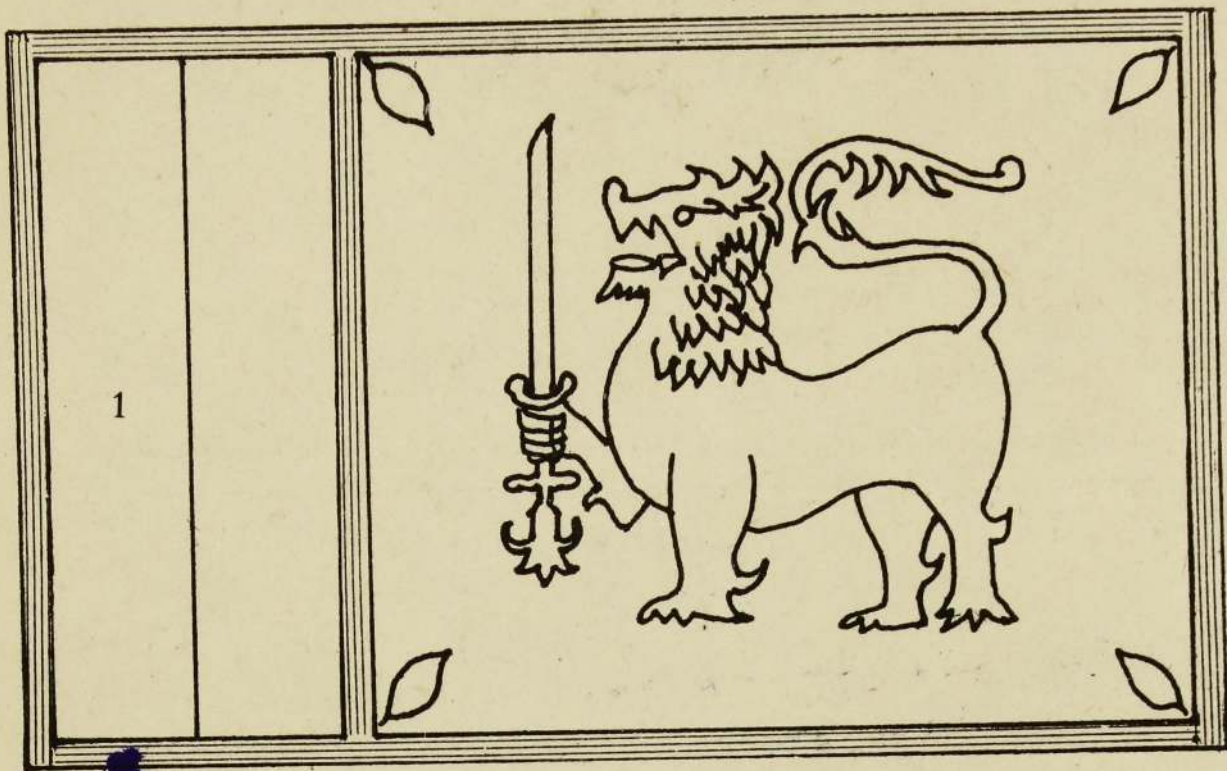


THE CONFLICT WITHIN

SOMASUNDARAM
VANNIASINGHAM

SRI LANKA



THE NATIONAL FLAG OF SRI LANKA

The main motif with a lion holding a sword in its paws represents the ethnic majority, the Sinhalese; the yellow stripe \equiv represents the Tamils; and the green stripe (1) the Muslims. Note there is a clear space between the main motif and the stripes representing the minorities.

How many countries have National Flags in which the emblems representing the minorities are kept apart from the motif representing the ethnic majority?

SRI LANKA

THE CONFLICT WITHIN

PUBLIC LIBRARY
JAFFNA
SPECIAL COLLECTION



SOMASUNDARAM
VANNIASINGHAM

10407 C.C

WITHDRAWN
FROM
CIRCULATION

PUBLIC LIBRARY
JAFFNA
SPECIAL COLLECTION

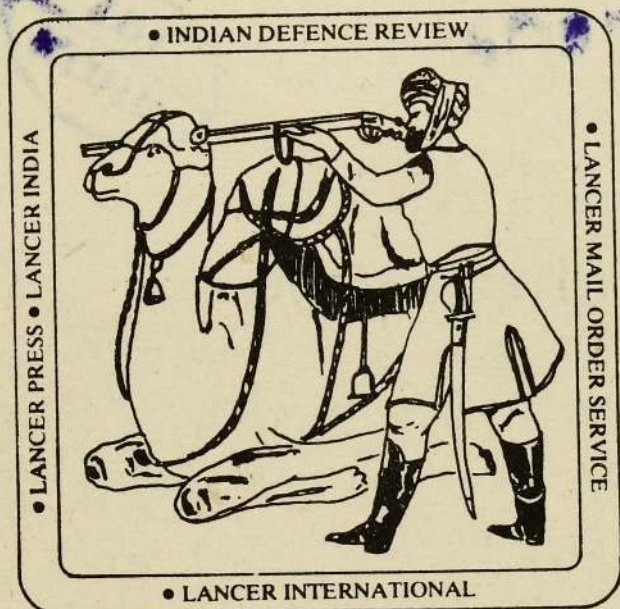
PUBLIC LIBRARY
JAFFNA
SPECIAL COLLECTION

229904

LANCER
NEW DELHI

229904 CC

R
954 9303



© Somasundaram Vanniasingham 1988

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted by any means electrical, mechanical or otherwise without first seeking the written permission of the publisher.

Typeset at Lancer International ● Printed at Mehra Offset Press, Delhi.

ISBN 81-7062-052-X

THE LANCER GROUP
Lancer International ● Lancer Mail Order Service
Lancer Press ● Lancer India

Dedicated
to the memory of my parents
to whose innate and untutored wisdom
I owe this book.

CONTENTS

<i>Author's Note</i>	viii
<i>Preface</i>	ix
1. Legal and constitutional aspects of the Sri Lankan conflict	1
2. New Delhi's Sri Lankan policy	67
3. Parameters for a viable political solution	107
4. The Gandhi-Jayewardene Accord: Its negative implications	131
5. Marxist contribution to the travails of the Tamils	148
6. The Constitution of Eeylom	163
<i>Appendix</i> Constitutional strategies	181
<i>Bibliographical Notes</i>	193
<i>Index</i>	196

AUTHOR'S NOTE

In this book, the term Ceylon is used to denote the geographical entity of the island; it is also used to refer to the polity, i.e. the organized State in existence prior to the creation of the Republic of Sri Lanka in 1972. The term Sri Lanka is used for the polity centred in Colombo embracing under the Republic, the Seven Sinhala Provinces. (The people of the two Provinces in the North and the East refused to grant the Mandate sought for the purpose of creating the Republic of Sri Lanka in place of the conditional polity called the British Dominion of Ceylon.)

PREFACE

According to Sinhalese chronicles, King Dutta Gemunu waged a Holy War against the Tamils, with a contingent of five hundred *bhikkus* actually accompanying the Army in its campaign. He killed the thirty-two Tamil sub-kings who acknowledged the suzerainty of King Ellalan, and ultimately Ellalan also, and established himself at Anuradhapura. However, in his last days he did not have any peace of mind: he was worried that his killing millions of Tamils would debar him from entering Heaven. Ultimately he was consoled by the Buddhist hierarchy that the Tamils whom he had caused to be killed had not embraced Buddhism and as such were equivalent only to beasts; killing them was no sin and thus he would not be debarred from entering Heaven. Obviously the 'millions of Tamils' does not refer to soldiers in the battlefield but to innocent civilians. Thus the Sinhalese records admit a genocidal attack on the Tamils in the second century before Christ carried on in the name of Lord Buddha.

Incidentally, it is worth recalling that President Jayewardene, shortly after his electoral triumph of 1977, claimed that he wanted to emulate King Elara (Sinhalese spelling) because Ellalan enjoyed a unique reputation for the administration of justice.

Subsequent to Dutta Gemunu's genocidal attack, the remnants of the Tamil Kingdom in the littoral (Mannar and Trincomalie with their famous temples), the Peninsula (with the ports) and the northern Wannu districts appear to have survived under chieftains. Later a kingdom took shape at Nallur in the Peninsula. There does not appear to have been any major war between the Sinhalese and the Tamils settled on the island although invasions from India were quite frequent and Sinhalese politicians even today speak of 'Cholian hordes'

Britain began its colonial regime with an assessment of the

situation by Sir Hugh Cleghorn to the effect that the possession of the island was divided (with clear geographical focus) between two nations, the Sinhalese and the Tamils, since time immemorial; and these nations were absolutely different in respect of language, race, religion and manners. In the mid-twenties of the twentieth century, when the nationalistic wave was gaining momentum in India, Britain decided to insulate its cherished colony of Ceylon from the nationalistic wave raging in India by granting to the people a share in the Executive Government. In the process, Britain discarded the notion that the island consisted of two nations, which had served till then as the sheet anchor of its policies, and granted seven-tenth Swaraj under the Donoughmore Constitutional set-up. Nobody could perceive that Britain would ever give up Ceylon commanding the sea routes, even if she lost control over India. The Donoughmore Constitutional set-up, aimed at preventing the nationalistic tide in India from sweeping into Ceylon, placed political power in the hands of the Sinhalese whom the British accepted as true Empire loyalists.

The British ignored the racial division and the rather slim majority by which the Donoughmore Reforms were accepted and did not hesitate to nullify the franchise of the Plantation Tamils, notwithstanding the adoption of the principle of Universal Adult Franchise. Britain was, in effect, grooming the Sinhalese to make Ceylon a reliable outpost of the British Empire and politically liquidating the Tamils. They feared that if the Tamils had a say in politics, they would – with their strong links with India – disrupt the safe and loyal Sinhalese Crown Colony of the Empire by adopting the Indian strategies of agitation, non-cooperation and the like. The Tamils' links with India had placed them at a disadvantage and served as a serious handicap.

The British were immensely pleased with the unstinted cooperation extended by the Sinhalese ministers to the Allied effort in the war and gifted them with Dominion status including the fragment of the British Empire over the Tamils. The circumstances and the processes by which constitutional changes were effected were rather secretive and personalized – 'conceived in darkness and hatched in secrecy'.

The Dominion of Ceylon thus hatched was really a conditional policy and its Parliament was devoid of sovereignty because of an entrenched non-discrimination clause inserted in the Constitution by the Sinhalese themselves acting in collusion with the British. When the Sinhala Only Act was challenged in the court, the implications of the non-discrimination clause were realized. The Sinhalese politicians then decided to create a Republic and sought a mandate to constitute the Republic of Sri Lanka but no mandate was secured from the people of the north and the east. The Republic is thus devoid of lawful authority to encompass the northern and eastern provinces. The Tamil militants did not take up arms against a properly constituted state. The Republic of Sri Lanka is an aggressor and impostor in the two provinces. The ballot was frustrated and the youths took to militancy.

Given the above background, certain questions automatically arise in the minds of the public, particularly the intelligentsia of India. The issues are of much significance to social and political thought and international relations.

Mrs Thatcher silenced busybodies by firmly declaring that the sovereignty of Falklands is a matter for the people of Falklands. Even the Sri Lankan Constitution concedes that sovereignty resides with the people and is inalienable. Eeylom is a contiguous territory and stands apart from the Sinhala country.

Can the Prime Minister of another country write off the sovereignty of the people of Eeylom, their right for Swaraj by an off-hand declaration – ‘no question of Eeylom’? What is the role and responsibility of a mediator? Can a mediator enter into an Accord with one party to the dispute? Are the Directive Principles enshrined in the Indian Constitution (*vide* Art. 51D) of any significance to the present rulers in India? What is the cause for which the Indian Armed Forces are fighting in Eeylom? Who is the ‘enemy’ they are fighting against? How is India’s security threatened by the Eeylom Tamils exercising Swaraj? How was India’s security enhanced by India’s novel philosophy reflected in the position that China has sovereignty over Tibet but Tibet is an autonomous state? There are today more Chinese in Tibet than Tibetans.

For Eeylom, New Delhi has invented a concept of 'limited autonomy'. What is the definition of this concept? New Delhi lays down the condition for a cease-fire thus: '[There should be] unconditional surrender of arms and agreement to the implementation of the Accord in its entirety.' Will the Tamils not have the liberty to give up arms and pursue the Gandhian strategy of non-violent non-cooperation? Is firing to continue even after they lay down arms if they do not cooperate? Without touching on these complaints one wishes to question the morality of the Army in declaring and enforcing ruthlessly a continuous cease-fire for nearly one month, and the morality and the purpose of ordering lakhs of people to leave their homes. It was a peremptory order. The initial 'peace' operation was to arrest inmates and blast two newspaper establishments in Jaffna with explosives; is this 'disarming the militants'? Why all this wanton destruction of property worth several billions? No concern has been expressed by New Delhi at the loss of several thousand lives of innocents and the untold sufferings of civilians. Would Gandhiji have approved of all this? Would any of the earlier Prime Ministers of India have done what is being done now? Cannot the conscience of the Indian public be awakened from the slumber of political *bhakti* or inspired with some moral courage to cast off the fear complex against reprisals?

Eeylom Tamils may be a tiny lot and unable to do anything. True. Fair play and justice are indivisible. *Adharma* in Eeylom, if connived at, will soon envelop India itself.

The seven essays in this book are intended to help anyone who is prepared or disposed to think on public issues, with facts, data and analysis relevant to the Sri Lankan issue.

CHAPTER 1

LEGAL AND CONSTITUTIONAL ASPECTS OF THE SRI LANKAN CONFLICT

In 1987, President Jayewardene launched, with New Delhi's blessings, an all-out effort to eradicate the Tamil Tigers and their hideouts.¹ By June of that year he had made no real progress although he had successfully devastated the entire District of Vadammaradchi (Tiger Leader Pirabhakaran's native village is in this district) and compelled all the inhabitants of that densely populated district to flee from their homes. Then everything was quiet for a few days when President Jayewardene announced that peace was imminent; this cryptic announcement was quite inexplicable as there was no evidence whatsoever of any negotiations.

An Accord was signed on 29 July 1987 between President Jayewardene and Prime Minister Rajiv Gandhi at Colombo. The Indian Armed Forces landed in the Tamil districts almost simultaneously. The Indian Armed Force was given the name 'Peace-Keeping Force'. It succeeded in capturing all the Tamil districts after a most brutal military operation. The Indian Government is now in armed occupation of the homeland of the Tamils after having decimated thousands of Tamil youths who fought for Swaraj. Very shortly, probably after some farcical Provincial Councils are set up, the Sinhalese Armed Forces will replace the Indian Peace-Keeping Force and genocidal Sinhalese imperialism will be restored – thanks to the invaluable services rendered by the Indian Armed Forces. All this, it is claimed, has been done in the interests of India's own security and its own Monroe Doctrine.

Earlier, India aided and abetted China in swallowing up

Tibet, putting forward the novel concept that China has sovereignty over Tibet but Tibet has autonomy – also in the interests of India's own security. That was a case of selling the Tibetans and buying China's friendship; this is a case of selling the Tamils and buying Sinhalese friendship. One may wonder why examine the legal and constitutional aspects when everything is finished. It is relevant to recall Tilak's memorable words to the Judge and Jury who convicted him in the course of India's struggle for Swaraj: 'I still maintain I am innocent; there are higher powers than rule the destinies of men and nations.' May I add, in this instance, 'than the whims of men commanding armed might'?

GALLE FACE GREEN ACCORD

Treaties, agreements and the like are normally named after the place where they were signed. Defending the Galle Face Green Accord, President Jayewardene said:

The Sri Lankan Security Forces could never have overcome the Tamil militants otherwise. . . . Military commanders had warned him that if the Tamil militants destroyed some aircraft, the battle against them could not have continued because all troops and supplies had to be airlifted.

The importance of the armed assistance granted to Sri Lanka is obvious.

The mystery behind the haste in signing the Accord was solved when *Hindu* of 7 August 1987 brought to light some goings-on in the US under the headline 'Pact Halts Motion'. It said that a resolution severely condemning Sri Lanka for violation of Human Rights was due to be moved and debated in the US House of Representatives on 4 August 1987; as news of the Accord was received in Capitol Hill, the motion was withdrawn. The Accord was signed with inexplicable haste solely for the purpose of pre-empting the debate on the said motion. The motion was sponsored by Mervyn Dymally, the Democratic Congressman from California, but several others from both the Democratic and the Republican Party wanted to co-sponsor the motion and hence it was treated as a bi-partisan affair. The debate would have brought out plenty of authenticated information on atrocities perpetrated by the Government and the impression in the US against Sri Lanka

would have been widespread and would have endangered the enormous aid Sri Lanka is receiving from the US. It was for the purpose of shielding Sri Lanka from adverse criticism on a major forum of the world that Prime Minister Rajiv Gandhi and President Jayewardene hastened to sign an unfinished Accord. The venue of the signing of the Accord is equally strange – a popular place for mass meetings for political propaganda. It appears to be the first electioneering meeting for the presidential stakes in which President Jayewardene's son, Ravi Jayewardene, would be a candidate to oust men like Premadas and Athulathmudali.

Shortly after the Accord was signed, Prime Minister Rajiv Gandhi was assaulted by a Sinhalese naval who actually mirrors the attitude and feelings among the Sinhalese towards India. Anyone who saw it on the television could not have failed to notice that not a single Sinhalese in the vicinity moved a finger to rescue Prime Minister Rajiv Gandhi. Only the Indian bodyguard's prompt action prevented the naval rating from repeating the blow. President Jayewardene was obliged to call in a couple of Indian naval units for security purposes. Later, there was an attempt on the entire Government group, very much like the attack on General Aug San of Burma.

Peace indeed! Peace of the world of real politik!

The Tamils on the island, now called Sri Lanka by the Sinhalese, are emotionally one with India by reason of ties of ethnicity, language, religion and culture going back to thousands of years. We feel that India is doing something wrong, something which is entirely unjust. However, the Tamils will still be prepared to go along with the Indian Prime Minister in his blundering progress though not without complaints, grumblings and even curses. On the other hand, India has not enhanced any goodwill it might have earlier had among the Sinhalese. The Sinhalese people, quite apart from the Accord and its consequences, are very much alienated with President Jayewardene on account of his having cheated them of parliamentary elections for a number of years. Prime Minister Rajiv Gandhi has not poured oil on the troubled waters of Sinhalese politics as promised; on the contrary, his action has served the purpose of oil on flame.

India wants to coerce Sri Lanka into following a policy of foreign relations which India can approve of. To this end, the Government of India has made full use of the Tamils and their problem. What India has now secured is a cease-fire – a cease-fire achieved by using the armed fist. But this armed fist could not have been used without President Jayewardene inviting the Government of India to rescue him from the tigers' claws. The moment President Jayewardene invited India to help him, India moved the Armed Forces in with speed which it had kept in readiness for a long time; and the cease-fire which had eluded all earlier efforts had been achieved. Of course, the cease-fire is welcome; it has provided much relief and has contributed immensely to the resumption of normalcy and has inspired confidence among the civilian population.

But cease-fire is a military measure; it is not a political solution; it does not generate any sense of amity or fellow-feeling essential for long-term peace. It does not contribute to the ethnic groups changing their attitude towards each other. The cease-fire is entirely dependent on the presence of the Indian Armed Forces in the homeland of the Tamils and the withdrawal of Sinhalese Armed Forces from those districts. When India disarmed the militant Tamil groups under duress, they demanded protection for the Tamil civilians and themselves and Prime Minister Gandhi assured them of all protection.

Besides assurances, there is the inescapable moral responsibility devolving on the militating third party, India, to give protection to those whom they disarmed at their own initiative. When the mediating third party disowns one party to the dispute, the protection of the disarmed party becomes the mediator's responsibility. Protection cannot be afforded unless the Indian Armed Forces remain there. Since past history reveals genocidal elements in the attitude of the Sinhalese towards the Tamils, a very serious responsibility has devolved on India.

There is a school of thought which ascribes the Sinhalese attitude towards Tamils having hardened to the fact that Tamils have close contacts with India. In the past, such contacts have been mainly with writers, scholars, artists and at

most with political leaders; of course, the inevitable smuggling community has had its own exclusive contacts. When the Sri Lankan Government posted an Army of Occupation in the homeland of the Tamils, the militant youths sought refuge in Tamil Nadu. It is natural that such militant youths will have weapons with them.

But today the Indian factor is of an entirely different dimension. The Central Government has posted its Armed Forces in the North and East. Indian officials have a hand in determining the legislation relating to Provincial Councils and many other matters. Above all, Sri Lanka has to follow sheepishly New Delhi's dictates in regard to policies governing foreign relations. All these developments have arisen from the ethnic conflict. How will these affect the Sinhalese attitude towards the Tamils? Will it harden because the Tamils have brought them about; or will a sense of utter helplessness in the face of India's overpowering dominance characterize the Sinhalese outlook in general? It is very difficult to prophesy.

When the British ruled on the island, the Sinhalese maintained much cordiality towards the Tamils. The Sinhalese then looked up to the Tamils for leadership and guidance. They had a poor opinion of their own leaders. It was only after the British indicated their intentions of transferring political power to the people of Ceylon that the Sinhalese realized the potentialities of the power that flows from their numerical strength; they began to treat the Tamils as an inferior category on the island. What would be their attitude towards Tamils in the context of India's overpowering presence?

It is most likely that the Sinhalese will want to befriend India with a docile foreign policy and secure India's connivance, if not active assistance, to liquidate the Tamils. By now Sri Lanka knows that New Delhi has no interest in the Tamils or their sufferings except to the extent of ensuring Tamil Nadu's continued political support. Sri Lanka also knows that the foreign policy dictation that New Delhi wants Colombo to take down is not based on India's own needs to defend or promote India's own interests. In a nutshell, New Delhi's foreign policy dictate to Colombo centres round the objective

of distancing Sri Lanka from the US. American presence in or nearness to Sri Lanka does not harm India's interests in the least. America has no imperialistic interests. Of course, it pursues a policy of containing communism and this brings her into or near certain countries where communist and non-communist forces are locked in combat. New Delhi's interest in distancing Sri Lanka from the US is solely in the interests of and on the insistence of the USSR. In all probability, President Jayewardene would decide to follow New Delhi's dictates in the matter of foreign policy and make use of New Delhi's friendliness and favourable disposition to achieve the annihilation of the Tamils by colonizing the homeland of the Tamils with criminals and thugs under the umbrella of India's Armed Forces. In this he will only be emulating his ancestor D.S. Senanayake, who, by a display of exceptional Empire-loyalism, got Britain to liquidate the Tamils politically. That will be President Jayewardene's policy and no confrontation between Colombo and New Delhi can be expected.

It is not difficult to visualize how President Jayewardene's thoughts took shape. He might very well have reasoned things out thus:

Nothing will be lost by sheepishly following New Delhi's foreign policy diktat for some time. The US will readily understand Sri Lanka's predicament. Though Sri Lanka might stand at a distance under India's constraint, US will not cut off the massive aid flows and that is what we want. Nothing tangible is lost. On the other hand, we can have some real gains. In the first place, the Tigers will be disarmed and liquidated by the Indian Armed Forces, an achievement beyond the capacity of the Sinhalese Government. Further, under the protection of India's Armed Forces, we can colonize the Tamil homeland with a new generation of Homeguards and convicted criminals conditionally released to settle down in the homeland of the Tamils. With the Tigers out of the picture, there is no one even to protest verbally. Prime Minister Rajiv Gandhi will rehabilitate Amirthalingam in Tamil politics and with his active connivance we can annihilate the Tamils and that is our top political priority.

About the presence of the Indian Armed Forces, we need not worry. They will get corrupted in no time in our midst. They are only in Tamil areas and it is the Tamils who will suffer from the presence of unruly soldiers.

Times can change. Rajiv Gandhi might be thrown out. Let us get best value before he is thrown out. It is a very heavy expenditure for India to maintain her Armed Forces on this island. Pakistan might launch an attack on India; or China might encroach over the long frontier: then all the Indian

troops would be withdrawn.

In any case, both in law and theory, the Indian Armed Forces are here on my invitation and under my command. I just have to wait for an appropriate confluence of circumstances to order them out.

