

# NOTES AND COMMENTS

## State Intervention in Cultural Matters

**T**he state does not learn from experience. The proposed Broadcasting Authority bill was struck down by the Courts as being unconstitutional; yet the government is persisting with efforts at state regulation of another area of expression - the arts.

Formal state intervention in the field of culture and the arts began in 1956 with the establishment of a department of Cultural Affairs and of an Arts Council. The Arts Council and its subordinate panels were supposed to initiate programmes to help the advancement of various artistic forms. However, it soon became subordinated to political needs and ceased to enjoy any kind of autonomy.

If one were to take a dispassionate look at the condition of various art forms today, it would be obvious that state intervention and patronage have contributed very little to their development.

Well aware of this situation, the PA made promises of reform in this field too. It promised to end state and government intervention; it suggested the establishment of a Central Cultural Council, independent of politics and responsible to Parliament, which would advise the government on cultural policy; it would be a powerful and autonomous body with its own staff and resources; it promised to reform the Arts Council, free it of political and bureaucratic control, and set in motion programmes that would be helpful to the development of the arts.

The Ministry of Cultural Affairs has now produced four bills that have already been gazetted. These bills share the worst characteristics of the proposals for the Broadcasting Authority in that they make the authorities totally subservient to political and bureaucratic control. There is, however, a pleasant difference of attitude. The Minister of Cultural Affairs has allowed time for debate and discussion on these bills before they are presented to Parliament. Nevertheless, they disregard the fact that the Broadcasting Authority bill was struck down on the ground that it infringed the basic right of free expression and that art forms are one means of expression. As paragraph 2 of Article 19 of the International Covenant on Civil and Political Rights says: "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or print, in the form of art, or through any other media of his choice." This is further reinforced by Article 15 of the International Covenant on Economic, Social and Cultural Rights which recognizes the right of everyone to take part in cultural life and declares that "All state parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity."

The bills under discussion propose the establishment of a Central Cultural Council and three authorities with their mandate covering the fields of literature, performing arts and visual arts and crafts. They are however totally at variance with the pledges that the PA made before it was elected to power.

The Central Cultural Council, as envisaged in these bills, is a totally powerless body with no funds or resources responsible to the Minister of Cultural Affairs. It will meet the Minister once every three months and tender advice to him and his officials. It will not even have the resources to meet together and arrive at some kind of consensus before it meets the Minister. On the other hand, the other three authorities, charged with the protection, promotion and development of the arts in their respective fields, will be powerful bodies; however, those powers will be wielded by political appointees and bureaucrats. State and government intervention in the arts will not come to an end with these bills; they will in reality be formalized and reinforced.

It is interesting to compare the different ideologies inherent in the disparities that we have referred to earlier. The election manifesto assumes that culture and the arts are autonomous forms of expression that will thrive best when least interfered with by the state, that they are activities that flourish in civil society on the basis of relationships between artists and the general public. On the other hand, the assumptions inherent in the bills now before the public are thoroughly statist; they assume that the state has a right, not only to protect and promote the arts, but to regulate it through political and bureaucratic interventions; they also assume that the arts are not an autonomous field of activity. There is thus a fundamental disjuncture between the ideological bases of these two sets of propositions.

This shift also lends support to our argument that the reformist tendencies of this government are faltering and that is increasingly going in an authoritarian direction. The demands of war and national security may drive the government in this direction but obviously, it may affect all spheres of life. The problem would be to preserve the independence and autonomy of civil society in the face of such considerations.

## Self-censorship in Hongkong

**V**ery convoluted situations arise when the freedom of expression is subordinated to political caprice. An example comes our way from Hongkong.

Viking Penguin's Hongkong branch has just published a collection of prison writings by Wei Jingsheng, a Nobel Prize nominee widely respected as the most cogent and courageous among Chinese dissidents. He came into prominence as a leader of the Democracy

Wall movement; he is best known for the poster that called upon the Communist Party to add to its programme of four modernisations a fifth modernisation - democracy. He was then arrested and imprisoned; he was released in 1993 as part of a refurbishing programme the government undertook when it made a bid for the 2000 Olympics, but rearrested after its failure. He was then sentenced to fifteen years for subversion.

The collection of prison writings is entitled *The Courage to Stand Alone*. It contains letters written in prison, including some addressed to Communist party leaders including Deng Xiaoping and its current leader, Jiang Zemin.

Having published the book, Penguin Viking now do not have the courage to stand up for its own product. An executive of its marketing department says: "For this one I am not doing anything. It is very sensitive - especially during the hand over period." So, afraid of possible adverse reactions from the new Chinese masters, the publisher is neither promoting nor distributing the book.

Robin Munro, head of Human Rights Watch/Asia says: "It is rather Kafkaesque that a publisher as prominent as Penguin is apparently engaged in pre-emptive self-censorship.... If this is the kind of example being set by an international publisher, imagine how vulnerable this must make a local Chinese language publisher feel."

China has not said anything about the book. Nor need it say anything, with this kind of bending backwards to refrain from doing anything that might conceivably or putatively embarrass or annoy the Chinese.

### Displaced Tamils Abroad

**L**arge numbers of Tamils, displaced by the ethnic conflict, have fled to countries abroad. The numbers are indeterminate, but estimates are that about 400,000 live in Western Europe alone. There are lesser numbers living in Canada, Australia and New Zealand.

All these persons have applied for political asylum in the countries in which they live where they have been given temporary residence facilities. The hearing of applications for asylum is a long and tortuous process; it transpired at a recent meeting in Bergen, Norway, that only about 50,000 cases have been heard and finalized

upto now and that the number actually accepted for asylum is less than 10%.

This low number reflects the nature of current asylum laws. These were designed, after the second world war, to deal with individuals whose lives were endangered by political dissent and opposition to authoritarian regimes. A person had to prove that he was, as an individual, in physical danger in his country. Most Tamils cannot prove that they, as individuals, face danger of prosecution.

The current wave of refugees, including the Tamils, arise from situations where whole communities, religious, tribal or ethnic, are in danger of prosecution. They flee danger en masse. And the asylum laws cannot recognize this fact since they are still based on individual acts of opposition.

The Tamils whose asylum applications have been refused, and indeed the states which have ordered the refusals now find themselves in a peculiar position. The normal practice would be to return a person whose asylum application has been refused to the country of origin. These states however seem reluctant or hesitant to follow this practice in the case of Tamil refugees from Sri Lanka. They have obeyed the letter of their law in denying them asylum; yet they have a niggling fear that Sri Lanka is not quite a safe place to return them to.

Faced with this dilemma, they have been, as it were, testing the waters over the last few years. About 3000 refugees have been returned by all the European countries in small groups. Available information would permit a guess that about 5% of the returnees have been subject to some form of physical harassment or arrest; the others have not. These statistics have permitted the United Nations High Commission for Refugees (UNHCR) to argue that it is safe to return Tamils to southern Sri Lanka and refugee organizations in Europe to argue that no Tamils should yet be returned. Both parties have argued their positions with vigour and commitment. Arguing from virtually the same facts, they differ in over-all interpretation.

This debate may go on for some time yet but it is now possible to estimate that at least 60% of Tamil refugees abroad would eventually be repatriated. This is also a significant factor that will need to be written into any discussion of post-conflict resettlement problems.

**P**

### Anger and Instruction

Herr Keuner said, "It is difficult to instruct those with whom one is angry. It is especially necessary, however, for they need it especially."

*Tales of Herr Keuner* - Bertolt Brecht