and Cultural Rights (ICESCR), 3, 4, 46, 90, 153, 159
 International Covenant on Civil and Political Rights (ICCPR), 3, 46, 87, 153, 159
 International Fund for the Reconstruction of Lebanon, 44
 International Human Rights Law Group, 20
 Iraq, 20
 Iredale, Eleanora, 6
 Islam, 104, 119, 120, 125, 133
 Islamic law (*shari'a*), 119
 Islamic schools, 60
 Islamisation, 119, 122, 123, 124, 126
 Israel, 42
 Israeli army, undercover units, 79

 Jayawardene, J.R., 110
 Jehovah's Witnesses, harassment of, 58, 68

 Kachin Independence Organisation, 27
 Kachin peoples, 21
 Kadamira, Cecilia, 55, 56, 77
 Kadamira, Z.D., 66
 Kanyongolo, Edge, 69
 Karen National Union, 18, 27, 28
 Karen peoples, 19, 21, 24
 Karunaratne, 108, 112
 Katundu, Chilimira, 72
 Kayira, Legson, 73
 Kerr, David, 72
 Khartoum University Act, 129
 Khartoum University Lecturers' Union, 122
 Khin Aung Kyi, 34
 Khin Maung Tint, 34
 Khin Nyunt, 21
 killings of students, 106, 109, 111, 122, 150
 Killion, Mack Willie, 69
 Konje, Thoza, 64
 Koran, learning of, 120, 133
 Kyaw Myo Thant, 20

 Kyaw Soe Aung, 37

 Lankapura, Charitha, 108, 111, 112
 Lebanon, 42-54
 Liberation Tigers of Tamil Eelam (LTTE), 99, 104, 110, 115
 librarians, role of, 2
 Lima Declaration on Academic Freedom and Autonomy, 1, 2, 3, 4, 7, 84, 153-8
 literacy, 12, 13, 14, 23, 89, 143
 loyalty declarations, signing of, 70

 Machila, Blaise, 74
 Magagula, Boy, 149, 150
 Makhubu, Lydia, 145
 Malawi, 55-77
 Malawi Congress Party (MCP), 55, 57, 68, 69
 Malawi Trades Union Council, 69
 Malawi University Students' Union, 69
 Malawi Young Pioneers, 65
 Malaysia, 4
 Mandalay Intermediate College, 30
 Mandela, Nelson, 148
 Mapanje, Jack, 73, 74
 Marxism, 71
 Mazunda, Ishmael, 76
 Mbandzeni, King, 136
mbumba, 56
 Mhango, Mkwapatira, 59
 Middle East Peace Conference, 80
 migrant labourers, 140
 Min Ko Naing, 37
 Min Zeya, 37
 missionaries, 50, 63
 Mkandawire, Danton, 64
 Mkandawire, Samuel, 69, 70
 Mngomezulu, Dominic, 146, 147, 149, 150
 Mnthali, Felix, 73, 74
 monasteries, 21, 29
 Monitoring Committee for Students' Arrest and Release (Sri Lanka), 111
 monks, arrest of, 29
 mortality, infant, 19
 Mozambique, war in, 57
 Mphande, Lupenga, 74
 Msonthi, John, 76
 Mswati II, King, 136
 Mswati III, King, 138, 140, 147, 151
 Mtafu, George, 68
 Mtegha, Allan, 67
 Mtwana, Percy, 72
 Mukawi, Issam Akkrat, 127
 Muslim Mayu Student Development Party, 37
 Muslims, harassment of, 63, 104