Let us get the benefit of annihilating the Tamils and depriving them of their homeland by creating a mirage of a merger of the Northern and Eastern Provinces.

The above Machiavellian approach, so much relished by President Jayewardene, might permit the Indian Armed Forces to remain on the island; Jayewardene might be persuaded, pressurized or cajoled into not making a request for Indian Armed Forces to quit. But craze for leadership and rivalry is a specially pronounced trait among the Sinhalese. Someone may raise the issue that the Indian Army should quit; it might become an election issue or the issue at a referendum. In the event of such a popular verdict, can Indian Armed Forces be retained on the island? It might not be a question of withdrawing the Indian Armed Forces, it might be a case of quitting under disgrace. A very interesting situation can arise. Let us not speculate on various possibilities. Placing Indian Armed Forces outside India's borders without a proper Treaty or Agreement and placing the Indian Armed Forces under an alien Command is an outcome of the craze for accords.

THE FICTION OF SRI LANKA'S SOVEREIGNTY

When Sri Lanka sought India's mediation or assistance to settle the ethnic problem, Sri Lanka's sovereignty and territorial jurisdiction over the Northern and Eastern Provinces – the territory claimed by the Tamils as representing their State of Eeylom – stood impugned. Sri Lanka was unable to exercise authority or any administrative control over most parts of the disputed territory. The Sri Lankan Government provided the supplies and paid the salaries of the staff needed in the various government departments but the officials carried out the instructions of the Tigers on the spot.

The militants even wrote to the judges to desist from trying certain types of litigation. The Tigers set up their own judiciary and it became very popular in a short time because

justice was dispensed expeditiously and there was no payment to lawyers. Invariably the parties accepted the judgement as it was often reached unanimously. There was no question of assuming a false position and throwing the onus of proof on the other party as the judiciary really amounted to a local Panchayat, where lies become very obvious. A sensational murder case where the victim was a beautiful girl – a case that promised a lot of money for lawyers and headlines for the newspapers – was cut short by firing a bullet at the accused. Sri Lanka's claim of sovereignty over these parts was challenged and the counter-claim of a sovereign Tamil State, Eeylom, became a serious issue.

Before any negotiations were set in motion, before either party to the dispute had stated its case, before even any preliminary discussion of the issues involved had taken place, Prime Minister Rajiv Gandhi took upon himself to proclaim that there was no question of Eeylom, that a political solution should be found within the framework of a unitary state of Sri Lanka and its national sovereignty and territorial integrity. He repeated this pronouncement *ad nauseam* to every passing journalist.

As this was the pronouncement of the mediator, and it was generally felt that the Tamils were specially favoured by India owing to the presence of the same ethnic group in large numbers in India – the Tamil Nadu factor as it was commonly referred to – the world tended to regard Sri Lankan sovereignty and territorial integrity encompassing the Tamil homeland as rightful, correct and conclusive. This immediately reduced the status of the Tamil militants from that of freedom fighters to that of criminals. The Sinhalese militants who resorted to guerilla warfare in the seventies were referred to as insurgents or rebels. The Tamil militants were looked upon as terrorists as the Sri Lankan authorities called them. This gave ample opportunity to President Jayewardene and his government to successfully lobby for vast foreign aid and military supplies from the West; that these were used for atrocities against Tamils in a genocidal campaign got hushed up because the West is very sensitive to terrorism and responds very readily to support all measures to

counter terrorism.

The severe hardships and humiliations which Tamil refugees frequently met with in Western countries are directly traceable to the repeated assertions in unequivocal terms by India in support of Sri Lankan sovereignty over the Tamil homeland. It is significant that Mrs Indira Gandhi never made any such pronouncements. She allowed the parties to the dispute a parity of status: Sri Lanka claiming that the polity of Sri Lanka encompasses the Northern and Eastern Provinces while the militants disputed that and claimed that the Tamil homeland, Eeylom, is sovereign by itself.

Had India allowed the question of the sovereignty over these two Provinces, the homeland of the Tamils, to become an open issue, the severe condemnation in the media all over the world, barring of course the USSR, at India's action in air-dropping food packets in the Jaffna Peninsula would not have taken place.

India's repeated assertion that sovereignty over the homeland of the Tamils rests with Sinhalese Sri Lanka and that her sovereignty and territorial integrity are inviolate is apparently a tactical ploy on the part of New Delhi. If only New Delhi repeatedly asserts Sri Lankan sovereignty over the Tamil homeland, it could intervene and make use of the Tamils and the problems of the Tamils to coerce and pressurize Sri Lanka into following a policy in relation to foreign powers that meets the approval of India. If Eeylom gets constituted as a sovereign state, India would have no handle to throttle Sri Lanka.

The Indian Armed Forces are in Sri Lanka at the request of Sri Lanka and President Jayewardene is their Commander-in-Chief. Government officials and junior ministers in India are drafting and re-drafting the legislation and subsidiary legislation and attending to other residual matters both in Colombo and New Delhi. But that is at the request of President Jayewardene; India is only assisting Sri Lankan officials. In view of the repeated assertion by India as to the sovereignty of Sri Lanka and the assistance India is giving to the sovereign state of Sri Lanka at the request of President Jayewardene, will President Jayewardene request India or will India agree to post a contingent of the Indian Armed Forces

outside the Tamil homeland anywhere in the seven Sinhalese Provinces?

One prediction can be made with confidence. The legislation, regulations and other procedures which are being drafted with India's assistance as residual items of the Accord already will be so formulated as to make the Tamil problem continue. Otherwise India will not be invited to assist Sri Lanka and thus monitor Sri Lanka's policy in foreign relations.

HOW THE ACCORD WAS ARRIVED AT

A few days before the public had information about the impending Accord, President Jayewardene observed cryptically that peace was knocking at the door. At the time there was no understanding involving the militants. Hence the confident and cryptic remark of President Jayewardene signified that some understanding had been reached between the Governments of India and Sri Lanka. A few weeks earlier the *Hindu* revealed in an editorial that the Tiger leader was informed that President Jayewardene had definitely indicated that he would launch a major offensive involving heavy civilian losses if no political settlement was reached soon. This warning to the Tigers was conveyed very firmly at Bangalore in November 1986. The Tigers were told that India could do nothing and the Seventh Fleet also might move in. Sometime later a Sunday paper from Colombo published a news story that New Delhi had deliberately kept quiet on this issue as this was the only way of forcing the Tigers to seek a political settlement. The Indian High Commissioner in Colombo promptly denied the story. The major offensive began in January 1987 and the Peninsula was attacked in March 1987.

Prior to these attacks, the Sri Lankan Army was virtually marooned in several camps getting supplies only by helicopters. Making full use of the unhindered air travel facilities, Sri Lanka had reinforced every camp before launching the major attack. The major offensive when unleashed met with considerable success initially, particularly outside the Peninsula. Then a furious attack was unleashed in the Peninsula from every camp but special attention was given to Vadamaradchi where the native village of Pirabhakaran is situated. The Sri Lankan Government hoped to kill or capture

the Tiger leader. Certain places were subjected to very heavy and concentrated attacks presumably because the Tiger leader was reported to be there. But every ploy proved a failure.

Civilian losses reached staggering dimensions. All the inhabitants of Vadamadachi, who escaped the attack, fled the district; almost every house and building was pounded. The Tamil militants fully publicized their losses. Hence the Sri Lankan Government had accurate and up-to-date information of the casualties their offensive had inflicted on the militants. In all probability, the Government felt that the losses inflicted on the militants were far too small in relation to the effort it had made and as compared to the casualties suffered in the course of the offensive by the Armed Forces of the Government.

What President Jayewardene afterwards said of the US is revealing. He said that he had no faith in the US and that it offered some 'spare parts' only. He was referring to the fact that the US had refused fresh supplies of armaments; it would only meet the replacement needs of parts for supplies already made. In short, President Jayewardene had come to the end of his resources.

If Congressman Dymally's Resolution had been discussed, the effect would have been devastating. Probably the main elements of the Accord, i.e. the Indian Armed Forces entering Sri Lanka and disarming the Tigers were reached quite some time earlier. The only hitch was Jayewardene's acceptance of the entry of Indian Armed Forces; once his decision was made, peace was inevitably 'knocking at the door'. The American refusal to commend President Jayewardene's adventure and adverse American public opinion compelled him to give up his military venture and rely on Machiavellianism in the company of Prime Minister Rajiv Gandhi.

A political solution to the ethnic conflict implies a change of attitude on the part of the embittered ethnic groups. At any rate the accord must be between those actually engaged in the fighting. There is no accord involving the Tamil militants. The Tamil militants have been disarmed under duress. Sinhalese Armed Forces have, by and large, been removed from the Tamil districts and have been replaced by Indian Armed Forces. There is hectic work going on for installing the

proposed Provincial Councils. On the other hand, there is clear evidence that the Sinhalese attitude towards the Tamils and their approach to the question of the ethnic conflict has, if anything, worsened.² There are disturbing reports that the Sinhalese Armed Forces, in large numbers in the Eastern Province, are engaged in speedy colonization measures in which Sinhalese thugs are being settled in the traditional homeland of the Tamils.

The Accord is not a viable political solution which is the objective that the Government of India, as it claims, is seeking through its mediation efforts. Hence it is all the more necessary for the public at large and the Indian public in particular to get to know the legal and constitutional aspects of the conflict in Sri Lanka.

When a similar ethnic dispute arose in Fiji, Prime Minister Rajiv Gandhi drew attention to the fact that the existing Constitution of Fiji was agreed to by all parties concerned after prolonged negotiations; it should not be lightly discarded. But since the ethnic conflict arose in Sri Lanka and he was asked to help, Prime Minister Rajiv Gandhi has studiously avoided any reference to Sri Lanka's Constitution. This makes one doubt his bona fides. In the case of Fiji, he is appealing to New Zealand and Australia to mediate; in the case of Ceylon, he does not want others to be on the scene.

GENESIS OF THE REPUBLIC OF SRI LANKA

Prior to 22 May 1972, there was nothing called the Republic of Sri Lanka. There was a Dominion of the British Crown called Ceylon – the pear-shaped island lying just south-east of Peninsular India. The British Dominion of Ceylon acquired its lawful existence on 4 February 1948. From this date till the middle of 1956, the Government of the Dominion of Ceylon was in the hands of the UNP, the political party over which Mr Jayewardene now exercises leadership. The policy of the UNP at that time was to retain close ties with the British Crown.

In 1956 power passed into the hands of the political party which took pride in the name Sri Lanka Freedom Party on the

grounds that the freedom secured by Senanayake in 1948 did not mean anything to the ordinary Sinhalese because Sinhalese was not the official language and Buddhism was not given its rightful place. The Party was the ideological successor to the Party called Sinhala Maha Sabha founded by S.W.R.D. Bandaranaike during the State Council days in the thirties. The Sinhala Maha Sabha was formed from the Sinhala Maha Jana Sabhas organized all over the Sinhalese districts in the wake of the formation of the Ceylon National Congress by the Senanayake brothers, particularly F.R. Senanayake. The inspiration behind these organizations at that time was Anagarika Dharmapala.

Although Bandaranaike, who formed the SLFP, emphasized both the Sinhalese language and Buddhism, initially he was toying with the idea that the most effective vote-catche would be the slogan 'Buddhism as the state religion'. Then Bandaranaike found that 'Sinhala only within 24 hours' would be the sure-fire vote-catcher.

Kotelawala, a nephew of D.S. Senanayake, had virtually seized the Prime Ministership by forcing Dudley Senanayake to resign. Kotelawala, who took in the same team of ministers from Dudley Senanayake, dismissed Ponnambalam within ten days after a well-orchestrated media campaign that Ponnambalam was taking all industries to the North and East as Minister of Industries.

At this a certain Kumaraswamy, who was member for Chavakachcheri in the Tamil Congress team of Ponnambalam since 1947, got it into his head that he could succeed Ponnambalam as the leader of the Tamils by making himself close to Kotelawala, the Prime Minister, and impressing on the people that he could secure various benefits for the Tamil Districts. He, therefore, arranged for a grand tour of the Jaffna Peninsula by the Prime Minister Kotelawala. All the sycophants among the Tamils were roped in and elaborate receptions at various places were organized. Garlands and praises from the well-organized team of sycophants greeted Kotelawala at every place.

At the reception at Kokuvil Hindu College, the Principal of the College, Handy Perinpanayagam, who was a prominent leader of the campaign of the youths that brought about the

boycott on Nomination Day in 1931 and whose political ideology has remained unfathomable, posed a particular question to Prime Minister Kotelawala. The question sounded simple but was the silliest question imaginable and carried the potential for maximum mischief. The question was this: Will the Prime Minister undertake to provide in the Constitution for parity of status for Sinhalese and Tamil? Kotelawala, who was overwhelmed with praises and garlands and who was described by a brilliant journalist as one who put his foot into his mouth whenever he opened it, exuberantly answered the question in the affirmative.

The press carried reports of this as headlines. At that time no law laid down any language to be the official language. Bandaranaike found Kotelawala's utterance at Kokuvil to be a boon from Heaven. He lost no time in alerting the Sinhalese masses that the UNP would give parity of status to Tamil and make it an official language along with Sinhalese and claimed that his 'Sinhala only within 24 hours' was the Pole star which should guide the Sinhala nation in politics. Bandaranaike, whose party had an aggregate of only nine members at the end of the 1952 general elections, now secured very much more than an absolute majority in a house of over 100 and had, besides, the assurances of support of the Marxist groups who announced a policy of responsive cooperation. He formed a Cabinet from within his own Party and the Sinhala Only Act was the first enactment of the Parliament after the elections.

In September 1959, Bandaranaike was assassinated by a *bhikku* from among his own following. After some confusion, a stable Government being formed, fresh elections were held early in 1960 and Mrs Bandaranaike emerged as the winner. Later she took in some Marxists into the Government and this proved still more destabilizing. Ultimately her Government was defeated on a bill to nationalize a major group of newspapers shortly before the due date for dissolution. At the ensuing general elections, Dudley Senanayake and his UNP emerged as the party with the largest following in the House and was able to form a Government with the support of the Tamils. Dudley Senanayake's Government lasted the full five-year period. This five-year period was remarkably stable, economically quite buoyant and free from any calamity or

misfortune. However, the Opposition under Mrs Bandaranaike and her Marxist allies engaged themselves during this period in a systematic campaign to undermine Dudley Senanayake's position in the Sinhalese districts by saying that Dudley Senanayake and his UNP were selling the country to the Tamils since the Government of Dudley Senanayake depended on the support of the Tamils for the working majority. This allegation went home with the Sinhalese masses. As a result of systematic propaganda on this slogan, Dudley Senanayake's UNP was badly defeated at the general elections of 1970 and Mrs Bandaranaike and her Marxist allies comprising the ULF secured more than a two-third majority in the House.

In order to have a clear understanding of the thinking of the Sinhalese over the five-year period during which Prime Minister Dudley Senanayake endeavoured to pursue a conciliatory policy towards the Tamils and which found expression in the voting at the general elections of 1970, one must take note of the three props around which was built the slogan that Dudley Senanayake had sold the country to the Tamils:

- (a) The enactment of the Regulations under the Reasonable Use of the Tamil Language Act in January 1966;
- (b) The introduction in the House of the Bill to create certain District/Development Councils; and
- (c) The modification of practices followed earlier in the implementation of the Srimavo-Shastri Agreement.

REGULATIONS UNDER THE REASONABLE USE OF TAMIL LANGUAGE ACT

When the Sinhala Only Act was enacted in June 1956 a promise was held out to make legal provisions for the reasonable use of the Tamil language. But no legal provision was even mooted. When the racial violence against the Tamils was at its peak in 1958, Prime Minister Bandaranaike found it necessary to meet the foreign diplomats in Colombo and explain the situation. Shortly thereafter, even with most of the Tamil Members of Parliament under house arrest or other forms of restraint, Bandaranaike enacted the Reasonable Use of Tamil Language Act. It was only an enabling legislation;

unless and until the regulations envisaged were enacted and given effect to, the Reasonable Use of Tamil Language Act would be of no avail. When Dudley Senanayake sought Chelvanayakam's support to secure a working majority in the Parliament, the latter insisted on the necessary regulations under the Reasonable Use of Tamil Language Act being enacted.

Accordingly, on 8 January 1966, Dudley Senanayake had a set of regulations under the Reasonable Use of Tamil Language Act introduced in Parliament. The Opposition did not attend Parliament on that day; instead they collected a huge crowd at the Vihara Maha Devi Park and led them in procession with a view to having a big demonstration in front of the Parliament when the House was debating the said regulations. But Dudley Senanayake had instructed the police to take prompt action in the event of any disturbance. When the procession led by Mrs Bandaranaike and her allies turned violent at Galle Road, the police opened fire on the mob and a Buddhist *bhikku* in robes was killed by a police bullet. No one else was killed. The rioters, realizing that the police would act firmly, dispersed.

When racial violence took place in 1956 and 1958 on a large scale, the police was very tardy in acting. Violence did not spread to other places. However, a large number of Sinhalese public servants struck work in protest against the said regulations being enacted. Dudley Senanayake's Government acted firmly and a sizeable number of such public servants who made themselves prominent in the strike, were interdicted. A number of Sinhalese teachers also were among those who got interdicted; they wielded considerable political influence for escalating violence. The public servants who were interdicted continued to remain under interdiction until they were all reinstated by the ULF after the general elections of 1970.

Most writers on the ethnic problem in Ceylon ignore the incident of 8 January 1966 but it is the most significant from the diagnostic angle. The racial violence that occurred in 1956, 1958, 1977, 1981 and 1983 has been mentioned frequently but the incidence of racial violence on these occasions does not have any significance as compared to the still-born racial

violence of 8 January 1966, from a diagnostic point of view. This was the first and only occasion when the police acted at the first signs of racial violence. On other occasions, whether before or after, the police looked the other way when racial violence began to erupt. It was always a case of police action being too soft, too late and too undecisive in identification.

In the Jayewardene era after 1977, it was very often a case of the police acting against the victim. The crowd involved in the racial violence of 8 January 1966 assembled on the direct exhortation of the top political leaders themselves. The lesson that is to be learnt from the experience of 8 January 1966 is clear and specific: mass racial violence is not something that cannot be remedied and prevented if the authorities do what they ought to do.

It is not that Dudley Senanayake was an enlightened leader and non-racial in approach. In fact, he used to recall with pride that he was one of the only five members of the State Council who stood for Sinhala Only when a resolution to make Sinhalese the only official language sponsored by J.R. Jayewardene had to be amended, under pressure from outside sources to accommodate Tamil also as an official language. (There is an interesting reference to this in the *Hazard* of the post-independence era in a confession speech by Suntharalingam.) Dudley Senanayake acted correctly on this occasion not because he was a *Manu Neethi Kanda Cholan*, the concept of justice in the epics, but because he was under the compulsions and constraints of the system under which he worked. He relied on Tamil support for a working majority in the Parliament and was obliged to be an embodiment of justice. It is not that he was a paragon of virtue and justice; the constraints in the system compelled him to take the correct action.

Viewed from this angle the theory of balanced representation and statutory provision for minority participation in the Executive does not appear to be devoid of meaning as some intellectuals of superficial depth pontificate with the confidence of omniscience. Had the Sinhalese leaders of the Donoughmore era accommodated Ponnambalam and his theories, the country might have avoided the violence and bloodbath and continuously deteriorating standards of public

life. By the same token, no political settlements – whether they be in the substantive or residuary issues – are likely to ensure any peace as long as the ethnic majority is allowed to masquerade as a political majority.

It is again the constraints imposed on him that made Dudley Senanayake firm with the Sinhalese public servants striking against the Reasonable Use of Tamil Language Regulations. The firm action against the trade union strike leaders in the public service was an absolute necessity. Had they been allowed to continue without being interdicted, the relationship between the Sinhalese and the Tamils in the administrative structure would have been embittered beyond repair.

What made Dudley Senanayake act correctly was not having a Parliamentary majority exclusive of the Tamils. But this was a constraint of an adventitious and temporary nature operating only against the prime minister at that time. The principle of balanced representation rejected by the all-knowing Donoughmore and Soulbury Commissioners would have imposed that constraint on any prime minister at any time, thus compelling him to act correctly. But the principle that the ethnic majority should be able to masquerade as a political majority ruled out the possibility of the Head of the Government acting impartially. Thus, it was that the Prime Minister who acted correctly was driven into the wilderness and racism was installed in power under Mrs Bandaranaike and her Marxist allies.

The other limb of the three-cornered prop was the introduction of a Bill to provide for District Councils. Dudley faced serious opposition from within his own ranks because by that time Srimavo Bandaranaike and her allies had made much progress in their propaganda in the Sinhalese districts against Senanayake. Dudley Senanayake was forced to abandon the Bill and the move to set up such Councils.

The third limb of the prop related to legislative and other measures Dudley Senanayake took to soften the harsh effects of the earlier interpretation of the provisions of the pact and the nature of the practical measures needed to implement the pact entered into between Srimavo Bandaranaike and Shastri. The same line of racist propaganda was undertaken: Dudley

Senanayake was undermining the favourable pact which Srimavo Bandaranaike managed to extract from India.

CALL FOR A MANDATE TO CREATE A REPUBLIC

On the occasion of the general elections of 1970, the issue to be decided at the polls was the political power of the Tamils because this general election followed a five-year period of Dudley Senanayake's Government which was sustained in power by the support of the Tamils. Bandaranaike was working to consolidate the power of the Sinhalese and place the Sinhala Only Act in an invincible position.

In the Dominion Constitution, Article 29, which assured the minorities that there would be no discriminatory legislation enacted by the ethnic Sinhalese majority since this clause, besides defining the scope of the legislative power of the Parliament in general, specifically denied authority to the Parliament to make laws discriminatory against or in favour of any particular community. The Privy Council observed that this was an entrenched clause in that it was not within the power of the Parliament to amend or repeal the said clause. Ceylon's Parliament was not a sovereign Parliament. Hence the propaganda of the ULF led by Mrs Bandaranaike during the five-year period, apart from making the allegation that Dudley Senanayake was selling the country to the Tamils, also included the proposal that the Dominion Status should be discarded and that a Republic, deriving power and authority from the sovereign people themselves, ought to be constituted. In pursuance of this objective the ULF under Mrs Bandaranaike sought a mandate from the people to constitute a Republic of Sri Lanka and to enact unto it a Constitution as a part of its election manifesto. The ULF easily won more than a two-third majority.

Mrs Bandaranaike issued the invitation to those elected at the 1970 general elections to attend the Constituent Assembly meant for the purpose of giving form to the Republic of Sri Lanka by enacting a Constitution. The Constituent Assembly, although it consisted only of members elected to the Parliament, was represented as a body having nothing to do with the Parliament of the Dominion of Ceylon. In order to emphasize this distinction, the Constituent Assembly was

convened by Mrs Bandaranaike, the Leader of the ULF, and not by the Clerk of the House of Representatives and was to meet at a venue different from the Parliamentary complex. The authority for constituting the Republic and enacting a Constitution, it was claimed, was derived from the sovereign people themselves. The Republic of Sri Lanka, it was made out, was no successor to the Dominion of Ceylon. The Republic was christened with a new name: Sri Lanka. The Preamble to the Constitution thus enacted reads as follows:

We the people of Sri Lanka being resolved in the exercise of our freedom and independence as a nation to give to ourselves a Constitution which will declare Sri Lanka a free sovereign and independent Republic . . . and which will become the fundamental law of Sri Lanka deriving its power and authority solely from the people do on this the . . . the twenty second day of May One Thousand Nine Hundred and Seventy Two acting through the Constituent Assembly established by us hereby adopt and enact and give to ourselves this Constitution.

NORTHERN AND EASTERN PROVINCES

The people of the Northern and Eastern Provinces did not grant the mandate sought for the purpose of creating the Republic of Sri Lanka. They negated the call for the said mandate. The voting figures are tabulated here.

MANDATE CALLED FOR BY MRS BANDARANAIKE

	TOTAL VOTES POLLED	VOTES GRANTING MANDATE
Northern Province (13 electorates)	334,360	16,179
Eastern Province (9 electorates, 11 seats)	342,518	79,323
TOTAL	676,878	95,502

Percentage secured for the mandate – 14 per cent

The effect of the negative vote of the people of the Northern and Eastern Provinces resulted in a lack of legal validity for the Republic created on the mandate of 1970 to encompass the Northern and Eastern Provinces. The said Constitution or Fundamental Law or any authority exercised under the

Constitution cannot be binding on the people of the Northern or Eastern Provinces. These two Provinces and the people therein are not part of the Sri Lankan polity. The Republic of Sri Lanka can comprise only the other seven Provinces, since the people therein gave the necessary mandate to constitute the Republic of Sri Lanka. The Northern and Eastern Provinces are contiguous territories and the people therein exercising their sovereign rights to constitute themselves into a sovereign State of their own, the Republic of Eeylom, does no violence to the others; such a Republic emerging as the State of Eeylom does not in any way interfere with or injure the interests of other people on the island.

The Republic of Sri Lanka is based on false claims if it encompasses the Northern and Eastern Provinces. The fact that a powerful administrative machinery built up by the British colonial authorities was exclusively in the hands of the Sinhalese enabled them to ignore the ballot. They proceeded to exercise the powers of the State over the traditional homeland of the Tamils against the will of the people until the Tamil youths, a decade later, obstructed by force the exercise of State authority by the Sinhalese imperialists. The manifesto of the TULF on the occasion of the general elections of 1977 called for a vote to their Party 'to proclaim with firmness and fortitude that Sinhala Imperialism shall quit our homeland'.

A DEMOCRATIC SOCIALIST REPUBLIC

The Republic of Sri Lanka founded in the year 1972 by Mrs Bandaranaike and her allies was a Republic 'pledged to realize the objectives of a Socialist democracy'. Mr Jayewardene and his associates thought this concept of a Republic vague and erroneous and decided to scrap the Republic founded by Mrs Bandaranaike and create a more ornate Democratic Socialist Republic of Sri Lanka. Accordingly, the UNP sought at the general elections of 1977 a fresh mandate from the people. The people of the seven Sinhalese provinces answered the call for a mandate in the affirmative by an overwhelming majority. But the people of the Northern and Eastern Provinces again responded negatively. The voting figures appear in the table.

MANDATE CALLED FOR BY J. R. JAYEWARDENE

	TOTAL VOTES POLLED	VOTES GRANTING MANDATE
Northern Province (14 electorates)	403,857	31,010
Eastern Province (10 electorates, 12 seats)	433,729	164,127
TOTAL	837,586	195,137

Percentage secured for the mandate – 23 per cent

It will be noticed from these figures that on both occasions (1970 and 1977) the response of the people of the Northern and Eastern Provinces, both collectively and separately, was negative to the call for a mandate to create a Republic of Sri Lanka. By no stretch of imagination can it be claimed that the people of the Northern and Eastern Provinces resolved, as a free people, to get constituted into the Republic of Sri Lanka in association with the people of the other seven Provinces. The claim in the Preamble to the Constitution that 'the people . . . by their Mandate . . . entrusted to and empowered their representative to draft, adopt and operate a new Republican Constitution . . . and having solemnly resolved by the grant of such Mandate . . . to constitute Sri Lanka into a Democratic Socialist Republic. . . .' is palpably false in respect of the two contiguous Provinces in the North and the East.

The elected representative of the main political party which operated in the North and the East withdrew from the Constituent Assembly convened by Mrs Bandaranaike for the purpose of drafting the Constitution. The party was then known as the Tamil Arasu Kadchi or Federal Party. At the time of Jayewardene, the party in question, which was then known as the Tamil United Liberation Front, completely boycotted the sittings of the Parliament. The protocol of the Constitution of the Indian Republic signed by all the members of the Constituent Assembly can be seen in the Library of the Parliament in New Delhi.

POLITICAL CHANGES DURING THE BRITISH ERA

CLEGHORN MINUTE OF JUNE 1799

Sir Hugh Cleghorn, the first British Colonial Secretary after the British assumed authority from the Dutch, wrote in his Report to the authorities at Whitehall as follows:

Two different nations, from a very ancient period, have divided between them the possession of the Island: the Sinhalese inhabiting the interior in its Southern and Western parts from the river Wallouwe to Chilaw, and the Malabars who possess the Northern and Eastern Districts. These two nations differ entirely in their religion, language and manners.

The author himself indicates that the name "Malabars" is another name for the Tamils. This Minute was written in June 1799 and contemporaneously a map was prepared to show the configuration of the territories inhabited by the two nations. This is known as the Cleghorn Minute and is well known in academic circles at least since the time Suntharalingam adduced this in his numerous writings and speeches advocating the claim for a sovereign Tamil State of Eeylom. (He spelt it 'Eylom' but the phonetics in Tamil would require a double e.)

Another quote will give readers a clear concept of the term 'nation'. If Western authorities are quoted, it will be objected to by many persons. Hence a definition given by General Aug San is quoted here.

A nation is a collective term applied to a people irrespective of their ethnic origin, living in close contact, having common interests, joys and sorrows together, for some historical periods, as have acquired a sense of oneness. Though race, religion are important factors, it is only the traditional desire and the will to live in unity through weal and woe that binds a people together, that makes them a nation and brings forth that spirit of patriotism.

The Tamils have never willed or expressed a desire to live with or be in the same polity with the Sinhalese. They were forced into the same colony by the superior force of British imperialism. Unlike in India, the people in the Crown Colony of Ceylon never waged a struggle for anything called *Poorna Swaraj*. It was always a case of the Sinhalese urging the British for the transfer of more power by their unswerving loyalty to

the British throne. The Tamils, on the other hand, always demanded constitutional safeguards to protect themselves against domination by the ethnic Sinhalese majority before such transfer of power could take place. There was no agreement between the Sinhalese and the Tamils regarding the crucial issue of representation in the Legislature at any time except when a fiat was imposed by the British.

EARLY BRITISH PERIOD

The Madras Branch of the East India Company assumed control over the maritime possessions of the Dutch by virtue of a letter signed by the Stadholder who sought asylum in Britain after the destabilization in Holland resulting from the spread of radical ideas and influence emanating from France. The British authorities had no intention of leaving the East India Company to continue to exercise power in the new possession. A Governor was appointed in October 1798 and from 1 January 1802, Ceylon became a Crown Colony.

The administration of the Crown Colony until 1833 followed a pattern in which all power and decision-making were concentrated in the hands of the Governor. The Colebrooke-Cameron Commission effected from 1833 substantial changes providing for an orderly pattern of the governmental machinery. A Legislative Council and an Executive Council were established; a Charter of Justice governed the judicial machinery. Although the Legislative Council had an official majority, the presence of unofficial members, although nominated by the Governor, representing different communities and interests, in effect made it a representative Legislature. Initially one Burgeer, one Sinhalese and one Tamil member represented the inhabitants of the island, but the proportion and numbers varied from time to time. In 1920 the Order-in-Council introduced representation on a territorial basis. Earlier, in 1910, an Order-in-Council provided for an elected all-island seat in the Legislative Council known as the Educated Ceylonese seat. The Order-in-Council of 1920 provided for elected members, one for each Province, one for the Metropolis and a few others for other interests. This Legislative Council was replaced by a Legislative Council in 1924 formed under what came to be

known as the Devonshire-Manning Reforms.

In the Legislative Councils that functioned until 1921 representation was by communities. The proportion of representation for the different communities varied from time to time but the proportion of Sinhalese to Tamils never exceeded the 2 : 1 ratio.

The Legislative Council of 1921, which had representatives elected on a territorial basis, had thirteen Sinhalese and three Tamils. This was considered unsatisfactory and was replaced by the Devonshire-Manning Reforms which obtained from 1924 to 1931. The Legislature under these Reforms had an unofficial majority. However, it did not lead to any difficulties for the Government as such, although European officials felt embarrassed at searching questions by the unofficial members particularly those on the Finance Committee. Unofficial representation was mostly on a territorial basis but the distribution of seats was so adjusted by the Devonshire formula that the representation of no single community was enough to out-vote the representatives of the other communities combined. When later the Donoughmore Commission abolished communal representation and rejected the principle of balanced representation, the minorities, the Tamils in particular, demanded the restoration of the Devonshire formula of balanced representation for which the shorthand description 50 : 50 was applied. The Legislative Council from 1924 to 1931 had nearly the same number of Sinhalese and non-Sinhalese.

DONOUGHMORE COMMISSION AND SEVEN-TENTHSWARAJ

In April 1926 the arrival of a Royal Commission presided over by Lord Donoughmore, for the purpose of inquiring and making a Report on Constitutional Reforms was announced. There was no public demand for further Reforms or any complaints against the working of the existing Constitutional set-up. The circumstances under which the appointment of the Royal Commission was announced were intriguing. The Governor was invited to a dinner at a Girls' College function. When he arrived there, however, he would not sit down for dinner unless press reporters were present. Hurried messages

were sent hither and thither and some press reporters were secured to participate in the dinner. In the after-dinner session, the Governor announced as a bolt from the blue the arrival of a Royal Commission under the Chairmanship of Lord Donoughmore to inquire and report on Constitutional Reforms. The next day the newspapers flashed the news.

The Donoughmore Commission recommended that Universal Adult Franchise be adopted. The Commission also recommended that a share in Executive Government be granted to the elected representatives of the people. The totality of executive functions were split into ten portfolios and seven of these portfolios were to be entrusted to elected representatives. No Cabinet form of government was envisaged; members of the State Council (the name given to the House of Elected Representatives) were to be elected into seven Executive Committees which would be responsible for the executive functions of the seven portfolios. The Chairmen of these Executive Committees were to be designated Ministers and the Ministers would constitute the Board of Ministers. The Chairman of the Board of Ministers was to be designated Leader of the House. The Board of Ministers could not assume collective responsibility since the individual Minister was only the Chairman of the Executive Committee and it was the Executive Committee that would take executive decisions.

The portfolios that were not entrusted to the elected Members were each handled by an official ranked as an Officer of State; actually they were designated Chief Secretary, Financial Secretary and Legal Secretary. The Chief Secretary handled external relations and the Public Service.

The Commission rejected the principle of balanced representation, in favour of representation on the basis of communities. The demand for Constitutional safeguards vigorously urged by the minorities against domination by the ethnic majority was treated as irrelevant. The Commission made a categorical pronouncement:

It is our opinion that only by its abolition [i.e. communal representation] will it be possible for the diverse communities to develop together a true national unity.

Ultimately, at the insistence of the Sinhalese, the application of the principle of Universal Adult Franchise to the Plantation Tamils was severely modified by an extended domicile requirement exclusively applicable to the Plantation Tamils. Care was however taken to ensure that the British planter was not affected by this extended domicile requirement which meant losing the right to vote. This modification, introduced by Governor Stanley at the insistence of the Sinhalese, was strenuously objected to by the Government of India but its pleas were brushed aside. As a result, the total voting strength of the Plantation Tamils at the 1931 elections became negligible.

CONFUSED REACTION OF DISMAYED TAMILS

The Tamils were dismayed at the attitude the British had adopted: a change from balanced representation in the 1924 Legislative Council to a complete annihilation of the Tamils on the political plane with the introduction of the Donoughmore Reforms which also granted seven-tenth *swaraj*. In addition, the political power of the Plantation Tamils was also nullified. After this volte-face it is not strange that the Tamils acted or, rather reacted, in a highly confused manner. Some youths, in the search for the ideological objective of *swaraj*, dismissed the question of denial of constitutional checks and balances as being irrelevant. They were inspired by the nationalist struggle in India and visualized that the British Empire in these parts would fold up in a very short time.

Another slightly older group thought that the change in Britain's colonial policy in regard to Ceylon was just an aberration. They could not believe that Britain had abandoned her professions of justice and fair play, her impartiality and her tradition of protecting the weaker groups and minorities. They thought that they would plead for a revision. When pressed by the youth, the older group was in half a mind to boycott.

In this state of confused thinking prevailing among the Tamils, there came to Jaffna, Kamaladevi Chattopadhyaya, a fiery orator and an ardent nationalist leader of the Indian National Congress. The effect she had was magnetic and

instantaneous. All the prospective candidates for the four seats in the Jaffna Peninsula agreed not to hand in their Nomination Papers. The Tamil youths, however, were not so successful at Mannar, the other seat in the Northern Province, probably because there was not enough time; it was a last-minute effort, without any planning or any programme of follow-up action. The Youth Congress made contacts with the Sinhalese politicians but it was probably after the nomination date. There were several telegrams from Sinhalese politicians from Colombo congratulating the courage of the Youth Congress. Thus only four electorates were affected by the boycott. The Youth Congress tried to organize campaigns for the boycott of imported goods and the like and enthusiastically supported a move to patronize the Indian *khaddar* dress. But all these eventually petered out.

The Tamils were confronted with a curious legal hitch. If, on any Nomination Day, no one filed any Nomination Paper, there was no provision to hold a fresh Nomination Day. An amendment of the Order-in-Council would be necessary for a second Nomination Day to be held. Except for a few hotheads, most people felt that it had been a mistake to boycott the elections, particularly as Jayatileke and Senanayake and their associates, the powerful group among the Sinhalese, were cooperating. The Government was adamant that it should not readily come down and allow another Nomination Day. Thus it took more than two years for the Tamils to persuade the Secretary of State for the Colonies to amend the Order-in-Council and provide for another Nomination Day. It was in the middle of 1934 that a fresh Nomination Day was chosen to remedy the omission to seek elections. But there is no doubt that the attitude of the British towards the Tamils in regard to their share in political power was made worse by this unplanned boycott.

An incident in which E. T. Dyson, Government Agent of Jaffna, figured shortly after the boycott of the Nomination Day in 1931 is worth recording. The Sivan temple at Vannarponnai is an ancient temple which has enjoyed privileges since ages. One of them is the right to barricade the public highway in front of the temple on certain festival days and divert the traffic. One of these festivals occurred a few

days after the boycotted Nomination Day. As usual, the temple authorities had barricaded the main road that runs from Kankeṣanthurai to Jaffna town, in front of the temple. Dyson happened to come along the road from the North and demanded to know who had barricaded the road. Bystanders told him that it was an ancient custom; the priest came on the scene and pleaded that it was an ancient custom recognized by the Government. Dyson would not have any such nonsense; he ordered the removal of the barricade; a policeman removed the barricade and the Government Agent motored on his way. A retort the Government Agent made to the *brahmin* priest's protests was of much significance: 'Times have changed; your politics has also changed.'³

The appointment of the Donoughmore Commission represented a watershed in Britain's attitude towards the two ethnic groups, the Sinhalese and the Tamils. Before dwelling on the factors which changed the British attitude towards the two groups, it is necessary to look at some systematically built-up popular fallacies calculated to misinform the outside world.

POPULAR FALLACIES

A few of the popular fallacies, carefully nurtured and systematically disseminated to the outside world, appear to have been freely and frequently mentioned before several forums including the Senate Committee hearings on the violation of Human Rights in Sri Lanka; they might be summed up as follows:

1. The British followed a policy of *divide et impera*.
2. The Missionary educational facilities favoured the Tamils disproportionately.
3. As a result of such educational advantages (for example, education in the English medium) the Tamils had more job or employment opportunities.
4. After independence they are necessarily losing this privilege and are therefore grumbling and squealing because now the Sinhalese are getting equal opportunities.

The notion that the British followed a policy of *divide et*

impera is totally untrue in the case of Ceylon as the Cleghorn Minute quoted earlier unmistakably establishes. Britain's policy in Ceylon was one of lumping together and keeping all under one thumb, that of the British. Britain followed the policy of lumping together dissimilar elements in order to make the imperial rule more effective. Colebroke's move to merge together the three separately administered and historically distinct groups into one administrative unit embracing the whole island, it is frankly admitted, was for the purpose of cutting down to size the Kandyan nobles in an all-island context. The Kandyan nobles were always invoking the Kandyan Convention and made things uncomfortable for the administrator of the Kandyan Districts.

In regard to the allegation that the Missionary educational facilities favoured the Tamils disproportionately, it is necessary to use certain baselines for purposes of analysis and comparison. Let us take the schools that teach upto the level which leads one to enter the University as the unit to be compared. In Tamil Nadu in India these are known as Matriculation Schools; in most countries they are known as High Schools, but in Ceylon they get the grandiloquent name of College.

When one speaks of educational facilities, the comparison must be in terms of the number of schools, the financial resources, the buildings, laboratory and library facilities and the level of qualified teaching staff of such schools.

Can anyone seriously suggest that the Central College of Jaffna belonging to the Wesleyan Mission compare favourably with the Wesley College of Colombo in the colonial days?

Hartley College in Point Pedro and St John's at Jaffna were the only two institutions of the Anglican Church that provided University Entrance Level education in the Jaffna Peninsula. There were at least ten schools in the Sinhalese areas under the Anglican Church which provided education upto the University Entrance Level. Think of the schools from which Minister Kannangara and P. de S. Kularatna passed their Senior Cambridge with a distinction in Mathematics.

It will be generally agreed that of all the Christian Missions, the Catholic Mission stood head and shoulders above the others in dedicated service. In the colonial era, only St

Patrick's College was undertaking education upto the University Entrance Level. Let anyone recall to mind the number of Catholic institutions in Sinhalese areas that provided education upto the University Entrance Level in the colonial era. Can St Patrick's College compare with St Joseph's College or St Benedict's College in facilities or financial resources allotted or the level of staff?

Is there any college in the Jaffna Peninsula which could have compared with St Thomas of Mount Lavinia or Trinity of Kandy in the matter of facilities or financial resources available?

Among the Christian Missionaries who came from abroad, there were a few who were real scholars and who could be recognized as authorities in the disciplines they specialized in. It would be invidious to mention names but anyone who can recall to mind such names would readily recognize at least ten to twelve names. They have authored books and publications which are very much sought after. The presence of such scholars on the staff of a school raises its stature in the public estimation, instils much self-confidence among the staff and students of the school and attracts the brighter students in the country to that school. Except perhaps in the early years in the nineteenth century, no foreign Missionary of a scholarly level was associated with any Christian school in the Tamil areas. All such scholarly Missionaries were in and around the metropolis for obvious reasons: they had better facilities in the metropolis for their scholarly pursuits.

In fact the Christian Missions siphoned out the resources in the sphere of leadership from the Tamil areas for service in the Sinhalese areas. Father Peterpillai was a brilliant scholar, but what was much more important was that he had rare leadership qualities. He had exceptional vision and initiative and never shrank from hard work. He had a pronounced social conscience and thirst for service. It was he who created Aquinas. Father Peterpillai was a son of the soil of the Peninsula but the Catholic Church siphoned him out; had he been associated with St Patrick's College, instead of St Joseph's College, the positive contribution and creative work he did would have benefited the people of Jaffna.

The idea that the Missionary education favoured the Tamils

and gave them an advantage over the Sinhalese is not only a myth, it is a deliberate falsehood woven to feed the intellectually lazy foreigner.

It is relevant here to refer to the facilities provided by the State. Is there an educational institution in the Tamil areas which compares with the Royal College in Colombo?

We are not unmindful of the fact that the superb educational facilities of the metropolis were also available to the Tamils but only the few who were rich and lived in Colombo.

The accusation that Tamils got disproportionately more job or employment opportunities has to be looked at from another angle. In the colonial era jobs were not available at random as we now experience in most Third World countries. Today jobs are created at the whims and fancies of ministers to give employment to political supporters. The World Bank is reported to have commented that the public sector in Sri Lanka is terribly overstaffed; even if the excess staff were retired on full pension, the Government would stand to gain both in efficiency and overall financial cost. The British, in the colonial days, would sanction an additional unit in the cadre of the establishment if only there was additional work for nearly two additional units. They expected from the recruits dedication, perseverance and hard work.

One of the departments under the Government where the Tamils were over-represented was the Public Works Department. In those days there were no bulldozers, cranes and other contraptions that could ease the strain of physical work. The human hand was by and large the only instrument to achieve results in all manner of construction work. Only the Indian Tamil labourer was willing to do such hard work in the malaria-ridden and inhospitable interior. The task of recruiting and supervising the labour naturally fell to the lot of the slightly more educated Ceylonese Tamil. Thus the PWD overseers and the other grades of supervising field staff were largely Tamils.

This resulted in a disproportionately large number of Tamils getting employed in certain government departments where the nature of the work deterred a majority from seeking employment. At a time when computers, accounting machines and calculators were unknown, office work

involving figures, accounts and balancing the books at the end of the day was not relished by many. The Englishman was a hard taskmaster. It was not possible to get away for the day without balancing the books. Thus, if the British were favouring a minority community, it was for political reasons. They wanted to get the work done in the most cost-effective manner and the Tamils were willing to do their bidding, while others shied away.

In reality, Tamils were found to be in employment in large numbers in the mercantile sector rather than in the public sector. In the banks, the British adopted a special system. In the cash department, the management wanted to hold one man responsible for the cash irrespective of the number of staff employed for the work. The chief cashier, known as the Chief Shroff had to take full responsibility for the cash. Hence the banks appointed assistants to the Chief Shroff from among his nominees. All his assistants were responsible to him although the bank paid their salaries. It so happened that the British bankers invariably chose a Tamil for the post of Chief Cashier and all his assistants were invariably Tamils known to him and persons on whom he could rely.

The Chief Shroff deposited a cash security often running into six figures. This necessitated a particular line of succession. When the Chief Shroff died or retired, his son or son-in-law or nephew would become his successor. A six-figure security deposit in the nineteenth or early twentieth century was not something to be scoffed at. The predecessor's deposit could be transferred if the successor was a son or son-in-law or nephew; and the same trained staff could be continued without any disturbance to the working of the bank. Why the British chose to appoint only Tamils as cashiers is a question which only they can answer. The evidence given by the Exchange Banks' Association before the Pochkhanawala Banking Commission in the thirties on various matters may reveal how the mind of the British banker worked.

The organization of the British banks followed a pattern. There was a European Department and a Native Department. The European mercantile sector and individual Europeans had their dealings processed in the European Department. All

Ceylonese and Indians had their dealings processed through the Native Department. The Chief Shroff was not only the Cashier to the bank, he also handled all banking transactions with the non-Europeans. The European banks did not want to deal with individual Ceylonese or Indians but routed all their credits to the native sector through the Nattukottai Chetties who were remarkably honest and prompt in their financial dealings. The Chetties also dealt with the banks through the Chief Shroff. The Chief Shroff had to guarantee the loans granted to the Chetties and he was known as a Guarantee Broker. Whatever may have been the merits or demerits of the system, the fact remains that the British did evolve that system and it worked well: there was hardly any case of embezzlement.

Like the British banker, most of the European mercantile sector preferred to employ persons recruited through trustworthy employees.

Another reason for the disproportionately high employment avenues open to the Tamils may have been that educated Sinhalese were invariably well-off and cared little for employment. Historian K. M. De Silva has observed that even men who could get to the very top of their profession chose to make money in plantations or plumbago. He mentions two names in this connection: Sir Marcus Fernando and Sir James Peiris (*History of Sri Lanka*, p. 365).

The educated Tamils went in large numbers to Malaya and other Far Eastern countries. In certain villages in the Peninsula, Malaya was regarded as the first preference because of the higher levels of income there.

This trend towards migration really resulted from the destruction of the economy of the Tamil homeland as a result of the colonialism of the West. The northern ports constituted the focal point of the economic activity above the subsistence level. More than a hundred ocean-going schooners plied between these ports and various Indian ports and ports in Malaysia and Burma across the Bay of Bengal as well as ports in the Arabian Sea. Point Pedro is known in Tamil as the port through which raw cotton was exported. Indeed, until the Arabs came in large numbers and popularized the port of Chilaw, the only outlets for the entire island were the ports in

the north. The northern ports constituted the window to the world for the whole island. The advent of the colonial powers and their policies destroyed the existing economic structure.

Professor Howard Wriggins of Columbia University wrote the following for submission to an important Committee of the US Congress:

Sinhalese grievances

From the 18th century, it is widely believed, the Tamils have had unfair educational and career advantages. American Missionary schools were established in profusion in Jaffna during the 19th Century, and pushed science and maths much more energetically than the more relaxed schools provided by the British in the South. And as elsewhere, the British gave preference to the Minorities in their public service. . . .