Myanmar *see* Burma

Nai Manawchrod, 36

Nai Nawn Dho, 36

National Islamic Front (Sudan), 122, 123, 125, 126, 128, 129, 130, 132

National League for Democracy (NLD) (Burma), 17

Ne Win, 17, 18, 22, 25, 31, 32, 36, 38

Netherlands Institute of Human Rights, 1
newspapers, 142; closure of, 118

Ngema, Mbongeni, 72

Ngwane college, 144

Ngwane National Liberatory Congress, 147

Nimeiri, Ga'afar Mohammed, 117

Nobel Prize, 72

Nowak, Manfred, 1

Nqumayo, Albert Muwalo, 71

Nusseibeh, Sari, 84

Nyan Paw, 20

Nzunda, Matembo, 75

O'Malley, Patrick, 68

Omar, Aiman Hassan, 126

Omer, Ibrahim, 128, 129

Omotoso, Kole, 72

Organisation for Economic Cooperation and Development (OECD), 13

Organisation of American States (OAS), 10

Organisation of Professional Associations (OPA), 112, 113

orphans, educated into military, 27

Orwell, George, 71

P'Bitek, Okot, 73

Palestine, 78-85

Palestinian Council for Higher Education, 82

Palestinian Human Rights Information Centre, 79

Paraguay, 86-98

pass system, for Palestinians, 80

passports, confiscation of, 131

Patriotic People's Movement (DJV) (Sri Lanka), 106, 107, 108

People's Liberation Front (JVP) (Sri Lanka), 100, 106, 107, 108, 110, 113, 115

People's Revolutionary Red Army (PRRA), 103, 109

People's United Democratic Movement (PUDEMO), 138, 139, 141, 142; rise of, 147-51