The well-known South Asian favouritism and nepotism assured substantial Tamil over-representation from then on. . .

It is often argued that Tamils are constantly turning to outsiders to improve their positions – they used American Missionaries to gain educational advantage, they collaborated with the British to gain career advantage.

There was no collaboration with the British to gain career advantages as has been demonstrated here. The rigid requirements determined the pattern of employment in the public and private sectors in the colonial era. It may be mentioned that in certain government departments, there were hardly any Tamils holding positions at the higher or the lower levels. The Education Department and the Chief Secretary's Office are examples.

It is necessary to reflect on the sweeping statements made in regard to American Missionary educational facilities. It has already been pointed out that in the colonial era there was only one institution, Jaffna College, which provided educational facilities upto the University Entrance Level. Jaffna College is located in an uninhabited corner of the Jaffna Peninsula; the water in the area is saltish and there is little likelihood of the area getting developed; thus, the number on roll at this institution was always very much lower than that in other institutions providing comparable levels of teaching.

The same American Missionary Organization began to function at about the same time in Tamil Nadu and has established a teaching hospital at Vellore, a successful Medical

College, and the Christian College at Tambaram which is an affiliated institution of the University of Madras. On the other hand, in the north of the island of Ceylon three hospitals of the Mission are languishing in neglect.

CHANGE IN BRITISH ATTITUDES AND POLICIES

The Legislative Council of 1924 which enjoyed full control of the purse and exclusive law-making authority had an unofficial majority but no executive functions. It came into being after the Devonshire-Manning Reforms and although members were mostly elected on a territorial basis, the distribution of the seats was equal between Sinhalese members, i.e. the ethnic majority, and the non-Sinhalese members.

The Donoughmore Constitution, which came into force in 1931, also elected on a territorial basis, resulted in nearly four-fifth of the elected members being Sinhalese. Constitutional safeguards for which the Tamils and other minorities had been pleading earnestly did not find any place in the scheme of things. The principle of Universal Adult Franchise was heavily modified in its application to the Plantation Tamils, that made them politically insignificant. The Donoughmore Scheme transferred substantial executive powers to the elected members to be exercised through Executive Committees. The Executive Committee system gave the minorities an outside chance of having their say in policy decisions at the formative stage but Governor Caldecott saw to it that the average State Councillor's say in executive functions became negligible. Power was increasingly vested in the ministers who were organized in a Sinhala Only team.

The British Governor and the colonial office refused to take note of the chauvinistic trend exhibited by the creation of the Sinhala Only Board of Ministers in 1936. The British authorities

- began their regime in the colony on the footing that the possession of the island was divided between two different nations from a very ancient period;

- provided, at their own initiative, representation in the Legislature on the basis of communities;
- observed for a long time, in the matter of representation in the Legislature, some proportion between the different communities;
- later introduced the Devonshire formula that no single community should be in a position to out-vote all the others combined;
- in fact introduced the concept of constitutional safeguards for the minorities against domination by the ethnic majority;

Why did they in fact choose

- to reject outright the principle of Constitutional safeguards for the minorities in the case of Ceylon; and
- to stand wedded to the principle of territorial representation with the full awareness

- that the thinking and behaviour of the people on the island is based on race and religion, and
- that territorial representation would, in fact, give the ethnic majority more seats in the Legislature than even their numerical majority would confer?

The Legislative Council of 1924 represents and constitutes the final stage of the earlier colonial policy of fair play and justice, protection of the weak and downtrodden and Constitutional safeguards against domination by the ethnic majority. The Donoughmore Constitution which followed on the heels of the Devonshire formula represented a diametrically opposite position and policy. It resulted in about four-fifth of the State Council being Sinhalese, representing Britain's unabashed partiality towards the Sinhalese and a determination to create a Sinhala Raj in the Island to end up as a British Dominion.

There was nothing like a nationalist struggle or even agitation for *swaraj* in the Crown Colony of Ceylon. The Sinhalese relied on memorials and deputations wherein they could emphasize their loyalty to the Empire as the case for transferring more power to the people. Tamils, on the other hand, were demanding Constitutional safeguards for the

minorities before any further power could get transferred as they feared domination by the ethnic majority.

EMPIRE LOYALISM OF THE SINHALESE

Aping the West, for the Sinhalese, was a mark of status. The Sinhalese adopted Western attire quite extensively. In many cases, English was the language spoken at home; they despised the Sinhalese language. Speaking the English language with the correct pronunciation became a mark of so-called breeding. Sinhalese womenfolk also adopted the Western attire. Western music and Western dances became quite popular with every Sinhalese who had some means to pursue these.

On the other hand, the Tamils never neglected the Tamil language. They spoke English with their own accent and suffered severely in some posh circles in the metropolis. Whatever attire the men wore under compulsion, they regarded the turban, the shawl and the long coat as emblems of male sartorial elegance, whether rich or poor.

The British concept of imperialism was one of civilizing the natives, training them in self-government by granting them a larger share in what they termed responsible government. To achieve this objective they required a cooperative but submissive elite among the subjugated people. This criterion could not accommodate, even if the British allowed it, assertiveness among the subjugated people. A bulk of the Sinhalese leaders who came to the foreground (barring a few hotheads who commanded little popular support) fitted perfectly in the British scheme of things. A passage from a Memorial of Sir James Peiris, who was in the top rung of leadership among the Sinhalese, dated 12 December 1908 is apposite:

It would indeed be a gracious act on the part of the Crown, if the unswerving loyalty of the people of Ceylon during a century of British rule is rewarded by concessions which are about to be made to their fellow-subjects on the neighbouring continent, who cannot be said to have shown the same unfaltering devotion to the British Throne (quoted by Michael Robert in the *Documents of the Ceylon National Congress*, Volume I, Introduction).

An extract from a speech on 'Our Political Needs' by Sir P.

Arunachalam in 1917 – also taken from the same source – would be illuminating:

We ask to be in our own country what other self-respecting people are in theirs – self-governing, strong, respected at home and abroad; and we ask for the grant at once of a definite measure of progressive advance towards that goal.

There were a few Sinhalese leaders of the twenties in the Ceylon National Congress who agitated following the example of India. Notable among these was A.E. Goonesinghe, a trade union leader. Dudley Senanayake and J.R. Jayewardene were among those who spoke in a language used by the nationalist leaders in India but that was more for the purpose of attracting attention than from any genuine nationalist feelings. In reality, they belonged to the leadership establishment and were not rebels. In course of time, they became Sinhalese nationalistic chauvinists.

The British could not have failed to take note of the loyalty of the Sinhalese. Imitation is the sincerest form of flattery and in the East, the name a man adopts spells out his whole personality. A look at the full names of the Sinhalese and the Tamils gives evidence of the Sinhalese craze to adopt Western names. This feature was noticeable in all ranks and strata of Sinhalese society. Here are a few examples:

SINHALESE LEADERS

TAMIL LEADERS

Alexander Francis Molamure

Ponnambalam Ramanathan

Don Baron Jayetileke

Ponnambalam Arunachalam

Don Stephen Senanayake

Catheravelu Balasingham

Solomon West Ridgeway Dias Bandaranaike

Waithilingam Duraiswamy

Junius Richard Jayewardene

Ganapathipillai Gangesar Ponnambalam

All the Sinhalese names mentioned above are those of Buddhists. Bandaranaike, however, was a Christian by birth but became a Buddhist when he took to politics. The names West and Ridgeway are from the name of Sir Henry West Ridgeway who was the Governor of Ceylon at the time Bandaranaike was born. His father was Sinhala Maha

Mudaliyar officiating in the Queen's House, the official residence of the Governor.

The British justifiably concluded, in the context of the widespread nationalist agitation steadily acquiring momentum in the twenties and the thirties, that it was in Britain's own interests to cultivate and nurse the loyalty of the Sinhalese. They could transform into reality the British promise of progressively leading the colonies into self-governing Dominions and, of course, concentrating political power in the hands of the loyal Sinhalese. This could easily be done since the Sinhalese were the ethnic majority; unqualified *territorial representation* would ensure transfer of power into the hands of the Sinhalese. This was accomplished very successfully by the Donoughmore Commission.

Although both the Sinhalese and the Tamil leaders subscribed to the Constitutional approach in regard to the question of advancing towards self-government, the Tamil leaders were forthright and assertive in their utterances. Ramanathan, Arunachalam, Balasingham and other Tamil leaders never hesitated to speak forcefully when the interests of the people demanded it.

Apart from the fact that the Tamils preserved their language, customs, manners and dress, there was clear evidence that the Tamils evinced much enthusiasm and admiration for the developments in India. The British did not fail to take note of this feature. Mahatma Gandhi's *khaddar* movement was very extensively supported by the Tamils. There were several Tamils who patronized the *khaddar* dress with the Gandhi cap. On one occasion in the twenties, a large number of public servants attended their offices in national dress. Although most of them gave up the display of national dress after some time, the Government could not have failed to note the trend among the Tamil public. It has been frequently commented that Tamils had pictures of Indian leaders like Gandhi, Nehru, Indira Gandhi and others in their homes. The picture of Subhash Chandra Bose was very much in evidence in many Tamil households. Another picture often seen in Tamil homes was the tall and stately figure of Swami Vivekananda; although Swami Vivekananda was a religious personality his dictum 'Arise, Awake and stop not till the goal

is reached' was inspiring; a bi-weekly in Jaffna adopted this dictum as its motto. This behaviour of the Tamils was not at all compatible with the ideal picture of a cooperative and submissive subject.

Britain regarded Ceylon as a jewel in the Imperial Crown – a quiet, submissive and trouble-free indigenous population. This picture is based on the behaviour of the Sinhalese elite. The *Daily Graphic* wrote on 10 January 1905:

Ceylon is one of those happy possessions of the British Crown. . . . While other countries make a noise in the world, Ceylon makes money (quoted from K.M. De Silva, *History of Sri Lanka*, p. 366).

A short passage from K.M. De Silva's *History of Sri Lanka* is very pertinent:

With the disinclination of the Sinhalese to take the lead in formal political agitation, it was left to men like Ferguson, and more significantly the Tamils to assume the initiative. The energy and enterprise displayed by the Tamil elite was in sharp contrast to the political inertia of their Sinhalese counterparts. 'The intellectual and political activity noticeable among the Tamils', a local newspaper commented in 1889, 'is a favourable sign of the times. . . . The intellectual activity of Tamils of the rising generation has reacted on those of other communities. . . . In matters political it is gratifying to notice their activity.' [The quotation is from the *Ceylon Standard*. Ferguson was the owner and editor of the *Ceylon Observer*.]

The political activity and agitation in which the Tamil leadership engaged was strictly on a Constitutional plane but there was always an intellectual thrust as in the case of the Indian National Congress. The same type of intellectual thrust was noticeable in the writings of Ferguson and William Digby, an English journalist in Ceylon.

Given the above background, it would be naive in the extreme to think that the British would not have reformulated or revised their policy in relation to the two ethnic groups in Ceylon and decided to insulate Ceylon from the tornado of nationalist agitation set in motion by Gandhiji and others. The obvious strategy was to proceed along the proclaimed policy of leading the natives to a progressive realization of full responsible government under the Imperial Crown. Participation only in the legislative sphere would give the natives ample opportunity for criticizing the Government. If

they were involved only in executive functions, on the other hand, the parties involved in administration would find it necessary to defend their position, leaving little scope for agitation. This strategy is reflected in granting seven-tenth *swaraj* through the Donoughmore Reforms.

This policy could not have been combined with the imposition of checks and balances and safeguards for the minorities without irritating the ethnic majority, the Sinhalese, whose loyalty to the Empire was the sheet-anchor. When the Tamils boycotted the Nomination at the Jaffna Kachcheri in the middle of 1931, the British felt that their suspicions and fears had been fully confirmed and congratulated themselves on their decision to stand aligned with the loyal Sinhalese. In this light, it is easy to explain the drastic change in the British attitude and all their actions (forming a Sinhala Only Board of Ministers, nullifying the principle of Universal Adult Franchise, accepting the Devonshire Reforms).

A PURELY RACIAL DECISION

When the Donoughmore Commission Report was published there were several analytical studies. In fact, the debate in the Legislature drew pointed attention to the denial of the power of the purse to the elected members. Similarly, the reserved powers which enable laws to be made outside the elected Council were severely criticized. The Legislative Council from its inception exercised exclusive powers to enact laws as well as to control expenditure and levy taxes. Although the Council had an official majority for a long period, as an institution it had acquired a certain stature on account of these powers.

The Donoughmore Reforms, by specifically reserving certain powers to enact laws as well as to authorize expenditure, appeared to be a retrograde step. This aspect of the Donoughmore Reforms was heavily criticized. But when the Resolution for the acceptance by the House of the Donoughmore Reforms package was put to the vote, only two Sinhalese voted against acceptance. As expected, all minority members, barring one individual, a Tamil by the name of E.R. Thambimuttu, voted against the acceptance of

the Reforms package. The Resolution was adopted by a very thin majority of just two votes. The lone Tamil member who had voted for acceptance was later found guilty of receiving bribes in his capacity as a Member of the State Council and was expelled from the House.

TEMPERANCE MOVEMENT – A COVER FOR NATIONALIST AGITATION?

Some writers have advanced the view that the Sinhalese engaged in nationalist agitation under the cover of the Temperance Movement because it was very risky to directly take part in a nationalist agitation. It is true that Sinhala Maha Jana Sabhas were extensively organized (on the initiative of the Senanayake brothers) and agitation in support of the Temperance Movement was carried on. But it appears that the Temperance Movement really originated with the Christian Missionaries who were very much concerned with the demoralizing effect of the Government's action in bringing about a proliferation of taverns for purposes of revenue.

The Maha Jana Sabhas and their temperance activities were really aimed against Christian Missionaries and Westernization. But the cry against Westernization was just lip-service; the leaders of the Maha Jana Sabhas were themselves highly westernized. The ideological source of the Sinhala Maha Jana Sabhas was the preachings of Anagariha Dharmapala, a Buddhist revivalist, whom the historian K. M. De Silva has described as the 'unabashed advocate of the Sinhala Buddhist domination of the Island' (*History of Sri Lanka*, p. 374). The Temperance Movement gave many persons a platform which they utilized to take to politics particularly when the Government, during the Sinhalese-Muslim riots, arrested many such temperance workers and put them behind bars. This gave them popularity which helped them later in politics. The Temperance Movement was, thus, a militant Buddhist revivalist movement and cannot be ranked as a broad-based nationalist agitation.

SIR PONNAMBALAM ARUNACHALAM

Any genuine nationalist agitation which Ceylon could boast of centred round the person of Sir Ponnambalam

Arunachalam and unfortunately ended with his resignation from the Ceylon National Congress in 1921. Arunachalam joined the Civil Service in 1875. Had he not been imprisoned within the Civil Service he might have made some positive contribution to the politics of the country. Even from the prison, he wielded considerable influence in the media. He influenced Ferguson, the proprietor and editor of the *Ceylon Observer* and Ferguson himself took measures to advocate the case for a larger measure of representative government. Ferguson also accommodated Arunachalam when he wrote under pseudonyms in publishing certain letters in which he argued the case for an adequate measure of representative government. He was a close friend of another British journalist, William Digby, who had advocated the case for Reforms earlier.

His speech on 'Our Political Needs' delivered in 1917 is generally recognized as the *fons et origo* of nationalist thinking on the island which ultimately laid the foundation of the Ceylon National Congress. Arunachalam was the Founder President of the National Congress and for a short period the nationalist movement was shaped by him. The National Congress commanded much respect from the authorities and was popular among the people at large. A large number of associations were formed to seek affiliation with the National Congress. Several existing associations were affiliated to the Congress.

Arunachalam had brilliant academic achievements to his credit. He was the first Ceylonese to enter the Civil Service as far back as in 1875. His performance as an administrator was of unrivalled excellence. He had a keen social conscience and devoted a good part of his time in making various efforts to ameliorate the conditions of slum-dwellers and other downtrodden people. He was an erudite scholar in several fields. He was a person of strong convictions and had the courage to carry out his convictions.

He had occasion to differ from the Governor in respect of a Resolution that came up before the Legislative Council in which he was an official member by virtue of his being the Head of a Department. According to a booklet by an observer, A.T. Brito, Arunachalam walked up to the Governor who

was presiding, spoke to him briefly and the Governor nodded assent. Arunachalam came back to his seat and voted against the official Resolution.

He was a man of vision and hoped that a broad concept of nationalism was the objective of those who supported the idea of a National Congress. He did not realize that while he was propagating such a broad concept of nationalism, his Sinhalese colleagues in the Congress were pinned to the objective of Sinhalese nationalism in an exclusive form. Anagarika Dharmapala's preachings were really inspiring them. When the Congress was at the peak of its popularity, the Government announced the establishment of the first Reformed Legislative Council by way of Orders-in-Council in 1920. In this Legislative Council, there was to be one seat for each Province to be filled by election and one seat for the metropolis besides some seats for other interests. Arunachalam indicated his intention to come forward to the Metropolitan seat. His colleagues in the Congress belonging to the majority community made it known that they wanted the seat reserved for a Sinhalese. Arunachalam must have been disillusioned to learn how racism had been masquerading as nationalism. He did not contest any seat. The man who was the personification of the National Congress for all practical purposes did not enter the Legislature which was the first elected body. Sometime later, he resigned from the National Congress. When he resigned, most of the Tamils in the Congress also resigned.

The Muslims did not take much interest in the National Congress. In 1915, there was a serious clash between the Muslims and the Sinhalese, and the Muslims in various parts of the country who lived in the midst of the Sinhalese were severely victimized. The Government took stern measures to quell the riots including the declaration of Martial Law. The harshness of the Martial Law overshadowed the sufferings and losses of the Muslims in the eyes of non-Muslims. The Muslims naturally viewed the whole matter from their own standpoint – their sufferings and losses. The Government imposed a collective levy on the rich Sinhalese to compensate the Muslims for their losses. The Sinhalese resented the collective levv. But the Government did not relent on this

issue although the Colonial office did recall the Governor who adopted a more tactful approach. Since most of those who were opposed to the collective levy were enthusiastically associated with the National Congress, hardly any Muslim cared to join the National Congress.

The notion that there was a nationalist agitation in Ceylon in the quest for *swaraj* or freedom or even for Constitutional advance or Reforms is untrue. The educated Sinhalese did not want to agitate even on a strictly Constitutional plane. They believed in loyalty to the Empire and an Anglicized style of life. It was only after the Montagu-Chelmsford declaration of the change in Britain's imperial policy that the Sinhalese thought of making moves for Constitutional advances. The founding of the National Congress and Arunachalam's role therein also followed the Montagu-Chelmsford declaration.

There is a concept in Hinduism which has been rendered in Tamil as follows by a saint: *Avan arulalaa avan thall vanangi*. The significance of this is that one must have His Grace even to be His Devotee. The attitude of the educated Sinhalese in regard to the quest for freedom, *swaraj*, Constitutional advances or reforms is analogous to the above concept. They had to have the sanction or approval of their British masters to seek even some advance in the Constitutional plane. Two disjointed passages on the same issue from K.M. De Silva's *History of Sri Lanka* bring out the reluctance on the part of the Sinhalese to seek Constitutional advance and a third, the enthusiasm shown once the Grace of the British was signified by the Montagu-Chelmsford's declaration.

Arunachalam was a distinguished career civil servant who kept up a lively interest in political issues, though this position prevented him from giving public expression to these views or taking an initiative in politics. It was at Arunachalam's urging that Ferguson endeavoured to call a meeting or conference of public men to adopt a memorial on constitutional reform in 1902, utilizing the occasion of Edward VII's coronation. Ferguson accommodated Arunachalam by publishing two pseudonymous letters written by him in his newspaper, the *Ceylon Observer*, in early June 1902, making out a clearly argued case for political reform; in an editorial note Ferguson strongly supported the claim made in these letters. Arunachalam's letters were in a sense an expansion of the arguments Digby had set out in his pamphlets in 1876-77. Digby's influence on Arunachalam was unmistakable and strong - they were close friends, and maintained a long

and interesting correspondence on political reforms (p. 367).

One may cite even more striking evidence of the quiescence of the elite and in particular the Sinhalese elite. In 1902 on the occasion of King Edward VII's coronation, John Ferguson, owner-editor of the *Ceylon Observer* and one of the unofficial European representatives in the Legislative Council, took the lead in seeking to organize a public meeting or a Conference to secure the adoption of a resolution or memorial on the reform of the Constitution. He received little support from the prominent public figures of the day. 'The Sinhalese are our great difficulty,' he complained (pp. 364-5).

John Ferguson's interest in constitutional reform went back at least to 1893. In his book *Ceylon in 1893* he made a plea for a reform of the Island's Constitution, and especially for an increase of unofficial representation with some of them elected on the basis of a restricted franchise. His appeal drew no response from the government.

There is a general impression that the severely repressive measures taken by the British to quell the Sinhalese-Muslim riots of 1915 gave rise to nationalist urges and aspirations but this seems to be discounted in K.M. De Silva's *History of Sri Lanka*:

As a spur to the formation of a large and more politically effective organization than the Ceylon National Association, developments in India – beginning with Edwin Montagu's [Secretary of State for India] celebrated declaration of 20th August, 1917 on the constitutional development there, his well-publicized visit to India, and the publication of the Montagu-Chelmsford report – were more significant than the riots of 1915. Their effect on politics in the Island was immediate and dramatic; they seemed to give new meaning and spirit to political agitation in the Island (p. 386).

The dates are significant. The Sinhalese-Muslim riots occurred in 1915. Governor Sir Robert Chalmers was recalled in 1916. Edwin Montagu's declaration was made on 20 August 1917. Arunachalam's speech on 'Our Political Needs' was delivered in 1917. The Ceylon National Congress was founded in 1919. Some speeches of Arunachalam that have got into print indicate that most public men showed a strong distaste for the word 'Congress' and it took a long time to persuade such persons to accept the idea of founding a Ceylon National Congress. The word Congress was unpalatable because it tended to give an analogy with the Indian National

Congress.

Arunachalam personified nationalism in Ceylon. After resigning from the Congress, he founded the Tamil League. The only legitimate inference that can be drawn is that Arunachalam was convinced that the Sinhalese and Tamils could not march together towards self-government. Thus, the idea of Eeylom really took shape conceptually when Arunachalam resigned from the Ceylon National Congress and founded the Tamil League, because he had come to realize that the Sinhalese and the Tamils could never live together in harmony.

CONSTITUTIONAL ADVANCES IN AND AFTER THE DONOUGHMORE ERA

If in the earlier era Sinhalese leadership waited for signals from the British masters to advance their claims for Constitutional advance for the country, after the Donoughmore regime there was perfect rapport between the British and the loyal Ministers.

Immediately after the first State Council assembled, Mr E. W. Perera, one of the two Sinhalese members of the earlier Legislative Council, who voted against the acceptance of the Donoughmore Reforms, gave notice of a series of Resolutions signifying the areas in which reforms were needed for the Constitution. All these Resolutions were adopted by the State Council with the exception of the Resolution which condemned the Executive Committee system. Thereafter the initiative in the matter of agitating for further Constitutional advance was appropriated by the Board of Ministers.

The Board of Ministers of the First State Council submitted a memorandum to the British authorities embodying most of the demands contained in Perera's Resolutions but two Ministers from the minority communities indicated their dissent. One of these Ministers was a Muslim and the other an Indian Tamil who was elected by a constituency consisting largely of Plantation Tamils. The British authorities did not entertain the demands for reforms at that stage saying that it was too soon after the new Constitution came into force to

consider changes. They also pointed out that the minorities had dissented.

There was no Party system at that stage. Nevertheless, it could be claimed that the same team of Sinhalese leadership that dominated the First State Council was returned at the General Elections in 1936 notwithstanding the fact that two avowed Marxists had been returned in place of two prominent persons of the old school. The leadership of the Sinhalese rested with D.B. Jayetileke and D.S. Senanayake. The planning of these two leaders was more systematic in the Second State Council than in the First State Council. They made sure that each Executive Committee was packed to provide a majority of their own supporters. This resulted in a team led by Jayetileke and Senanayake and the Sinhala Only Board of Ministers came into existence in 1936.

Since the team had a majority in each Executive Committee, policy decisions of the Executive Committees were of a more homogeneous nature. The Jayetileke-Senanayake group justified the formation of a Sinhala Only Board of Ministers on the grounds that they wanted to ensure unanimity in the Board of Ministers to be able to successfully press their case for Reforms. Their argument carried weight since the minority members in the first Board of Ministers dissented on the grounds that they could not support further Constitutional advances without proper safeguards being provided to protect the minorities against domination by the ethnic majority.

Members of the minority communities objected to the abolition of the Executive Committee system because under it they could know about policy decisions which might harm the interests of the minorities only when they had been made, when it would be rather difficult to change them. However, the general impression seems to be that the minorities wanted the Executive Committee system to continue because they could have – as they had in 1931 – two or more minorities elected as Ministers. Taking this point of view, it was urged that the purpose of creating the Sinhala Only Board of Ministers was to teach the minorities a lesson that they could not hope to have some Ministers even under the Executive Committee system.

GOVERNOR CALDECOTT AND PROPOSALS FOR REFORMS

The Sinhala Only Board of Ministers pressed for early reforms. They presented their Memorandum on reforms in March 1937 to the Governor without consulting the State Council; it was not even presented to the House after presenting it to the Governor. Governor Stubbs took the view that a Commission should take a fresh look at the problems of the people and determine what Constitutional changes were needed.

Stubbs was succeeded by Andrew Caldecott in 1937. A despatch from Ormsby Gore, the Secretary of State for the Colonies, dated 25 November 1937 made no reference to a Commission but asked Governor Caldecott to review the problems, to obtain the views of all sections, and to make a report. Governor Caldecott in his Report to the Secretary of State, dated 13 June 1938 did not support the appointment of a Commission. He completely rejected the demand of the minorities for safeguards through communal representation, he rejected the Executive Committee system and supported a Cabinet system and the transfer of most of the functions then performed by the Officers of State to elected Ministers. He was however opposed to the Governor's reserve powers being reduced.

The Colonial Office directed the Governor to have his despatch published and get it discussed in the State Council. When the Caldecott proposals were discussed in the State Council, the minority members registered their strong protest. But thanks to the built-in ethnic majority, the proposals of the Governor were accepted as Resolutions adopted by the State Council.

THE WAR COUNCIL AND UNSTINTED COOPERATION BY THE MINISTERS

At this stage war intervened and the question of Reforms in Ceylon became an item of low priority. With Japan's intervention, Kandy became the Headquarters of the South-East Asian Command and Lord Mountbatten assumed powers there. Admiral Layton was appointed in March 1942 to be Commander-in-Chief in Ceylon with wide-ranging

civilian powers as well. He, however, pursued a policy of securing the cooperation of the Board of Ministers. A War Council was installed and consisted of various service personnel, the Governor and the Board of Ministers. Admiral Layton presided over the War Council. This body assumed full governmental powers in all matters which had a bearing on the war.

In reality, the cooperation Admiral Layton expected from the Board of Ministers was only to the extent that the Government should collect all available supplies of the various materials which Ceylon was capable of producing for export and sell them in bulk to the Ministry of War Supplies, London. These sales were governed by bulk-purchase agreements with prices stipulated at the time the agreements were entered into. Invariably these prices reflected the very low level that prevailed in the thirties. Supplies of tea and rubber figured prominently. The Ministers also exhorted the rubber producers to resort to slaughter-tapping of rubber trees to produce more rubber.

Physical collection and delivery of the various items was continuously monitored by the War Council. In fact, the weekly meetings of the War Council were progress-chasing sessions. The supply of tea and rubber was handled by the Departments of Tea and Rubber Commissions. A very capable civil servant, P. Saravanamuththu, was in-charge of both these departments. He was earlier Tea and Rubber Controller for more than a decade and was *au fait* with all matters concerning the tea and rubber industry.

These industries were originally in the hands of the British planters and consequently were well-organized. As a result, delivery of consignments of tea and rubber was prompt and efficient. These two departments were under the ministerial control of D.S. Senanayake. Coconut products and a variety of other minor products were handled by the Department of the Commissioner of Commodity Purchases, which had been expressly created for the purpose. These products were supplied by small producers. Consequently, collection, storage and delivery of these products were characterized by many shortcomings. The Minister of Labour, Industry and Commerce, who was in-charge of these items had to do a lot

of explaining at the weekly War Council meetings. D.S. Senanayake, in contrast, was held in high esteem by Admiral Layton and other Service Chiefs as a very efficient Minister.

As noted earlier, the prices stipulated in the bulk-purchase agreements were significantly low and progressively the terms of trade deteriorated very rapidly. D.S. Senanayake and the other Ministers did not want to seek a revision of the prices and displease the British authorities. It was left to Harold James Huxham, the Financial Secretary, to raise the issue of the deteriorating terms of trade. As Financial Secretary he moved to get a sliding scale of export duties and since the bulk-purchase agreements did not specify as to who (the buyer or the seller) should pay such duties, the Financial Secretary ruled that the buyer should pay these duties; consequently he got the British Government to pay vast sums which came into the local exchequer. N.U. Jayewardene, a former Governor of the Central Bank, referred to this question in an article in the press that appeared recently wherein he describes Huxham as a financial wizard.

Admiral Layton and other Service Chiefs had certain special responsibilities devolving on them, the discharge of which had a close bearing on the prompt delivery of the various commodities purchased under the bulk-purchase agreements. The transport of these consignments to the UK as well as the import of the various essential items supplied in Ceylon were the responsibility of the Allied command.

Ships and ocean-going craft moved in convoys heavily escorted by the Navy and even the Air Force. Such convoys had to be scheduled well in advance and supplies delivered on board the vessel strictly in accordance with the schedule. The convoys could not wait; nor could they be sent away without the consignments being loaded on the vessels. The shipping capacity had to be utilized to the full. The Government of Ceylon gave unstinted cooperation for the war effort.

All such supplies were paid for in sterling balances and accumulated to the credit of the Currency Board. As against such sterling assets, Ceylon Rupees were issued and money supply rose rapidly because very little was imported not only on account of the strict import control but simply because there was no shipping space. The increased money supply

seeped into certain sectors of the economy connected with export products and war-time contracts. The small sector raised the price of certain items. Land value shot up. Housing became scarce – thanks to the full employment and migration of population towards city centres.

However, there was no increase in the purchasing power of the working class. Salaries and wages were virtually frozen in the public sector, while in the private sector they were kept under strict control. The Marxists were all in jail or self-imposed exile. Under Emergency Regulations, strikes were banned although the theoretical right to seek compulsory arbitration was maintained. The psychological impact of the fact that the country was governed by the Commander-in-Chief and the War Council inhibited trade unions from making any strident demand for increase in wages.

The authorities gave a cost-of-living allowance to the public and private sector workers. But the workers in the tea estates, who were mostly ethnic Tamils, were given a much lower cost of living allowance reflecting the Tamils' lack of political power and ethnic inferiority in the eyes of the powers that be. The cost of living allowances was paid on the basis of price indices. Cartoons were quite common ridiculing these indices. In fact, *the Times of Ceylon* called the cost-of-living index as the 'cos of lying index'. The rigid control on wages and salaries was the Government's way of coping with inflationary pressures that resulted from unrequited exports. The economic policy hit the working classes the hardest and this was reflected in severe labour unrest towards the end of the war.

THE ROLE OF CALDECOTT, LAYTON AND MOUNTBATTEN

The personal likes and dislikes, the whims and fancies of top British officials, both in the civilian administration and the Armed Forces deployed on the island, wielded progressively more and more influence in determining the pattern of Constitutional changes in Ceylon. All such personal factors were effectively exploited by Senanayake and his ideas to consolidate their political gains.

An analysis of some instances would be fruitful. Governor

Stubbs, who received the Memorandum on Reforms formulated by the Sinhala Only Board of Ministers created in 1936, reported to say that a Commission should examine all aspects of the political problems on the island before making Constitutional changes. But Governor Caldecott, who succeeded him, was supremely confident that the Governor was the last person to decide on the Constitutional changes. A Governor with such views, the wily members of the Sinhala Only Board of Ministers quickly realized, was the ideal Governor who could be exploited to their own advantage.

The Executive Committee system was a thorn in the sides of the Ministers. Quite a number of State Councillors in the various Committees were intellectually superior to the Chairmen of such Committees who were Ministers, and therefore more important, and took keen interest in public affairs. Such members of the Executive Committees wielded considerable influence in shaping policy decisions. But the Ministers, above all Senanayake, who wanted to convert his Sinhala Only Board of Ministers into a quasi-cabinet, did not relish this.

The minority members in the Executive Committees would become alert when chauvinistic policies or measures were planned by the racist Ministers. The latter were able to influence the over-confident Governor Caldecott against the Executive Committee system. Governor Caldecott not only reported against the Executive Committee system but also used his powers as Governor to amend or interpret Rules of Procedure and alter practices in such a way that the Executive Committee became ineffective and the powers of the Ministers increased. There were two Marxists in the second State Council and both of them were in the Executive Committee of Labour, Industry and Commerce, who wielded great authority in the Executive Committee decisions. A British Governor, however, could easily be persuaded to kill the Executive Committee system because it gave opportunities to Marxists and other undesirable elements to influence the Committee. Personal contact with the Governor enabled the Ministers to manoeuvre many decisions to their own advantage.

Senanayake was able to secure the support of Admiral

Layton, Governor Caldecott and even Lord Louis Mountbatten that the grant of Constitutional advances – an item of low priority – should take place expeditiously well before the end of the war. Caldecott and Layton interceded with the authorities at Whitehall pleading that reforms or at least a positive commitment to far-reaching changes in the direction of self-government should be declared.

This plea put forward by Governor Caldecott with the full backing of Admiral Layton had the desired effect: the Declaration of 26 May 1943 requested the Board of Ministers to formulate, on the lines indicated, a Draft Constitution for consideration by a Commission or Conference. The Draft Constitution, which came to be known as the Ministers' Draft Constitution, was ready by February 1944. However, the Declaration of 26 May 1943 laid down that the consideration of these was to be taken up only after the victory over the Axis powers. This was a serious setback for Senanayake. He threatened the British officials with antagonism, refusal to contribute to the war, and intransigent nationalism coupled with the demand for secession. These threats worked and even Lord Louis Mountbatten was hypnotized. He sent a 'Top Secret' Telegram on the issue; the War Cabinet responded with the appointment of a Commission under the Chairmanship of Lord Soulbury to consider the question of Constitutional Reforms in Ceylon.

The real fear in the mind of Senanayake was quite different. At that time Ceylon was not involved in the war directly. But the Colonial Office and Governor Caldecott, anxious to keep in office the loyal and favourable team of the Sinhala Only Board of Ministers, prolonged the life of the State Council till after the war. However, the elections which were due in 1941 could not be postponed indefinitely. If the Commission were to be appointed after the war to consider the question of reforms, general elections would have to be held and a new State Council would be formed. A new Board of Ministers would be elected. Although Senanayake was quite confident of his leadership among the Sinhalese, he knew quite well that the Tamil electorate would return a team which would stand solidly behind Ponnambalam in the demand for effective Constitutional safeguards for the minorities against Sinhalese

ethnic domination, as the by-elections at Mannar-Mullaitivu had shown.⁴

Realizing after closer contact with Governor Caldecott that some Tamil participation in the Board of Ministers was necessary to any package of Constitutional advances that the Sinhala Ministers might formulate, Senanayake had started buying individual Tamil State Councillors by offering power and position to them. In this process, he got D.B. Jayetileke, the Home Minister, to resign and proceed to India as Ceylon's Representative, an entirely new post. Arunachalam Mahadeva was elected Chairman of the Committee of Home Affairs and thus inducted into the Board of Ministers. Shortly thereafter, Suppiah Natesan, a close relative of Mahadeva, was won over to give up the demand for Constitutional safeguards for minorities. Sometime later, Jeganathan Thiagarajar, another relative of Mahadeva, was bought over to give up the demand for Constitutional safeguards for the Tamils and other minorities.

If the extended State Council got dissolved and fresh elections were held, all this effort would be wasted; a team of newly elected members with a mandate from the people to insist on Constitutional safeguards for the minorities, would take their seats in the State Council. The British authorities, with the full support of the Sinhalese Ministers, would decide to brush all minority protests and opposition aside by inserting a non-discrimination clause in the Constitution and by declaring that the Reforms package should be accepted by a three-fourth majority, which might be impossible in a newly elected State Council. Hence Senanayake was very keen that the new Constitutional changes should be finalized for approval by way of a Resolution within the extended lifetime of the State Council.

There was another risk if the postponed general elections were to be held before the new Constitution got approved by the State Council. The Indian Tamil was rendered insignificant by Governor Stanley's formula of an extended requirement in regard to domicile. That the Indian Tamil's vote was a force to reckon with was demonstrated at the by-elections for Ruwanwella (rendered necessary by the disappearance from jail of the Marxist State Councillor, Dr

N.M. Perera). Of two Sinhalese candidates, the candidate who was associated with Bandaranaike lost miserably. The Indian Tamil voting strength, which was insignificant at the time of the general elections of 1931 and 1936, had increased considerably by the early forties.

An unforeseen snag developed to delay the grant of Constitutional advances. The statement issued by the Colonial Office was really drafted by Layton and Caldecott and issued by the Colonial Office at their instance. They, however, committed a serious error. The statement indicated that the colonial authorities wanted the Board of Ministers to draft the Constitution to be considered by a Commission or Conference after the war. Mountbatten's intervention saw to it that the delay – after the war – was removed and a Commission was appointed with the war still on.

The appointment of a Commission to consider the Ministers' Memorandum was a serious error, since the Ministers were not the representatives of the people of Ceylon. They were not even a Cabinet team claiming a working majority in the House. Ignoring the non-Sinhalese group was an unconscionable insult to them. When the Tamils lodged a strong protest against the terms of the Declaration of 26 May 1943 the Colonial Office woke up to the gravity of the error which an over-enthusiastic Governor and an Admiral had committed under coercion. The memorandum of the Sinhala Only Board of Ministers demanding Reforms was not framed with the State Council's participation. It came before the House only because the Colonial Office wanted the Governor's Despatch (S.P. XXVII of 1938) to be discussed by the State Council. The Ministers' desire to avoid the State Council was part of a plan to get the colonial authorities to make up their minds without hearing the others. The Declaration showed the partiality of the Colonial Office.

Hence a fresh statement was issued on 5 July 1944 widening the terms of reference of the Commission to include consultations with various interests, including the minority communities. This was resented by the Sinhala Only Board of Ministers. The British, however much they agreed with the Sinhala Only Board of Ministers, made formal amends in their statement of 5 July 1944, to avoid any unpleasantness. The

Ministers registered their protest by boycotting the Commission. But they had plenty of contact with the members of the Commission on social occasions, where they could flatter the British authorities in various ways. The British, in the face of temptation, threw to the winds all sense of justice and fair play and the need for objectivity.

The British authorities refused to accept, even in principle, Ponnambalam's objective of Constitutional safeguards against domination by the ethnic majority. Although most Sinhalese intellectuals take a view that borders on ridiculing Ponnambalam, K.M. De Silva, the Sinhalese historian, has written thus:

For all his eloquence, his adroitness came through as perverse rather than skilful; and he alienated the one man whose sympathy, if not support, was vital to the success of his cause, the Governor of the Island. Without Caldecott's support, Ponnambalam's occasional visits to England to lobby Parliamentarians and officials in Whitehall were ineffective exercises in personal diplomacy. Unfortunately for him, his main opponents were men like Jayetileke and Senanayake. He would have evoked a more sympathetic response from these sources had it been Bandaranaike and his associates in the Sinhala Maha Sabha (*A History of Sri Lanka*, p. 447).

Caldecott had come to Ceylon in pursuance of a broad but well-delineated colonial policy in relation to Ceylon: to nurse and foster the loyalty of the Sinhalese towards the Empire by following a policy of complete alignment with the Sinhalese, which necessarily meant sacrificing the interests of the Tamils to appease the Sinhalese.

Caldecott did not see anything amoral in the termination of employment of daily-wage labour in the public sector on the grounds that the State Council had passed five years earlier a private member's motion against the recruitment of non-Ceylonese.

K.M. De Silva speaks of Ponnambalam engaging in the futile exercise of lobbying parliamentarians and officials in the colonial office. Ponnambalam was a brilliant criminal lawyer appearing mostly at the assizes. He did what was legitimate and possible in the circumstances. Ponnambalam's errors lay in his assumption that certain parameters held good, but which were actually nullified in the wake of the rising tempo of the Indian nationalist agitation. The developments in India

made the British suspicious of the Tamils' loyalty to the Empire; they became partial to the Sinhalese in an attempt to secure Britain's hold in Ceylon through a Sinhalese Raj.

K.M. De Silva thinks that had Ponnambalam's opponent in the Sinhalese camp been Bandaranaike and his Sinhalese Maha Sabha instead of D.S. Senanayake, he might have evoked a more sympathetic response from the colonial authorities, for two reasons:

(a) Bandaranaike's attitude towards the Tamils and other minorities would have been perceived by the British as unfair, racist and hostile. They would have been more responsive to the Tamils' plea for Constitutional safeguards against domination by the ethnic Sinhalese majority.

(b) The British would have perceived Bandaranaike's attitude towards the British Raj as intransigent nationalism imbued with secessionist urges and characterized by an abrasive and resisting approach. Consequently, they would have been more sympathetic to Ponnambalam's demands.

One is inclined to agree with K.M. De Silva. The actions of Bandaranaike as the architect of the Sinhala Only Act of 1956 can be justified. The rural peasant feels at home when he deals with the Government when it communicates with him, deliberates over the issues involved and records the decision in a language with which the rural citizen is familiar; he has greater cause to feel an identity between the government and the governed. No such excuse can be given to justify the conduct of the architect of the Sinhala Only Board of Ministers, Senanayake. However, both Senanayake and Bandaranaike were guided by the same motive – the annihilation of the Tamils as a distinct entity and denial to them of any share or say in wielding political power.

Nevertheless, the good points of Senanayake should not be ignored. He was keen to keep faith; he could be depended upon to honour his word. Unlike, Bandaranaike, he was a born Buddhist and he never brought the Buddhist *bhikkus* into politics or raised a religious cry to amass votes. He kept the *bhikkus* in the temples at a respectable distance from politics. He pursued racial policies but again never for votes.

On the other hand, the British could not have failed to recognize that while Bandaranaike used to attend public places

in national dress, he used to wear tweed suits on social occasions. While he wanted Buddhism as the state religion, his own children attended Catholic schools.

Bandaranaike was in the same War Council where the Ministers gave unstinted support for the war effort. On one occasion, he got the Executive Committee of the local administration to issue a circular to local authorities against making contributions to the War Purposes Fund. Caldecott wrote to him enquiring whether he was dissociating himself from the decision of the Executive Committee. Bandaranaike promptly convened an emergency meeting of the Executive Committee and had the circular rescinded and informed the Governor of the steps he had taken. The *Times of Ceylon* commented that when Bandaranaike signed the letter to the Governor under the subscription, 'I am, Sir, Your Excellency's humble and obedient Servant' he really meant the contents of the subscription under which he signed.

Bandaranaike's nationalism and anti-imperialism were only skin-deep. His flashy nationalism and slogans in favour of Buddhism and Sinhalese race and language were the outcome of a complex into which he was forced by the Sinhalese political establishment. Senanayake was accepted as the successor to D.B. Jayetileke who was the leader of the UNP for more than a decade before he actually assumed control. This political establishment, however, did not take Bandaranaike within its folds for several years. He was only admitted at the last minute before the formation of the Sinhala Only Board of Ministers in 1936. Even though he was a member of the Sinhala Only Board of Ministers, he was not in the inner sanctum of that political establishment. Bandaranaike's Sinhala Only cry, his noise about Buddhism as the state religion and his occasional outbursts against British imperialism were all the result of his search for a prop to reach the Prime Ministership on his own merit.

The British should be held entirely responsible not only for the present ethnic conflict but also for the grave instability within the Sinhalese nation. They should have told the Sinhalese and the Tamils to reach their own settlement in the matter of sharing political power. If such a settlement was not reached, the British should have told them that they would

create two Dominions with the Sinhalese and Tamils in separate polities in much the same manner as they found the island at the time of taking over.

In the fond hope that it could have an empire-loyal dominion in Ceylon, Britain created a Sinhalese Raj and did tremendous injustice to the Tamils. The British thought that they could continue to have a hold on Ceylon by vesting an amenable group with power. Oliver Goonetilleke pleaded in London that the English should regard Ceylon as a part of England; D.S. Senanayake offered a defence agreement and naval facilities at Trincomalie. They thought that the Prime Minister of Ceylon would for all times want to be a Privy Councillor.

A Dominion Constitution, conceived in darkness and hatched in secrecy between Senanayake and the colonial office and imposed on the people of Ceylon has been the root cause of the sufferings of the Tamils and so much violence. In fact it has created instability in the political sphere within the Sinhala nation itself. If the Constitution-making process had been a straightforward affair through a Constituent Assembly on the basis of consent between the Sinhalese and the Tamils, D.S. Senanayake would not have been able to make it a private affair; the Prime Ministership would have definitely gone to Bandaranaike whose policies would not have been so racist and full of religious fanaticism.

In the face of the determination on the part of British colonial authorities to impose the Constitutional set-up agreed between Senanayake and the Colonial Office, the Tamils could do nothing. They had been taken by surprise. There was, however, one demand which Ponnambalam could have put forward to stall the installation of the Soulbury Constitution. He could have demanded from the Soulbury Commissioners themselves that the acceptance of the ultimate proposals on Constitutional Reforms should be by a newly elected State Council or by a Referendum and not by the State Council, elected in 1936 and prolonged indefinitely, which had become obsolescent even at the time of the Soulbury Commission. Even if the colonial office and the Governor rejected the demand, its validity would have been accepted by all intellectuals, as in the ensuing elections of 1947 every Tamil

who supported the Soulbury Reforms was ignominiously defeated and rejected by the electorate.

The Republican Constitution is not a legal document. Article 29 in the Soulbury Constitution defined the legislative capacity of the Parliament and specifically denied the Parliament capacity to make laws that are discriminatory. The Privy Council, in the context of another litigation made the observation that Article 29 was an entrenched clause, meaning that the Parliament of Ceylon could not amend or repeal the said clause.

When the Bandaranaike Government enacted the Sinhala Only Act in 1956, it was challenged that it was *ultra vires* of Article 29 of the Constitution. It was not quite clear whether a party challenging the said Act could proceed on the basis of the provisions of the legislations or should wait for evidence of actual discrimination as a result of the said Act. After much delay, Kodeeswaran, an employee under the Government, was denied the increments of salary to which he was otherwise entitled, because of the enactment of the Sinhala Only Act. He sued the Government pleading that the Sinhala Only Act was *ultra vires* of Article 29 of the Constitution. The Government raised a preliminary objection that Kodeeswaran, being a Government employee, could not sue the Crown. This objection was upheld by the Ceylon Supreme Court. The litigant's appeal to the Privy Council was upheld and it set aside the order of the Ceylon Supreme Court saying that an employee of the Government was entitled to sue the Government. Thus, after the *in limine* objection was disposed of, the main issue – whether the Sinhala Only Act was *ultra vires* of Article 29 – was due to be heard.

It was at this stage that the United Left Front under the leadership of Mrs Bandaranaike decided to seek a mandate from the people to scrap the Dominion Constitution and create a Republic and enact a Constitution thereunto. The Dominion Parliament could not interfere with Article 29 but on a mandate from the people, the Dominion Parliament could be scrapped and along with it the Dominion Constitution with its noxious Article 29.

Article 29 offered some sort of protection to the minorities against discriminatory legislation; it was an entrenched clause

for the benefit of the minorities. To eliminate it, the special consent of the minorities should have been a minimum requirement. The new Constitution or rather the scrapping of the Dominion and its Constitution was needed to safeguard the Sinhala Only Act, which until then had been an ordinary piece of legislation.