perestroika, 10

personation in examinations, 128

PhD programmes, 38, 39

Philippines, 5

Pinney, Ted, 68

Pita, Constantino, 124

political propaganda, in education, 90

Popular Defence Force (PDF), 118; camps of, 129, 132

poverty, 62; overcoming of, 14

Poznan Declaration on Academic Freedom, 6, 159-62

Premadasa, President, 100, 110

prison, conditions in Malawi, 59

prisoners, right to education, 11

private schools, 21, 45, 48, 49

protest by students, 69

Qadal, Mohammed Saeed, 130

Rangoon University Students Union, 37

Rangoon Workers' College, 35

Raoul Wallenberg Institute of Human Rights, 5

re-education centres, in Sudan, 132

religion, 42, 83

religious schools, 29, 60

relocations, forcible, 119

research, 96; freedom of, 54; funding of, 54

Resistência Nacional Moçambicana (RENAMO), 56

right to education, 8-16

Roche, John, 68

Rodríguez, Andrés, 87

Rouse, Ruth, 6

Rubadiri, David, 73, 74

Ruganda, John, 72

Russon, Ray, 149, 150

Salih, El-Zubeir Mohamed, 129

Sandifolo, Kamchedzera, 72

satyagraha, 105

Saw Maung, 17, 18

school attendance, 89 *see also* drop out from school

schools, destruction of, 27, 49

Sein Lwin, 33

sex segregation, 83, 143

Shongwe, Kilson, 139

Shongwe, Mphandlana, 149, 150

Shumba, Mupa, 67

Simon, Barney, 72

Sobhuza I, King, 136

Sobhuza II, King, 136, 141, 151

social sciences, absent in Paraguay, 97

socialism, 8, 18, 25; 'Burmese Way to', 21,

- 22, 29, 32
 socialist states, 8, 9
 South Africa, 56, 140, 143, 145, 146, 149, 152
 Soyinka, Wole, 72
 Spanish, teaching in, 90
 Sri Lanka, 99-116
 State Law and Order Restoration Council (SLORC) (Burma), 17, 20, 23, 27, 29, 32, 33, 34, 38
 'state of exception', in Paraguay, 86
 stateless persons, 53
 Steward, James, 73
 strike, right to, 142
 strikes: by students, 22, 30, 70, 108, 146; by teachers, 52
 Stroessner, Alfredo, 86
 student councils, 68; banning of, 114, 122, 126, 127
 student protests, 26, 31, 32, 34, 70, 103, 105, 106, 107, 129
 student unions, 102, 105, 125, 126
 Students for Human Rights (SHR) (Sri Lanka), 107
 Students' Representative Council (Swaziland), 151
 students: disaggregation of, 33; military training of, 35; rights of, 83-4
 Sudan Bar Association, 117
 Sudan Human Rights Organisation, 117
 Sudan Journalists' Union, 117
 Sudan, 117-35
 Sudanese People's Liberation Army (SPLA), 118, 124, 131
 Swaziland National Association of Unemployed People, 148
 Swaziland National Union of Students, 148
 Swaziland National Union of Teachers, 142
 Swaziland Youth Congress, 138, 139, 151
 Swaziland, 136-52; human rights in, 141-2; socio-economic conditions of, 140-1
 Syria, 42
 Türk, Danilo, 4
 Ta'if meeting (Lebanon), 43 (Agreement), 44, 46, 48, 53
 Tamil insurgency, 115
 Tamil National Army, 99
 Tamils: arrest of, 99; insurgency of, 106
 Tanzania, 5
 teacher training, 65
 teachers: arrest of, 29; designated as civil servants, 53; exile of, 47; political control of, 28, 35, 53; redeployment of, 64, 68; sackings of, 34, 36
 Tembo, John, 55, 63, 66, 76
 Thailand, 18
 Than Shwe, 18
 Theri, Walpola Rahula, 110
 Thiranagama, Rajini, 104, 112
 Tibiyo Fund, 141
 Tin Aung, 34
 Tin Oo, 20
tinkhundla system, 137, 139
 Al Tom, Mohammed E., 131
 torture, 20, 37, 47, 59, 69, 79, 87, 100, 118, 122, 130
 trade unions, 52, 54, 131, 157
 Tumbuka language, 64, 65; discrimination against speakers of, 63
 U Ba Thaw, 20
 U Kyaw Thiha, 37
 U Maung Ko, 20
 U Nu, 25, 29, 30, 31, 36, 37
 U Thant, 33
 U Tin Maung Win, 20
 U Tin Oo, 17
 U Win Tin, 20
 U Yewata, 20
 Uganda, 5
 United States of America (USA), 8, 150, 151
 United Democratic Front (UDF) (South Africa), 147
 United Nations (UN), 5, 7, 9, 10, 19, 32, 35, 43, 78, 153, 159
 UN *Human Development Report*, 13
 UN Charter, 46
 UN Commission on Human Rights, 20
 UN Committee on Economic, Social and Cultural Rights, 10, 13
 UN Convention on the Rights of the Child, 11, 12, 27
 UN Development Programme (UNDP), 13, 121
 UN ECOSOC, 9
 UNESCO, 4, 5, 6, 11, 13, 23, 24, 143, 153, 159; Convention against Discrimination in Education, 10, 12; Recommendation Concerning the Status of Scientists, 4; Recommendation Concerning the Status of Teachers, 4
 UNICEF, 23
 UN Relief Works Agency (UNRWA), 80, 81
 United Wa State Party, 28
 Unity High School (Khartoum), 124

- universities, 23, 25; Al Najah National, 82, 83; Al Quds, 82, 83; American, Beirut, 50; Arab, 51; Assumption, 39; Bar Ilan, 84; Bethlehem, 82, 83; Birzeit, 82, 84; Botswana, 67, 74; Catholic, of Our Lady of Asuncion, 91, 94-6; Colombia Private, 91; Colombo, 102, 103, 106, 108; Eastern, 104; Gezira, 127, 130; Hebrew, 85; Hebron, 82; Independent, 91; Islamic, of Gaza, 82, 83; Islamic, of Omdurman, 130; Jaffna, 104, 114; Juba, 124, 130; Kelaniya, 102, 103; Khartoum, 118, 122, 123, 130 (crackdown at, 125-7); Lebanese, 51, 52, 53, 54; Malawi, 65, 66, 68, 70; Moulmein, 32; National, 52, 91; National, of Asuncion, 92-3; Northern, 91; of Balamand, 51; of Botswana, Lesotho and Swaziland, 144; of the Holy Spirit, 51; Pilar, 91; Puhuna, 103; Rangoon, 22, 24, 31, 32, 36; Ruhuna, 101, 102; Saint Joseph, 50; Sri Jayawardenapura, 102, 103; Sudan, of Science and Technology, 125, 127, 129, 130; Swaziland, 138, 144, 145, 148, 150; Witwatersrand, 149
- Universal Declaration of Human Rights, 3, 8, 12, 46, 153, 159
- universities, 26, 61; looting of, 49
- University Education Act (1964) (Burma), 31
- University of Distance Learning (Burma), 35
- University of Rangoon Act (1920), 30
- University Teachers Association (Burma), 37
- University Teachers for Human Rights (UTHR) (Sri Lanka), 99, 107, 108, 109, 112, 114
- University Teachers' Association (Sri Lanka), 105, 111
- veil, wearing of, 120
- Vusela I Commission, 138
- Vusela II Commission, 139
- Waterford Kamhlaba school, 143
- White, Landeg, 75
- Whitely, Wilfred, 75
- William Pitcher College, 138, 144, 148, 149, 150
- women, 119, 145; as students, 53, 144; dress codes for, 83; in higher education, 30, 83; in Malawi, 56; in teaching, 29; position of, under Islam, 120; prisoners in Malawi, 59; status of, 117
- World Bank, 13, 44, 61
- World Conference on Education for All, 14
- World Conference on Human Rights, 5, 6
- World University Service, 1, 2, 6-7, 105
- Writers' Union (Sudan), 117