However, in reality, the enactment of Article 29 could hardly protect the minorities from discrimination for the simple reason that to invoke it one had to embark on tortuous litigation. The Sinhalese Ministers and the British authorities inserted this Clause in the Constitution at their own initiative. Its presence in the Constitution can only be construed as a symbol, as a gesture to the minorities to signify that the ethnic majority, the Sinhalese would not act discriminately against the minorities. The insertion of such a clause in the Constitution was an inducement to the minorities to join the ethnic majority to be in the same polity. Indeed, D.S. Senanayake, the undisputed leader of the Sinhalese, made very conciliatory statements both in and out of Parliament.

In fact many acts which Senanayake performed at that time reflect a cautious and responsible approach. He invited Lord Soulbury to be the first Governor General, when he could easily have appointed a Sinhalese leader. Apart from the fact that the Constitution laid down the Public Service Commission to be an independent body, Senanayake took care to invite an Englishman, Sir John Paget, a person with considerable business experience, to be the Chairman of the Public Service Commission; one of the other members was a Tamil and another a Sinhalese. Both the Ceylonese members were well known as men of high character and responsibility. In the Delimitation Commission, the Tamil member commanded a lot of respect. With every move he conveyed the impression that Ceylon would continue, after independence, to follow and adopt the same British traditions and norms.

The Sinhalese political organization was named the United National Party and its Constitution and its election manifesto claimed that the polity was a multi-racial one with equality of opportunity for everyone.

The Tamil political organization continued to be the All

Ceylon Tamil Congress. The British refused to concede Constitutional safeguards, checks and balances for the minorities, against domination by the ethnic majority. Only the symbolic Article 29 was inserted in the Constitution. The Tamil Congress revised its polity and fought the general elections of 1947 on the slogan of *responsive cooperation* signifying that the Tamils would cooperate responding to the behaviour and attitude of the Sinhalese, a sophisticated election plank for a mass electorate. But Ponnambalam's personality carried it through and the Party registered overwhelming support at the polls.

The new policy of the Tamil Congress was accepted in the face of many odds – the rejection of the Donoughmore Commission of their demands for safeguards, Kamaladevi Chattopadhyaya's call for a boycott of the Nomination Day backfiring. The failures of the Tamil Congress, hitherto, forced it to review its position and put forward a clearly thought-out and scientifically formulated policy of responsive cooperation.

If the attitude and behaviour of the Sinhalese became intolerable, the Tamils, instead of cooperating to work under the Constitution of the polity, would choose to separate from the Sinhalese. The opportunity for non-cooperation or separation arose when the Sinhala Only Act was enacted in 1956 and violence was let loose on the Tamils throughout the country. Accordingly, Suntharalingam and Ponnambalam called upon the elected members of the North and East (all of whom voted against the Sinhala Only Act) and proposed that all of them should refrain from attending Parliament and pursue ultra-parliamentary agitation.

Unfortunately these two Parliamentarians were loners. The bulk of the members of the Parliament from the North and the East belonged to the party led by Chelvanayakam and he steadfastly refused to boycott the sittings of the Parliament. The Tamil name of his Party was Tamil Arasu Kadchi. The words 'Tamil Arasu' conveyed to the ordinary man a government of the Tamils by the Tamils for the Tamils. The Annual General meetings of this Party were always called Conventions; they used a National Flag as well as a National Anthem. In fact the first political pronouncement of any

significance made by Chelvanayakam, the leader of the Party, was to the effect that the Tamils should separate and federate with India. When there was an uproar in Colombo, he explained that he meant a federal set-up in Ceylon. But nobody believed this denial of a highly publicized press report.

In fact the Sinhalese themselves proposed a federal structure in the twenties. But when Chelvanayakam made a federal demand, they were bitterly opposed to it because they thought it was just a cover for what he was reported to have said: to separate and federate with India. The Sinhalese thought that the federal suggestion of Chelvanayakam was analogous to the strategy adopted by the camel against the Arab. On the other hand, the Tamils hoped that the soft-spoken Chelvanayakam would employ the camel's strategy at the appropriate time and secure possession of Eeylom. He was hailed as the Gandhi of Eeylom, Father of the Tamil Kingdom and a Theergatharishi, a very far-sighted man. Thus, despite a clash between the leaders, there was a unanimity of objective among the people. A very significant indicator is the sharp rise in land values in the North and East immediately after the enactment of the Sinhala Only Act and ethnic violence on the Tamils. In Jaffna and Trincomalie, prices of land shot up nearly fifteen-fold. The Tamils were actually telling the world: Leave us alone in our dry and barren North and East.

NOTES

1. Colombo's *Sunday Observer* of 24 May 1987 carried the headline 'India indicates no alternative to all-out war to crush Tamils'.
2. The following news report appearing in the *Hindu* of 22 August 1987 under the caption 'Peace beckons them back home' is of much significance:

The train passes through a predominantly Sinhalese countryside, a patchwork of lush fields and forests. Sometimes from the fields, angry Sinhalese women workers spit at the train in contempt and point fingers at it. Other Sinhalese bystanders hurl stones.

Most passengers keep their heads down as the train travels through the southern countryside.

This news item relates to the return of some Tamils who fled to Colombo (because they had some relations or friends there) when the Sinhalese Army resorted to severe atrocities in the North and East. Sinhalese women spitting at Tamils has not been heard of on earlier occasions of racial violence.

3. The temple authorities did not give up their claims and accept the position taken up by Dyson. The *brahmin* priest went to Colombo and met Mr Mahadeva, one of the candidates who would have contested the Jaffna seat but for the boycott. Mahadeva came to Jaffna and met Dyson, but the latter refused to budge. Mahadeva returned to Colombo and met Sir Bernard Bourdillon, the Chief Secretary, as well as Sir Baron Jayetileke, Minister for Home Affairs. Colombo agreed to counter Dyson's orders and restore the ancient privileges of the temple. Instructions to the effect were promptly conveyed to Dyson. This incident was narrated by Mahadeva at an election meeting held at Mangayatkarsi Vidyalayam, Nallur, in 1936; the author was in the audience and heard the story.
4. Chellappah Suntharalingam, a confidant of the Senanayake-Jayetileke team, played an important role in bringing about the Sinhala Only Board of Ministers. He was totally opposed to any Constitutional safeguards for the Minorities. When he retired from service as a Professor of Mathematics, he contested the by-election at Mannar-Mullaitivu. Ponnambalam, keen that the member to be elected from Mannar-Mullaitivu should be a supporter of the political demand for Constitutional safeguards for the Minorities, induced a local candidate, a Retired Public Servant to contest the seat against Suntharalingam. The latter – being close to the top Ministers and himself a man of high calibre – was, however, the favourite to win the seat. Surprisingly he was defeated, but the newly elected member died soon after. In the second by-election, Ponnambalam's candidate again defeated Suntharalingam. These successive defeats proved beyond doubt the firm hold that Ponnambalam had on the electorate.

CHAPTER 2

NEW DELHI'S SRI LANKAN POLICY

More Evil is wrought by want of Thought
than by want of Heart.

The sufferings of the Tamils inhabiting the island of Ceylon resulting from the chauvinistic political ambitions of the Sinhalese were in direct proportion to the thoughtlessness that bedevilled New Delhi after independence. India's policy was thoughtless and unjust to the small and suffering group whose only fault was that they wanted to be left alone.

Nationalist India's Sri Lankan policy (in relation to Tamils inhabiting the island) may be deemed to have commenced in 1939 when Jawaharlal Nehru, commissioned by the Indian National Congress, went to Ceylon and negotiated with the Sinhala Only Board of Ministers in connection with the repatriation of a few thousand Tamil labourers employed on daily wages in the public sector. Nehru's visit was of no avail and the Sinhalese Ministers' policies were implemented as planned.

BACKGROUND

In the nineteenth century, South Indian Tamil labour was brought under the system called indentured labour, to work on the coffee and tea estates in the Central Hills where the local inhabitants were Sinhalese. In addition, quite a few Indians, mostly from Tamil Nadu and to a smaller extent from Kerala, came to the island on their own initiative during the British period, attracted by the opportunities for employment.

The average Sinhalese – a bulk of whom were peasants by vocation – was unwilling to take employment where regular turnout, punctuality, specified hours and strenuous work were essential requirements. Thus there were plenty of employment opportunities. Employment in the public sector, especially in the upper echelons, depended on educational qualifications and often through competitive examinations. The Tamils gave much attention to the pursuit of education. They found it easy to hop across the narrow Palk Strait for higher education available in India. The first two graduates of the Madras University hailed from the North of Ceylon.

Apart from the Indians' experience and readiness to take the initiative, they had a consumer-oriented outlook. Certain caste groups from South India showed an aptitude for certain industries, like the dairy industry, and the tinker works, which was manned by persons from Kerala. The Tamils from the North and East filled certain gaps in the retail trade and internal distribution. The Muslims manned trade at all levels from hawkers and petty traders to big business. They were adept in service industries: tailoring, minor repairs etc.

Among the Sinhalese, the well-to-do pursued plantation agriculture and the production of plumbago making full use of the large tracts of land they possessed by virtue of inheritance. They were also involved in big business with vast capital resources at their command. The furniture industry was exclusively in their hands. Historian K.M. De Silva mentions two cases of Sinhalese individuals who were indifferent to the prospects in the professions where, by virtue of their academic records, they could have filled the top berth: Sir Marcus Fernando and Sir James Peiris. They preferred, instead, to make money in plantation agriculture (*History of Sri Lanka*, p. 365). The educated among the Sinhalese were invariably well-to-do. In the plantation sector, the Europeans dominated tea but the Sinhalese made heavy investments in rubber and coconuts. Coconuts were described as the consoles of the East. There were several minor agricultural products, all cash crops, and these were exclusively in the hands of the Sinhalese.

The Muslims in the East and in Mannar, where they were concentrated, were mostly engaged in small-scale agriculture like the Tamils. Muslims took little interest in English education in the early days; they preferred to follow the traditional pattern of education linked with religion. Only a handful of Muslims interested themselves in an English education.

The first constitutional changes, which embraced not only legislative powers but also a certain measure of executive powers, followed from the Donoughmore Report. The Constitution provided for ten portfolios; seven of these were placed under the control of the Executive Committee composed of elected representatives of the State Council. The Chairmen of these Executive Committees became Ministers holding the respective portfolios. Three portfolios, namely Justice, Finance and Public Service and Foreign Relations were entrusted to officials who were designated Officers of State and were automatically members of the Board of Ministers.

The British gave no consideration to the ethnic composition of the population, their differences and the likelihood of conflict. They did not give any thought to the question whether the two distinct groups (the Sinhalese and the Tamils) with differences in ethnicity, language, religion and manners, both organized in different polities, inhabiting different geographical areas (as they found on their arrival) had actually merged into one nation with a sense of fellow citizenship binding them.¹ They just transferred power to the Sinhalese ethnic group on the principle of territorial representation for their own advantage of effective imperial control.²

The prospect of having political power exclusively in their hands seems to have convinced the Sinhalese that they could achieve a Sinhala Only polity bequeathed to them by Lord Buddha in order to preserve Buddhism in its pristine purity. This is called the *Mahavamsa* mentality or the Dutta Gemunu complex. *Mahavamsa* is the mythological chronicle authored by Buddhist *bhikkus* tracing the Sinhalese race to a leonine paternity. The word *sinha* or *simha* signifies a lion in most oriental languages. Dutta

Gemunu was a warrior king who overpowered and killed Ellalan; the Tamil king who reigned at Anuradhapura in the second century before Christ and had thirty-two Tamil sub-kings under him. All these sub-kings were defeated and killed by Dutta Gemunu who established himself at Anuradhapura. Dutta Gemunu is the source of inspiration for the Sinhalese.

With the objective of fulfilling their dream of a Sinhala Only polity, the Sinhalese politicians made the Indian labour their first target. They took a rigid stand that unless the Indian Tamil labourers were excluded from voting rights, they would not accept the constitutional advance embodied in the Donoughmore package of Reforms. The Donoughmore Reforms

were only accepted at all because the Colonial Office, at the insistence of the Ceylon Government and in the face of the vigorous opposition of the Indian Government imposed restrictions on the franchise for Indians resident in Ceylon in modification of the Donoughmore proposals (K.M. De Silva, *History of Sri Lanka*, p. 424).

THE FIRST TARGET OF SINHALESE CHAUVINISM

The Sinhalese politicians made the Tamil labourers of Indian origin their first target in their plan to achieve a hegemony of political power. Before the advent of universal adult franchise, the Sinhalese took no notice of the Indian Tamil labourers in their midst. Then the cry was raised that they were depriving the Sinhalese of their employment opportunities, of the jobs that they would have otherwise got. A resolution was passed in the State Council that no non-Ceylonese should thereafter be taken into employment in the public sector. This was not pursued as a Government policy at least as far as daily-paid labour was concerned because there was a shortage of applicants. Heads of government departments continued their old policy of recruitment making no distinctions between Ceylonese and non-Ceylonese as all were British subjects. No problem arose in regard to monthly-paid employment as there were far too many local applicants for these jobs.

For all practical purposes, non-Ceylonese was synonymous with South Indian Tamil. As regards the immigrants from

Kerala there was a clearly distinctive behaviour pattern. No labourer from Kerala could bring his wife or children to Ceylon where he was employed. This also applied to self-employed persons from Kerala. On the other hand, the South Indian Tamil, whether employed or self-employed, was in Ceylon invariably with his family.

In 1939, the Sinhalese politicians created a furore over the presence of a large number of Indians in the public sector on daily pay. The Government then obtained a special Money Vote from the Legislature to pay gratuity or bonus and to meet the cost of repatriation of the labourers whose services were to be discontinued. The scheme was initially described as Repatriation but soon the word Repatriation was dropped and the word Retirement was used instead. All daily-paid labourers, who were not Ceylonese, recruited after 1934, were given notice of termination of service. They were offered one month's salary as bonus and railway tickets to travel back to India. The gratuity or bonus was payable only in India.

The scheme was extended to daily-paid labourers recruited before 1934 in a slightly modified form. For them the scheme was described not as compulsory retirement but as voluntary retirement under threat of discontinuance in the not-distant future in pursuance of a retrenchment programme. Thus, all daily-paid workers in the public sector were affected and an atmosphere of uncertainty was created for the South Indian labourers in Ceylon.

Sinhalese politicians began to agitate for similar schemes for the Tamil labourers working on the estates as well. In fact their real target was the estate labour because they could affect the result of the elections since they lived together in settlements, whereas the South Indian labour in the public sector lived in isolation and could wield little influence at the elections. There developed much tension and alarm among the Indian labour population in the estates and hundreds of telegrams were despatched to the Indian National Congress which was holding its annual session.

The agitation was intense enough to induce the Indian National Congress to commission Jawaharlal Nehru to go

to Ceylon and report. He came to Ceylon in the middle of 1939 and was given a grand reception. Huge crowds assembled to hear him. He addressed several meetings emphasizing the cultural ties between Ceylon and India. He met the Sinhala Only Board of Ministers at an informal sitting of the Board. Nothing tangible came out of Nehru's visit other than the formation of a political organization called the Ceylon Indian Congress which later became the Ceylon Workers' Congress and has Mr Thondaman at the helm almost since its inception.

Around the same time Sir Girija Shanker Bajpai also paid an official visit but nobody knew anything about his visit until after Governor Sir Andrew Caldecott spoke at the ceremonial opening of the Bank of Ceylon, the first state-aided bank established in Ceylon, on the subject of South Indian labour. Everyone thought that the Governor would speak of economic development, banking facilities, credit and finance and other allied matters but were surprised to find that the Governor spoke on Indian labour in Ceylon. The full text of the speech obtained from the *Hindu* of 2 August 1939 is given below:

It lies with you and me to make sure that the future of this State Bank, which we are now opening, intimately bound up as that future is with the generate economic future of Ceylon, shall not be prejudiced by the great amount of misunderstanding and consequent apprehension that is rife here today on the subject of immigrant labour.

Firstly, there has not been nor is there under consideration by the Government any proposal or scheme that would involve or affect estate labour.

Secondly, any legislation to restrict immigration by quotas or to impose a tax on their employers, could not be assented to by the Governor but would have to be reserved under Royal instructions for the significance of His Majesty's pleasure.

Thirdly, on the 27th July an undertaking was given to the Government of India that we would refer, for the repression of its views, any definite proposals that may be placed before the Governor for restricting immigration into Ceylon.

Fourthly, no such proposals have as yet been tendered to me.

Fifthly, there has never been any scheme, much less legislation, for compulsory repatriation of anybody. Any such legislation would, under Royal instructions, need to be reserved for the significance of His Majesty's pleasure.

Sixthly, what the State Council passed and what I, in due course,

ratified was a Supplementary provision to defray retirement bonuses and travelling expenses to their home country for such daily paid employees of the Government as might apply for them on discharge or retirement under the conditions announced by the Financial Secretary.

Seventhly, one month's notice of discharge was given to all daily paid non-Ceylonese employees engaged since the 1st April, 1934, that is, after the passing by the State Council of a Resolution that immigrants should be engaged only if Ceylonese with requisite qualifications were not available.

Eighthly, none of the persons so discharged were recruited by the Government from India; they were engaged locally, and are perfectly free to stay here if they wish and obtain non-Government employment. Their discharge by the Government is in the exercise of the ordinary rights of an employer.

Ninthly, notices have been, or are being withdrawn in the case of any non-Ceylonese (A) registered as married to a Ceylonese wife, (B) registered as the father of a child by a Ceylonese mother, or (C) who was married to a Ceylonese spouse whose employment is being continued. The Leader of the State Council, in introducing the Budget on 25th July also announced that special cases of hardship would receive individual attention.

Tenthly, that service of non-Ceylonese will be terminated before those of Ceylonese was announced as a principle of retrenchment; and a scheme of bonuses has been offered to those non-Ceylonese who desire to avoid the risk of retrenchment by voluntary retirement this year.

Eleventhly, the Ministers recently agreed to an important modification in principle which I have just mentioned. The modification is that for the purpose of retrenchment non-Ceylonese employees with more than ten years' service under the Government will be treated on par with Ceylonese.

Twelfthly, this modification of the retrenchment principle and the special cases now provided in respect of employees under notice have been brought to the notice of the Government of India, to which an undertaking was given on May 8 last that no scheme for compulsory replacement of daily paid non-Ceylonese other than the present one, which affects only persons engaged since 1st April 1934 would be approved without an opportunity being afforded for it to make representations.

The above announcement of the Governor gives valuable insight into the political developments in the first decade of seven-tenth *swaraj*. He was seriously concerned with the psychological impact of the scheme on estate labour, since the latter was crucial to British economic interests in Ceylon.

The last of the dozen facts stated by the Governor states that the Government of India was given an undertaking

than the one under reference would be approved without the Government of India being informed. The obvious inference is that the Government of India was not informed when the 1939 scheme was introduced. Apparently, it was informed only when arrangements for payment of bonus or gratuity in India were thought of.

Under the Constitution then in force, employment in the public sector was a function assigned to the Chief Secretary. The specially constituted department to administer the scheme functioned under the Chief Secretary. Thus the task of informing the Legislature of 'the important modification in principle' ought to have been the Chief Secretary's but it was the Sinhalese Minister who made the announcement, indicating that the Sinhalese Ministers had, by a judicious combination of Empire-loyalism and agitation, succeeded in getting the British authorities to surrender into accepting Sinhalese values and their way of doing things.

The principle underlying the whole scheme of compulsory retirement and repatriation needs to be examined. It was the Governmental authorities who recruited these labourers and issued them appointment letters against the Resolution of the State Council. The British authorities acted in the manner of a chauvinistic Sinhalese Government even when Ceylon was just a Crown Colony. It goes to prove the extent to which the British authorities had aligned themselves with the Sinhalese even at that stage.

Nehru's visit had little impact on the attitude of the Sinhalese politicians. A leading English daily owned by the Sinhalese enquired into the kinship or community of interests between a Kashmiri Brahmin and the Malayalee labourer.

On the other hand, Bajpai's visit had a much greater impact: the agitation died down. The reason is simple: Bajpai did make vague generalizations about a common culture etc. He gave facts, quoted figures, legal positions and implications. The Governor's immediate response with his 'dozen facts' convinced the Sinhalese politicians that the Colonial Office would not succumb to blandishments in respect of Indian labour on the estates as they did in

the case of immigrant labour in the public sector.

It is necessary to say a few words in regard to the implementation of the scheme of 1939. Two British civil servants were made in charge of the department administering the scheme: Hugh Cecil Cocks and Patrick Muir Renison. The former was a highly conscientious Civil Servant who endeavoured to carry out faithfully the policy directions issued at ministerial levels. But he was equally worried about the hardships caused in individual cases.

The Ministers ruled that no one should be regarded as a Ceylonese unless the labourer and his father were both born in Ceylon. Thus a forty-year-old labourer who was born in Ceylon and who had never gone to India would still be a non-Ceylonese because his father was not born in Ceylon. Nehru's visit did not help in making the Ministers give up the 'born in Ceylon for two generations' doctrine; they also ruled that affidavits were not acceptable; there should be independent evidence. Cocks collected all the cases where individuals were facing a problem, and sought measures to grant relief to them. However, the Ministers' ruling made granting relief impossible.

It was at this stage that Renison succeeded Cocks who went on furlough. Renison was a person with tremendous self-confidence and initiative. He designed a questionnaire, got it cyclostyled and sent it to the Heads of Departments employing such labourers with instructions that a senior officer should obtain answers to the questions from the labourers on oath.

In a couple of weeks all problematic cases got cleared and the decisions in individual cases were remarkably fair. There was hardly a labourer whose services were terminated if he had not taken frequent 'coast leave' to go to India and had pleaded that he had no one in India to go to. The manner in which these two British civil servants handled the Ministers' scheme of discharge and repatriation and still eased the hardship of individuals caught in a dilemma, is proof of the value of the efficiency of the civil service.

The concession, mentioned as a modification in principle by the Governor in item 11, i.e. the decision to treat

non-Ceylonese with over ten years of service in the Government on par with Ceylonese was apparently only on paper. In certain Government departments discontinuance of Indian labour created a problem as adequate replacement could not be got from among the Sinhalese, to the extent that certain Heads of Departments defied the orders to discharge Indian labourers. A classic case was the Director of Agriculture, Edmund Rodrigo's refusal to discontinue the Tamil labourers at the Mannampitiya dairy farm. He wrote a letter to the Chief Secretary, with a copy to the Minister of Agriculture, D.S. Senanayake, explaining why he could not replace the Indian Tamil labour with Sinhalese on a dairy farm.

One Indian labourer needed to be replaced by at least two Sinhalese labourers. In the Colombo harbour, Indian labour from Kerala was employed in large numbers. When a number of them were discharged in 1939, many others from Kerala who were not required to leave, left of their own accord. It was difficult to get enough local labour to replace the Kerala workmen who had left. Sir Baron Jayetilleke had to go to his electorate, Kelaniya, to persuade Sinhalese labour to work in the harbour.

CITIZENSHIP OF INDIAN TAMILS

During the colonial era, the Sinhalese politicians were concentrating their attention on the franchise of the Indian Tamils, particularly the labourers on the estates. The Plantation Tamils lived together in settlements and could therefore wield substantial influence during elections. The Sinhalese politicians took no note of the presence of Indian Tamils until the Donoughmore Reforms introduced universal adult franchise. Initially, the Sinhalese managed to suppress the power of the Indian Tamil vote by weaving into the Election Law restrictive qualifications based on the length of domicile exclusively applicable to the Indian Tamils. The Wall Street Crash of 1929 further affected the Indian Tamil vote at the general elections of 1931 by throwing many Indians out of employment. In 1942, at the by-election in Ruwanwela necessitated by the disappearance from prison of Dr N.M. Perera, the Marxist

leader, two Sinhalese candidates, both wielding considerable feudal power, were pitted against each other. One of these candidates was closely associated with Bandaranaike who had, by then, become famous by his declaration that he would die a happy man only when the last Indian had left the shores of Ceylon. As a result, the entire Tamil vote went to the other candidate who won quite easily.

The Sinhalese Ministers had been pressurizing the colonial office to eliminate the franchise of the Plantation Tamils. The British authorized Senanayake and the other Ministers to deal with the question of franchise with the Government of India, although it was a reserved subject. In November 1940, a delegation of three Ministers headed by D.S. Senanayake went to New Delhi to discuss matters with the Government of India. On the Indian side, Sir Girija Shanker Bajpai and another Executive Councillor handled the negotiations. No conclusion could be reached. Another Conference was held in 1941 at Colombo; again Senanayake led the Ceylon delegation but no decision was reached.

The general elections were held in 1947 and resulted in seven Tamils getting elected from the hill country; in addition, the Indian Tamil vote played a decisive role in quite a number of other electorates. Significantly, the Indian Tamil vote went to the Marxists wherever a Ceylon Indian Congress candidate did not contest. Lord Soulbury made specific reference to this phenomenon observing that the Commission as well as the colonial office which left the issue of the Indian Tamils to the Government of Independent Ceylon did not think that the Indian Tamil vote would support, *en bloc*, an alien political creed which did not get support from the nationals of the country.

After Ceylon gained independence, the Sinhalese Government enacted a Ceylon Citizenship Act which defined a Ceylonese by descent as one whose two out of three preceding generations were born in Ceylon. It will be recalled that the criterion of 'two generations born in Ceylon' was insisted upon in the scheme of the discontinuance of daily-paid labour launched in 1939.

On the day this legislation was introduced in the Parliament, D.S. Senanayake called all the Ceylon Tamil

members of the Parliament to a Conference and assured them that the definition excluded persons of Indian origin resident in Ceylon. He proposed a process of negotiation with the Government of India: the Bill he would introduce for that purpose would be approved by Prime Minister Jawaharlal Nehru. Despite his assurances the Tamil Congress, which was the most representative political party of the Ceylon Tamils, voted against the Bill.

D.S. Senanayake met Prime Minister Nehru at a Conference in New Delhi in December 1948; the Conference lasted some three or four days. The draft bill to provide for registration of persons of Indian origin as citizens did not need to be approved by India.

Senanayake wanted India to get involved so that he could dump into India all those whom he did not need in Ceylon or for his political party.

NEW DELHI'S BLUNDERS

DISREGARDING BRITAIN'S OPINION

The whole problem arose as a result of the British bringing in Tamil labour from South Indian villages to work in the tea and coffee estates. They were responsible for putting ethnically incompatible people together. The franchise of the Plantation Tamils was the subject of correspondence from the date the Donoughmore Commission recommended the adoption of universal adult franchise, i.e. from about 1930. There were considerable differences of opinion between the Government of India, one unit of the British Empire, and the Government of Ceylon, another unit of the same Empire. Initially, the British were the beneficiaries, although with time, it was the Sinhalese who secured substantial benefits. The Tamil labour in the plantations remained in the lowest bracket of the population in terms of income, literacy, health conditions, infant mortality and life expectation, although they made the highest and most crucial contribution to the national income. Tea being the major source of foreign exchange earning for the island, it contributed the biggest slice of the national product.

The issue of franchise of the Plantation Tamils was retained by the British as a reserved subject even when they handed over to the Sinhalese Ministers the bulk of governmental responsibility. It was only at the last minute, with the grant of the Dominion Status that they handed over the subject of franchise to the Sinhalese Ministers, knowing that the Sinhalese had always exhibited a congenital antipathy to the Plantation Tamil labourer. At the time of implementing the Repatriation Scheme in 1939, the British should have been brought into the picture by India and informed that a great crime had been committed by handing over the lamb to the wolves. Nehru completely ignored or neglected to do so.

HOLDING TALKS ON FALSE PREMISES

Senanayake's proposed legislation and its objectives, as summarized by Nehru, proceeded on the basis of exclusion, i.e. a number of persons already there and who seek registration would be excluded from being registered as citizens. The rationale for the exclusion, it was contended, was economic considerations: all the Indians could not be absorbed into the economy. The criterion of eligibility to stay in Ceylon would be the length of their previous residence in Ceylon; the cut-off point would be seven years for married men and ten years for unmarried men.

Much time was wasted in seeking a reduction in the length of residence, when questions like the following should have been considered: were not these people already an integral part of the economic structure and current performance of the economy? India put a stop to the recruitment of labour for the estates in 1939. Similarly after 1939 no migration to Ceylon of unskilled labour was permitted. There might have been a few illicit immigrants but they were not on the estates.

Nehru ought to have posed crucial questions to Senanayake:

- Do you state that Indians in Ceylon are on the dole?
- Are you sustaining them by providing unemployment relief?
- Are they roaming the streets as vagrants or beggars?

- Do you suggest that the Indian labourers on the island are a burden on the country's economy, taking more out of the national cake than they contribute to the national product?

But Nehru proceeded with the talks without questioning Senanayake's claims and entered into discussion on trival issues.

AGREEING TO UNILATERAL DECISION-MAKING

Senanayake offered to provide for a judicial process to decide on an applicant's right to citizenship. Nehru insisted that the applications be decided administratively, thus allowing the Ceylon Government to constitute its own machinery and decide on each application unilaterally.

In the end what Nehru told Senanayake was briefly as follows: 'You have had your say; we have had our say; we could not agree on many things but you go ahead with the legislation because these poor people have suffered for long.' He really gave the green signal to the Sinhalese Government of Ceylon to proceed with the legislation and implement it.

If these persons of Indian origin resident in Ceylon were not admitted as citizens of Ceylon they would become India's liability. Hence, India should have insisted on joint authority constituted jointly by the Governments of India and Ceylon to consider the applications. For some time, Desai, the Indian High Commissioner in Ceylon, tried to claim that these persons from South India stranded in Ceylon were stateless. Ultimately the theory of statelessness could not hold water and India had to take back all those whom Ceylon did not admit as citizen.

Had India insisted in 1948 on a joint authority to decide each case, there would have been absolute fairness in the decision and these hapless labourers would have had their fate decided long ago. But as it happened, the Ceylon Government excluded as many as possible through the harshest interpretations possible and enforced most exacting requirements and admitted after a tortuous delay of thirteen years a mere 134,000 out of 875,000 as citizens of Ceylon. These 134,000 really included men like Thondaman, Azeez

and others and a host of businessmen, only a few labourers in the estates were registered as citizens.

FAILURE TO DISTINGUISH BETWEEN PLANTATION LABOURERS AND OTHERS

The Government of India ought to have restricted negotiations only to the estate labourers because they were brought in as indentured labour arranged through the Governments of India and Ceylon; they were illiterate and could not manage their own affairs. The Indians who went on their own could handle their dealings with the Government of Ceylon, if necessary, through bribes. However, in the event, all Indians resident in Ceylon were brought into the picture. Had the Indians concentrated their attention on the question of citizenship of the estate labourers, specific and concrete decisions could have been taken.

FRANCHISE

The Ceylon Citizenship Act of 1948 which denied Citizenship to the Indians resident in Ceylon did not touch on franchise. Franchise was governed by another law and unless that was amended, Indians resident in Ceylon would not lose their voting rights. It is a well-recognized principle that the *status quo ante* should be preserved, particularly when the individual or group's ultimate status has not been decided and is pending. Nehru should have insisted that the *status quo ante* should be preserved in the matter of franchise of Indians resident in Ceylon until their citizenship applications had been dealt with. Senanayake could not have said 'No' to the demand.

AN AMENDMENT OF THE CITIZENSHIP ACT

If the principle of a single category of citizenship was accepted, the necessary provisions for the registration as citizens or residents of Indian origin ought to have been made by an amendment to the original Citizenship Act and not by a separate act. As it was, there were two separate pieces of legislation for citizenship with one category being described as citizens by descent and another category

as citizens by registrations. This distinction led to considerable difficulties until later when the distinction was statutorily removed.

IMPERVIOUSNESS TO CONSEQUENCES

The Ceylon Indian Congress, the organization which represented the category of persons involved, was continuously briefing the Indian Government. When the legislation was enacted and became a statute, the Ceylon Indian Congress decided to boycott the said Act and refused to apply for registration as citizens.

Their example was followed by the labourers. But businessmen and others ignored the call of the Congress. They tendered their applications, went through all the formalities and got themselves registered as citizens. The estate labourers who were in the clutches of the Ceylon Indian Congress (later Ceylon Workers' Congress) did not send in their applications till another two-and-a-half years – the end of the period allowed for the purpose – when the Congress decided to call off its boycott. As a result, bulk of the applications were received within the final ten weeks. Most of them were perfunctorily filled in and the Government was able to reject them on purely technical grounds. Thus, a very large number of applicants failed to get registered not because of the strict law but because they failed to comply with the requirements.

Recently, Mr Thondaman stated at a public meeting that he could have become a Minister in 1948 if he had wanted to. There was speculation in the press at that time that the Ceylon Indian Congress would be offered a portfolio and would join the Government of D.S. Senanayake. But in the event, the Congress aligned itself with the Marxist forces in the Parliament and Mr Chelvanayakam and his two associates who broke away from Tamil Congress. It was these two groups which encouraged the Congress to boycott the Citizenship Registration Act.

Boycotting the Act and a litigation challenging the validity of the citizenship legislation played no mean part in making the Ceylon Government ultra-rigorous and

exacting in considering the applications for citizenship registration.

The litigation (Govinda Nair Godakampillai vs Mudanayake) was successful at the level of the District Court where a Jaffna Tamil Judge presided. He held that the Ceylon Citizenship Act was *ultra vires* of Article 29 of the Constitution which denied the Parliament capacity to make laws discriminatory to any community. The Government appealed and the Ceylon Supreme Court declared the judgement of the Tamil District Judge null and void and held that the Act was *intra vires*. The Ceylon Indian Congress and others associated with it took the matter to the Privy Council and although an outstanding lawyer was retained, the Privy Council affirmed the findings of the Ceylon Supreme Court. The principle on which the Privy Council rejected the appeal may be stated in a nutshell:

It must be shown affirmatively by a party challenging a statute which is upon the face of it *intra vires*, that it was enacted as a part of a plan to effect indirectly something which the Legislature had no power to achieve directly.

The Privy Council also held that the Parliament had the power to decide who should be its citizens. There is an irony in the whole affair: it was the very Act which the Congress boycotted which convinced the Privy Council that there was no plan whatsoever to 'effect indirectly' what the 'Legislature had no power to achieve directly'. The Citizenship Registration Act had very liberal provisions to enable one to get registered as a citizen. Any number of absences not exceeding twelve months on each occasion could be condoned. Thus the applicant could have visited India any number of times during his stay in Ceylon; it would not prevent him from getting registered as a Ceylonese citizen provided no such absence exceeded twelve months and he had a total residence aggregating to the requisite number of years. In addition, the Act made it obligatory on the Superintendent of Estates to furnish, free of charge, extracts from the checkroll to enable the labourer to prove his period of residence in Ceylon. Further, all

documents tendered in this connection were exempted from stamp duty.

What advice did the Government of India give the Ceylon Indian Congress and the labourers on the estates who were sent as indentured labourers under the auspices of the Government of India? When the Government of India told the Government of Ceylon to go ahead with the legislation, although the former could not agree to many of the provisions, it had a moral responsibility towards the estate labourers at least to guide them as to what they should do in the circumstances. Had India told the Ceylon Indian Congress and the labourers that it had presented their case and could do nothing more the poor Indian labourers would not have sided with political adventurers and Marxists. However, there is no publicly known advice which the Indian Government tendered to the Ceylon Indian Congress or the labourers as to what they should do or should not do.

Had the labourers not boycotted the Act till the eleventh hour and cooperated with the Government in implementing the Registration of Citizenship Act, there would not have been prejudice or the rigorous approach in examining the applications. A large number would have got registered within a few years and the presence of the Tamil votes in the midst of Sinhalese electorates in the hills would have prevented extremism from being fostered among the Sinhalese. No Sinhala candidate would have dared raise a chauvinistic slogan. Bandaranaike could not have projected the Sinhala Only cry as the number of Tamil votes would have been much higher than the majority secured by many of the supporters of Bandaranaike.

The failure of the Government of India to give clear direction to the Tamil labourers had another tragic consequence. It led to a split in the Ceylon Tamil Congress and weakened the position of the Ceylonese Tamils. The Ceylon Indian Congress was founded in 1939; later it became the Ceylon Workers' Congress and is the best organized trade union on the island. Apart from the organizational strength, this union exhibits another unique quality – the determination of the membership to stand

behind the leadership without questioning the soundness of a decision. This is largely due to ignorance but it can also be traced to the values and attitude of the Indian Tamil community. That is how Thondaman was able to get the Plantation Tamils to boycott the act for the registration of citizenship; when ultimately the High Command decided to call off the boycott at the eleventh hour, nobody asked them why they had supported the boycott all these days. Thus, Thondaman was able to get the entire Plantation Tamil vote to be cast in favour of the UNP although the UNP is second to none among the Sinhalese political parties in its animosity towards the Plantation Tamils. In return, Thondaman gets some minor benefits at the legislative level in respect of citizenship.

The Ceylon Workers' Congress engaged in a number of strikes on minor issues and was often victorious. But it has never engaged in trade union action in regard to the issue of citizenship or franchise. It is the view of many persons with experience in trade unionism and politics that if the Congress had launched a strike on this issue, the Government would have had no alternative but to concede to their demand, since even today the Tamil worker on the best tea estates is irreplaceable without heavy losses. The average workers are guided by faith in the leadership and, being illiterate, cannot think rationally and protest against the inactivity of their leaders on the vital issue before them.

Thondaman, who had been the leader of the Plantation Tamil workers almost from the inception of the Ceylon Indian Congress, had the power to secure a respectable position for the Plantation Tamils through trade union action. His inactivity deprived the Plantation Tamils of citizenship.

SHASTRI'S INDIFFERENCE

Mrs Bandaranaike came to New Delhi to negotiate for the deportation of Plantation Tamils who had not secured citizenship under the law, a matter which had been discussed with India in 1948 before the legislation was enacted. Registration under that Act was completed only in 1963.

A mere 134,000 out of 875,000 involved got citizenship. The rest were in Ceylon as stateless persons. The official conference, it was reported, closed without Mrs Bandaranaike achieving anything. But as she was packing her bags to get back home, she was made to understand that Shastri wanted another session of the official conference to be held on the following day. The next day Prime Minister Shastri agreed to take back to India 525,000 Tamils and Ceylon agreed to give citizenship to 300,000. The fate of the remaining was to be decided later.

These decisions taken at New Delhi without reference to the relevant trade unions or to the Government of Tamil Nadu have to be evaluated from two angles:

(a) The introduction of a quantitative criterion in place of a qualitative criterion hitherto observed.

(b) The immensity of the problem of uprooting and resettling nearly six hundred thousand or more human beings.

The shift from a qualitative to a quantitative criterion needs to be considered in some depth. When Senanayake met Nehru at New Delhi in 1948 and informed him of his proposals, the decision to admit or not to admit a person of Indian origin resident in Ceylon for Ceylon citizenship hinged on certain qualitative criteria. The Bandaranaike-Shastri Pact introduced the quantitative criterion. 525,000 were to be regarded as Indian citizens and packed off; 300,000 were to be treated as Ceylon citizens and left in Ceylon. Prime Minister Shastri's approach treated the Plantation Tamils as chattels or at best as a flock of sheep. That New Delhi could be bludgeoned into agreeing to a quantitative criterion in disposing off citizenship claims has implanted in the minds of the Sinhalese politicians the notion that their objective of annihilation of the Tamils is best achieved through New Delhi.

BLAMING THE CEYLON TAMILS

In India I have come across a number of persons in responsible positions who assert with supreme confidence that the Ceylon Tamils did not come forward to help the Plantation Tamils when their franchise or citizenship was taken away. The foregoing analysis will show, however,

that Nehru, Shastri and Thondaman were the people whose blunders brought tragedy to the Plantation Tamils.

The Ceylon Tamils had not, till about 1972, the time of creation of the Republic of Sri Lanka, even dreamt of measures other than the approved constitutional strategies. A perusal of the *Hanzards* of the Ceylon Legislature from about 1928 onwards will reveal how the Tamil members of the North and the East fought for the Plantation Tamils. In the period between 1934 and 1947, every incident in which the interests of the Plantation Tamils were involved – whether it be the Mooloya Estate Affair, or the Knavesmire issue or the Maturata by-election or the 1939 Repatriation issue – Ponnambalam presented the case of the Plantation Tamils in the most effective manner with his unrivalled command of the language and grasp of the legal position.

At a conference Senanayake held with the Ceylon Tamil members on the day he introduced the Bill for defining Ceylonese citizenship. Once Prime Minister Nehru entertained Senanayake's proposals for negotiations or discussions, the question of citizenship or their franchise became a non-issue for the Ceylon Tamil politicians. Also, the representatives of the Plantation Tamils, the Ceylon Indian Congress Members of Parliament, were constantly in touch with the Indian High Commissioner in Colombo as well as with New Delhi. They were continuously briefing Nehru or the High Commissioner at Colombo. Ceylon Tamil politicians were denied a say in the matter the moment Nehru entertained Senanayake's proposals for discussion.

New Delhi never considered the problem on its own merits; Nehru viewed everything from the standpoint of his own leadership in world politics or from the angle of regional leadership. When the problem of the Ceylon Tamils came to the fore in the eighties, Prime Minister Rajiv Gandhi has further complicated it by making India's Sri Lankan policy a personalized affair – an affair between him and President Jayewardene.

NEW DELHI'S POLICY IN RELATION TO EEYLOM TAMILS

Plantation Tamils have no roots in the area where they are employed. The average Tamil labourer on the tea estate can never hope to call a plot of land his own or pursue a vocation of his own choice in the hill districts. He is destined to remain, generation after generation, a *coolie* on the tea estates. He is in the lowest bracket of the population of Ceylon. Neither New Delhi nor the Sri Lankan politicians, who shepherd him to the polling booth from time to time, have addressed their minds to this aspect of the problem. Some of the labourers have at times tried to migrate to the North or East and cultivate some jungle land for a livelihood but invariably certain forces, obviously with the support of the Sinhala Government, bundle them in lorries and drop them at some market centre in the hill country where the tea estates are situated.

Eeylom Tamils have been on the island for thousands of years. According to Sinhala chronicles, a Tamil king who ruled at Anuradhapura between 177 and 155 BC caused the diversion of a river called Kadambanathi so as to make it flow close to the metropolis. King Ellalan ruled for 44 years from 145 BC to 101 BC when he was killed by Prince Dutta Gemunu of Rohana who then established himself at Anuradhapura. Ellalan was called Chakravarthi and 32 Tamil kings acknowledged his suzerainty. Chattan, one of the Tamil kings under Ellalan, ruled from a fort on the banks of Mahaveli Ganga in Mahiyangana in the present Province of Uva. That was the southernmost region of Ellalan's domains and Chattan was the first of the Tamil sub-kings under Ellalan to be overpowered and killed by Dutta Gemunu in the course of his Holy War against the Tamils.

This Holy War was instigated by the Buddhist *bhikkus*. In fact the Buddhist chronicles record with pride that five hundred *bhikkus* accompanied the army of Dutta Gemunu to the Holy War. Sinhalese chronicles do not record any major war between the Sinhalese and Tamils prior to Dutta Gemunu. The Buddhist *bhikkus* who found that India had discarded Buddhism developed a special partiality for the

Sinhalese for their attachment to Buddhism and concocted the early history or legends about the origins of the Sinhala race.

In the war some of the cities where the sub-kings under Ellalan ruled had to be besieged for three to four months before they could be ransacked. In some of these cities resistance was based on holding out for a long time within the walled cities apparently in the hope that help would come from outside. When all these fortresses of the Tamil sub-kings were conquered, Dutta Gemunu reached Anuradhapura and camped at a little distance from the city. It is stated that his strategy was to entice King Ellalan outside the city because if he locked himself inside the city, a very long-drawn-out siege would be needed. Dutta Gemunu had carefully chosen the site so that the advancing army from the city would have to cover adverse terrain. Well, Ellalan was defeated and killed; his army was destroyed. Reinforcements from India were brought in by a kinsman of his, but they came too late. Dutta Gemunu established himself at Anuradhapura and began a reign in which he rendered great service to Buddhism and the Buddhist clergy. An earlier anecdote relating to Dutta Gemunu as a boy reveals that one day he was lying in his bed with legs up against his chest; when his mother asked him to stretch his legs, he is reported to have told his mother that he was lying like that because the Tamils were crushing him on one side and the sea on the other.

Towards the end of his life, he was struck by a disease from which he knew he could not recover. He feared that he would not go to Heaven because he had caused the killing of 'millions of Tamils'. 'Millions of Tamils' is the phrase used in Geiger's translation of *Mahavamsa*. It might be an exaggeration resorted to by poets; however, it is reasonably correct to infer that he caused a very large number of Tamils to be killed. A group of *Arhats*, a higher order of Buddhist *bhikkus*, came to the palace one night and consoled him saying that the Tamils whom he had caused to be killed had not embraced Buddhism. Only one-and-a-half persons from among them had embraced Buddhism; all the others were only equivalent to beasts

and killing them was no sin. The great merit he had acquired by serving Buddhism would neutralize the killing of the one-and-a-half persons and that he would go to Heaven. In fact, it is stated that after death, he entered the Tulsita Heaven.

Mention has already been made of Sinhalese chronicles which say that a Tamil king who ruled at Anuradhapura prior to Ellalan caused a river, Kadambanathi, to be diverted from its course in order to make it flow close to the metropolis. This Tamil king and another Tamil king who ruled at Anuradhapura prior to Ellalan are described as horse-merchants. They are supposed to have usurped the kingdom at Anuradhapura from the Sinhalese.

The story in the Sinhalese chronicles that two Tamil horse-merchants usurped power in the Sinhala kingdom of Anuradhapura beats even the best of fairy tales. There is no mention of any part of Ceylon having bred horses; there is no mention of cavalry in the annals relating to Dutta Gemunu's war with Ellalan. When horses were neither bred nor used, why should any horse-merchant have come to the island? There is historical evidence that Anuradhapura was the capital of the Tamil kingdom; it flourished for several centuries. The Tamil kings at Anuradhapura controlled the export-import trade in the ancient days. Since horses were required for war purposes, any king would ensure that he had effective control over the trade of horses that took place through Mathottam, which, it is widely accepted, was a major port. Thus, the two horse-merchants did not seize power; they inherited the kingdom. Besides, the resources needed to divert a river from its natural course are stupendous. In Anuradhapura, the subjects of the king must have willingly come forward to perform *rajakariya*, i.e. services performed without payment. In those days the public did not accept anyone from outside the royal lineage as king. Also, Ellalan's reputation as a just ruler had spread far and wide. For these reasons the subjects would not have allowed two mere horse-merchants to rule them, far less worked for them voluntarily.

32 kings could not have come to acknowledge the

suzerainty of Ellalan overnight. The Tamil kingdom with its headquarters at Anuradhapura must have flourished for several centuries before Christ (this is also evidenced by walled cities, consecutive moats, watch-towers and wrought iron gates).

Neither *Mahavamsa* nor other Sinhalese chronicles claim that Dutta Gemunu went northwards beyond Anuradhapura. Mathottam in the Mannar District, it is generally acknowledged, was a well-developed port in ancient times with a Hindu shrine nearby. It is also claimed that Buddhist relics and *bhikkus* came to Ceylon through ports in the Jaffna Peninsula. The port of Columbutthurai is specifically mentioned. Ports could not have existed at a seashore without the hinterland being inhabited and developed. Thus, it is evident that the Jaffna Peninsula was well-developed with ports which constituted the outlets to the world outside for the rest of the island.

The region between the Peninsula and Anuradhapura is known as Vanni. Place names here end in the suffix *kulam*, signifying a tank. Peasant cultivation and tank civilization flourished in these parts. No research appears to have been done to ascertain how the name Vanni came to be used and whether the people here have kinship or connections with the Vanniyars in South India. The people of Vanni did not have a kingdom of their own. Chieftains called Vanniyars appear to have exercised authority over small groups of villages. At times, the King of Jaffna appears to have exercised some sway over the Vanni chieftains but they were virtually independent of any royal authority. It is well-known that the Western conquerors found that they were rather tough in their resistance. Unlike the Kandyan kingdom, they did not have any advantage of terrain but the fact is significant that the last battle the British fought in subjugating the country was at Mullaitivu against the Vanniyars, in 1818. The name of the district has since then been 'Adangapattu' meaning a district which would not submit. There is no claim that Dutta Gemunu's kingdom stretched to these parts or to the Peninsula or to the Mannar District. It is obvious that the Tamils who survived the massacre in the Anuradhapura region would

have fled to the Vanni Districts or Mannar or the Peninsula. Thus, the Tamil territories in the North and the East constitute the remnants of the larger Tamil kingdom which centred at Anuradhapura for several centuries before Christ and which ended with the slaughter of Ellalan.

HOLY WAR CONCEPT

The Buddhist *bhikkus* were the driving force behind the war waged by Dutta Gemunu against the Tamils. They described it as a Holy War. Why did the Buddhist clergy take so much interest in fostering hostility between the Sinhalese and the Tamils?

Buddhism made a tremendous impact in the beginning. It spread all over India including the South but soon it was discarded. The Tamils in Ceylon also embraced Buddhism at first but later they must have discarded it; or perhaps they did not allow Buddhism to take a hold. On the other hand, the Sinhalese not only embraced Buddhism but also became ardent believers in the teachings of the Buddhist clergy. Naturally the Buddhist clergy developed a special attachment to the Sinhalese. The *bhikkus* wanted to praise the Sinhalese in return for their loyalty to the Buddhist clergy. That is the explanation for the story of Prince Vijaya coming from Lala with seven hundred followers and founding the Sinhala race on the very day Buddha attained *nirvana* and the command by Lord Buddha to the king of the Gods to protect the Sinhalese race.³

The entire legend is a concoction by the Buddhist *bhikkus*; they kept on fostering hostility and hatred between the Sinhalese and the Tamils. The consolation given by the Buddhist *Arhats* to Dutta Gemunu that his having caused the killing of millions of Tamils was no sin stems from the same spirit of vengeance the Buddhist clergy had towards the Tamils for having discarded Buddhism.

The ethnic incompatibility between the Sinhalese and the Tamils arises from this faith in the identity between the Buddhist religion and the Sinhalese race. The Sinhala Only attitude has crept into their very bones and is the basis of their strong desire to annihilate the Tamils. When

the British gave signs of their inclination to transfer power exclusively to the Sinhalese as a reaction to the nationalist agitation in India, the Sinhalese Ministers gave unstinted cooperation to the war effort. The undigested fragment of the British empire is now labelled as the ethnic problem. Peacemakers operating at the global level are employing the *mantram* of 'political solutions through peaceful negotiations' to camouflage dictated peace and gun-point cooperation.

'Sinhala imperialism shall quit our homeland' was the cry of the voters of the North and the East on a call from the TULF at the General Elections of 1977; they rejected the call for a mandate made by Mr J.R. Jayewardene of the UNP to create a Democratic Socialist Republic of Sri Lanka.

Basic demands like *swaraj* are not negotiable. The people's wish ought to be supreme in such matters. The people of Tibet have a right to their own way of life but the Chinese leviathan swallowed Tibet with the active connivance of New Delhi. An analogy can be drawn between the claim made by New Delhi at the time that China has sovereignty over Tibet and now when it proclaims that Sinhala Sri Lanka has sovereignty over Tamil Eeylom. In Tibet today there are more Chinese than Tibetans and the distinct entity of Tibet is *non est*. In the same way, in a few years' time there will be more Sinhalese than Tamils in the homeland of the Tamils, and Tamils as a distinct entity on the island will have disappeared. New Delhi can evolve formulae with great subtlety to ensure that might is right. If the Nobel Prize Institute were to award a prize for the most effective 'Imperii Defensor', there is not the slightest doubt that New Delhi would win the award.

COMPARISON OF NEW DELHI'S POLICY IN FUJI AND SRI LANKA

Prime Minister Rajiv Gandhi takes an entirely different stand in a similar conflict in Fuji where there is one crucial difference – no lives were lost in Fuji. His interest in the dispute in Fuji is that one ethnic group therein consists

of persons of Indian origin.

Mr Gandhi recalled that the Fujian Constitution had been promulgated after protracted negotiations among the political parties represented by Fujians and Indians in Fiji and the United Kingdom (*Hindu*, 22 May 1987).

The Minister of State for External Affairs, Mr Natwar Singh, had spoken to the Commonwealth Secretary General, Mr Sridath Ramphal, and the Indian High Commissioner in London, Mr P.C. Alexander. India was also in touch with Australia and New Zealand. . . .

The question of sustained pressure through economic sanctions was also considered. Mr Falairi emphasised India's view that the sanctions should be imposed. Australia has not ruled out such a possibility (*Hindu*, 19 May 1987).

In the island of Ceylon, some 15,000 Tamil civilians were killed by the Sinhala Sri Lankan Armed Forces and lakhs were rendered homeless and were forced to flee. The nature of the atrocities was unbelievably brutal. How do we explain the difference in approach adopted by India to the two disputes in Sri Lanka and Fiji? Again the *Hindu*, which appears to be the keeper of the conscience of Prime Minister Rajiv Gandhi in relation to his Sri Lankan policy, comes to our assistance. A short extract from the editorial of the *Hindu* of 25 April 1987 is very relevant:

At the Minister of State level, according to Sri Lankan Tamil sources, the message was conveyed to the LTTE Chief, Mr Prabhakaran, in Bangalore and elsewhere in late 1986, that the Jayewardene Government had virtually threatened to kill thousands of Tamil civilians in pursuit of a military solution, unless a quick political settlement could be worked out, and that India, given its policy perspectives would not be able to do anything about this. It was also suggested that the "Seventh Fleet" might enter the picture if a quick deal was not struck, and that the Government of India would be helpless in the face of this development.

A subsequent editorial in the *Hindu* of 26 May is revealing:

The massed attack on the ground and from the air and sea by security forces built up and equipped with an assortment of serious external inputs – Pakistani, Israeli, British mercenary and South African, constitute State terrorism of a naked kind against a people whose resistance has taken some hard knocks in the recent period but has been kept alive mainly through LTTE capabilities and spirit, that New Delhi would

do well not to under-estimate or write off in the name of *realpolitik* (emphasis mine).

In the case of Fiji, India has taken a principled approach. It has addressed itself to the Constitution of Fiji: how it was evolved through lengthy negotiations, and that it was an agreed polity and a matter of consensus. But in the case of Sri Lanka New Delhi seems to have rejected the fact that the people of the Northern and Eastern Provinces rejected the call for a mandate to constitute a Republic of Sri Lanka and enact a Constitution thereunto. It has also not paid attention to the fact that the main political party operating in the North and the East did not participate in the Constitution-making process. It has not tried to look into the infirmities of the constitution or creation of the Republic called Sri Lanka. It has shut its eyes to the constitutional history of Sri Lanka.

I had occasion to come into contact with the militant Tigers and stress on them

- the overriding importance of the political offensive,
- the need to state to the world at large the case of the people of Eeylom for Swaraj,
- to point out the complete lack of legal validity for Sri Lanka to encompass the North and the East,
- to demand that India and other members of the Comity of Nations derecognize Sri Lanka in respect of the Northern and Eastern Provinces,
- to take a comprehensive view and urge India to act according to Article 51 of the Indian Constitution,
- to pressurize Sri Lanka to submit the dispute to arbitration,
- to urge India to invite some other countries of the Aid Sri Lanka Consortium in Paris to participate in the mediation process, and
- seek to get an interim trust administration installed under the supervision of the mediating countries.

The Tigers promised to pursue the demand for derecognition but not the other demands and sought my assistance in drafting the demand. Later, I was given to understand that since they were at the mercy of India, which had taken a firm stand in regard to Sri Lanka's

national sovereignty and territorial integrity, they could not afford to displease it by making a categorical statement that Sri Lanka has no legal validity to encompass the North and the East; and demanding derecognition in respect of the North and the East would be a course of confrontation with India.

I wrote several letters, in my capacity as the President of the People's Forum, Jaffna, to the Prime Minister of India through the High Commissioner in Colombo, and directly, on the subject of the Sri Lankan crisis. Initially, the letters were acknowledged, but after the lack of legal validity for Sri Lanka to encompass the North and the East was canvassed and demand made for derecognition, there was no answer.

New Delhi does not want the imposter-cum-aggressor status of Sri Lanka to get exposed to the public. In the case of the dispute in Sri Lanka New Delhi's policy is based on *realpolitik* but in the case of Fuji, India pursues a foreign policy based on legal and constitutional principles.

INDIA'S DENIGRATION

In the early stages of the mediation process, Prime Minister Rajiv Gandhi, immediately after he assumed power, proclaimed emphatically that there was no question of Eeylom, in an interview to the press. There was no need to make such a pronouncement. Prime Minister Indira Gandhi maintained silence as to what she would support or not support. However, Rajiv Gandhi once spoke of a federal state as in India; later he spoke of a United Sri Lanka; ultimately the United Sri Lanka concept became Unitary State of Sri Lanka. Later it became within the existing Constitution.

There were repeated accusations by Sri Lanka that India was harbouring the Tamil terrorists and giving them facilities to wage a guerilla war against Sri Lanka. Detailed reports with photographs appeared in several sections of the press, both Indian and foreign, giving data of a varied nature to prove that indeed there existed such training camps. Rajiv Gandhi, however, denied all such allegations.

Finally, the Chief Police Officer of Madras arrested all

the militants of every group one night in a masterly swoop and recorded their fingerprints. Their arms were also seized, including an SAM. The arrest of the militants was given much publicity. The Police Officer who masterminded this operation is said to be in the good books of the Chief Minister of Tamil Nadu. No one knows why these militants were arrested and released without any legal action.

However, President Jayewardene did get valuable evidence to establish a denigrating picture of India as playing a double game – while maintaining a public posture of not supporting Eeylom, India was really encouraging and arming the militants to destabilize Sri Lanka. Sri Lanka might state its case somewhat as follows:

Sri Lanka is a sovereign independent State in close proximity to India. It is pursuing an independent foreign policy which can be described as pro-West. She has done away with all the controls imposed by an earlier regime and is pursuing an open market economic policy which is exactly what the West recommends for the Third World countries. As a result international investment has flown freely into Sri Lanka. A very large number of private enterprises are in the process of getting established. The country has got over the balance of payment deficits which bedevilled it earlier. The employment rate is high. Income levels are high. The people are contented.

Sri Lanka has enjoyed universal adult franchise for over half a century. She has held elections regularly. She has held referendums. Sri Lanka functions according to a Constitution. There is perfect peace and all-round growth and contentment except for this canker caused by Tamil-Separatist-Marxist terrorists who operate from Indian soil and are extensively supported and encouraged by India.

The recent gift of forty million rupees to the militant groups sanctioned by the Tamil Nadu legislature is proof to convince the West that the denigrating picture Sri Lanka paints of India is perfectly true.

Sri Lanka can go further and plead that so long as the Tamils remain a distinct entity, India will always make use of them as a handle to destabilize Sri Lanka. Hence for the sake of ensuring the stability of the sovereign, independent, democratic polity of Sri Lanka it is necessary to destroy the homeland of the Tamils and annihilate them. Sri Lanka might have been less harsh towards the Tamils but for the fact that they allow themselves to be used as a handle to destabilize Sri Lanka, the model of a Third World country from the standpoint of democracy and free enterprise.

If the above data is fed into a computer, there can be no doubt that the computer will answer: Give Sri Lanka

all the aid she needs and such military assistance as is necessary to destroy the homeland of the Tamils and annihilate that ethnic group.

The Government of India is crying 'wolf' – that foreign forces are at work to destabilize it. At the same time, the press in Moscow has expressed warm appreciation of Prime Minister Rajiv Gandhi's efforts and determination to fight forces of destabilization. President Jayewardene does not make vague allegations of destabilizing forces; he pinpoints the party at work, how it works and the precise objective the party has; he lists all the available evidence and produces documentary proof in support of his claims.

Mr Venkateswaran, when appointed Secretary to the Foreign Ministry, raised with the American officials in Washington the issue of the employment by Sri Lanka of American mercenaries in the fight against the Tamils.⁴ The American official replied that it was a security service provided by a private enterprise and unless they violated the law of the land, the Government could do nothing about it. Mr Venkateswaran must be thankful to the diplomacy of the American official which enabled him to return without being humiliated. What would Venkateswaran have replied if the official had talked about the numerous press reports about India harbouring the Tamil militants?

India has every right to raise the issue of foreign mercenaries with the Sri Lankan Government because Sri Lanka had sought India's intervention to help stabilize the law and order situation. But it is odd that India, instead of raising the issue with Sri Lanka, was raising it with foreign countries; if these countries supplied arms, they were selling for hard cash those items in their arsenal which had become obsolete (in fact there were interesting cartoons about the armoured vehicles supplied by South Africa as these could be easily destroyed by the Tigers' weapons).

India's behaviour in its role as a mediator does not reveal any trace of principled conduct; it has shown scant concern for the sufferings of the Tamils; indeed according to Colombo press reports India winked at Sri Lanka

launching a major attack on the Tamil Tigers in order to force them to accept the Accord.⁵

It is true that Sri Lanka can do nothing; it is true that no major power would come to Sri Lanka's aid primarily because Sri Lanka is in the wrong and its atrocities against the Tamils cannot be vindicated. Much more important is the fact that no major power would want to get involved directly in somebody else's conflict. They would be prepared to give some help indirectly or lend some assistance at the international forum but not in a manner that might involve them in a war. This is just what most of the Western powers did in response to Sri Lanka's cry of 'Tamil-Separatist-Marxist terrorists' and accusations of India's double dealing. The moral is clear: no country should allow its internal problem to become an external problem. If a country forces some of its inhabitants, who are by religion or language or ethnicity or for other reasons different from the group in power, to flee from the country then it necessarily makes it an external problem.

The Tamils are a small community; they can do nothing if India chooses to trample upon their inherent right for *swaraj*. No other country will intervene. But all these circumstances which place India in an unassailable position cannot justify its ignoring basic principles, justice and fair play.

Perhaps India's *realpolitik* approach has been guided by the following consideration. The Sinhala population is four times the Tamil population on the island; the Sinhalese have the organized government in their hands; therefore the Tamils ought to submit and accept whatever dispensation of powers President Jayewardene has been graciously pleased to concede. If the Tamils do not submit on their own, New Delhi will force them to submit and in the process claim credit for 'a political solution through peaceful negotiations'.

This approach is reflected in the rude language used by Romesh Bhandari at the Thimpu Conference; the issue of deportation orders for the advisers and lawyers of the militant groups immediately after the Thimpu Conference; lodging the militant leaders in third-rate boarding houses

in New Delhi; the seizure of the militants' weapons and equipment; the release of 16,500 kg of deadly ammunition to Sri Lanka: and the explanation that there was no entry in the consignment to indicate that these were meant to kill the Tamils. Under the *realpolitik* approach, the peacemaker assesses not the relative merits of the case of the parties to the dispute but the relative strength of the parties. He reaches a verdict, and then seeks to ram down the throat of the weaker party the solution acceptable to the stronger. A classic example of *realpolitik* mediation is the case of Neville Chamberlain gifting the sovereignty of Czechoslovakia to Hitler in 1939.

Earlier, we have pointed out two errors made by the mediator in the initial stages. We shall now mention another error – an error of omission committed by the mediator in the beginning. When Sri Lanka approached India to intervene and mediate in the dispute, Sri Lankan sovereignty over the North and the East of the island stood impugned. The militants asserted that the people of the North and the East were a sovereign people and owed no allegiance to Sri Lanka. India not only committed an error in making an off-hand declaration – no question of Eeylom – but failed to take note of certain consequential developments.

When the parties to the dispute came before the mediator, the impression in the world at large was that the Tamil militants had a *prima facie* case which required serious consideration. When they claimed Eeylom, they would be rated as freedom fighters and under the UN definition of terrorists, freedom fighters are exempted. But once the mediator said 'no Eeylom', they lost the status of freedom fighters and became common criminal terrorists.

President Jayewardene and his Ministers refer to the militants as Tamil-Separatist-Marxist terrorists. India should have laid down a precondition that if it were to mediate, Sri Lanka should desist from referring to the other party to the dispute as terrorists. India's failure to lay down such a precondition gave the world the impression that India had endorsed Sri Lanka's characterization of the militants as terrorists. Further, India's relationship with them makes India suspect.

Just as India is touchy about secession, separation and the like, the West is quite naturally very touchy about *terrorism*. India, thus, gave Sri Lanka an opportunity to denigrate it, achieve a polarization of forces against India as well as secure aid of astronomical dimensions that enabled her to engage in a four-year war against the Tamils.

In July 1987, Sri Lanka agreed to let Indian Armed Forces enter Sri Lanka and disarm the Tigers only because it had reached the end of its resources and was convinced that she could not by her own efforts extricate herself from their clutches.

ARTICLE 51 OF THE INDIAN CONSTITUTION

Had New Delhi not developed a partiality for the *realpolitik* approach, it would have been guided by Article 51 of the Indian Constitution which spells out the Directive Principle in such instances, and which enjoins India to endeavour to bring such disputes for arbitration. According to the Article, either India looks upon itself as an arbitrator, or it should pressurize the involved parties to submit the dispute for arbitration, say before a team of international jurists and constitutional lawyers.

With an arbitrator, the Constitution of Sri Lanka, its constitutional history, the circumstances under which it took shape, the refusal of the people of the North and the East to grant a mandate to create the Republic of Sri Lanka, and the non-participation of the elected members of the main Tamil political party in the Constitution-making process would come to the surface. It will become clear that the Sri Lankan Constitution – claimed to be the Constitution of a Republic – does not encompass the North and the East; the disputing parties will be asked to work out a Constitution *de novo* through consent and compromise.

The *realpolitik* approach of evolving an Accord within the framework of an unlawful Constitution, creating so much bitterness and tension should not have been pursued. If these infirmities of the Sri Lankan Constitution had been brought to the fore and attention had been focused on them in the process of mediation, the Sri Lankan President would not have adopted such an intransigent attitude. The

realpolitik approach adopted by India, contrary as it is to Article 51 of the Indian Constitution, does not leave room for a settlement.

But the most glaring blunder was of course the off-hand proclamation by the mediator at the very start that there was no question of Eeylom. Eeylom is the one and only demand of the Tamils; on the other hand, denying Eeylom is the sole intention of President Jayewardene. In the initial stages India only wanted to put a stop to the military excesses against Tamil civilians. Indian journalists have themselves admitted that there was a sudden volte-face in New Delhi's policy. Instead of making President Jayewardene reach a compromise with the militants, it was decided that the Tamil militants should be pressurized to come forward and accept what President Jayewardene was pleased to concede. Pressurizing the militants is an uphill task since the militants of at least one group, the Tigers, have taken a vow to do or die and carry cyanide capsules with them. As it is, the brutal attacks of the Sri Lankan Armed Forces – the indiscriminate and blind shelling and the serial bombardment and strafing from helicopters – have not succeeded in defeating the Tamils; it is the Sri Lankan Armed Forces, on the contrary, which have reached the end of their tether.

What is *realpolitik*? It is quite easy to say what it is not. It is not principled politics. It is a case of surrendering or getting someone to surrender his legitimate rights and interests to result in benefit to some powerful party. *Realpolitik* might have some pragmatic sanction in minor matters like boundary disputes but not where basic principles are involved.

IMPERIUM

Hindu philosophy has a concept which is expressed by the Tamil word *Aasai*. It means unjustified or excessive desire. There is no English equivalent which will convey this concept. The word ambition is not a proper English equivalent; ambition has many desirable traits. *Aasai* is the source of all conflict and the root of all evil. Hindu philosophy classifies *aasai* into three categories: *Mannaasai*,

Pennaasai and *Ponnaasai*. Literally, *mannaasai* means greed for land but the real meaning is desire – unjustified desire – to exercise power, authority or control over others. The Latin word *imperium* is the closest approximation to it. *Pennaasai* signifies excessive desire to possess women and enjoy the pleasures of sex. *Ponnaasai* signifies desire for gold and in modern times graft, corruption and bribery illustrate this category of unjustified desires.

In relating *realpolitik* with basic traits in human nature, we have to study the concept of *mannasaai* or *imperium*. Every human being has a little bit of this *imperium*. In some people this urge is highly pronounced. A point that should be borne in mind is this: the greater the opportunities presented for exercising *imperium* the more the appetite for it gets whetted. If this urge for *imperium* is present in excess in anyone, he creates a problem for everyone around him and ultimately for himself too.

The urge for *imperium* has, in the past, afflicted princes, politicians and the collective personality of a group of people resulting in the creation of conventional empires. This feature of the rise of conventional empires reached a crescendo in the late nineteenth and early twentieth centuries. The Germans thought that they were the most superior race in the world, while the British, a nation of shopkeepers, enjoyed an empire in which the sun never set. This notion of *imperium* led to the two world wars. Ironically, it was these wars that brought to an end the urge for *imperium* underlying the conventional type of empires. Now, at least as far as the Western world is concerned, the notion of *imperium* has been abandoned.

Conventional *imperium* seeking imperial glory is no longer an evil desire driving men into conflicts. However, *imperium* of another type in a different garb has come into the picture. Communism is scientific dictatorship which seeks to give expression to the *imperium* in Man: It is nothing but a case of exercising power and authority over others – dictatorship of the proletariat under the leadership of the Communist Party. What is the Communist Party? It is a collection of cadres at different levels, all selected and admitted to membership from above. It is a highly

disciplined team founded on the premise that *imperium* can find expression on a long-term basis only within the framework of a team. It is scientific in the sense that the individual has no existence as an entity; he is just a cypher in the regiment.

Individualism, an inherent urge in man, is the only threat to the *imperium* of the communist structure. The human will only carries within itself its own guiding principle. If the regimental individuals in a communist society have free intercourse with individuals in an individualistic society, the urge for individualism will not permit the regimentation of the communist society to last. Hence the authorities in a Communist state cut off their polity from the rest of the world. However, they must convert at least the adjoining countries to communism since international trade is an economic necessity.

Communism finds ready acceptance only in societies where a bad government, graft, corruption and other such ills prevail and the ordinary man feels that he cannot get social, economic or administrative justice from the system. Thus the Third World countries are the most sought-after targets for communist expansion.

What is being witnessed in Sri Lanka is ethnic imperialism with strong genocidal overtones. Most examples of ethnic imperialism are to be found as aftereffects of the conventional imperialism of the West. The Western imperial powers lumped together in an artificial polity or, more precisely, an artificial administrative unit several polities that were earlier independent. When the Western empires disintegrated, the inherited administrative machinery fell into the hands of the numerically stronger ethnic groups; and these numerically larger groups find expression for their inherent but hitherto dormant urge for *imperium* in dominating over the numerically weaker groups. The numerically weaker groups demand 'Leave us alone' and this absolutely unobjectionable demand is mischievously represented as demand for 'separation', 'division of the country', 'secession' and other such words with a negative connotation.

The same doctrine 'Leave us alone' underlies the Centre-

State clash in Punjab. According to an article in the *Hindu* of 14 May 1987, Punjab was the first state to experience the dismissal of a Ministry by the Centre; President's rule was imposed in spite of Rajendra Prasad's disapproval of the move, solely because Jawaharlal Nehru regarded the ouster of Chief Minister Bhargava 'a matter of personal prestige' – the innate *imperium* in Man. This state has experienced this imposition of President's rule seven times.

When the Central Government dismisses the State Government, it is just an expression of the *imperium* of New Delhi. It is no wonder that some people in Punjab say 'Leave us alone.' It is better to leave them alone within the Indian Union than outside. To suppress the demand for *swaraj* of the people of Eeylom in the fond hope that the Khalistan demand will thus be suppressed, lacks logic. The Sikhs voluntarily chose to join the Indian Union. They felt themselves part of India and they joined the Armed Forces in large numbers. They can easily be won back to be part of India if the principle of federalism is better understood by those running the Government at the Centre. In the case of Eeylom, the people have never wanted to be in the same polity with the people of the other seven provinces of British Ceylon. They were forcibly put into the same polity by Britain.

Now let us ponder awhile as to how the urge for *imperium* can be kept under check. Ancient thinkers devised the concept of *swarga* and *naraka* to prevent the urge for *imperium* running to excess.

When Jawaharlal Nehru was Prime Minister, a top level delegation from New Delhi went to meet an aged Naga Chieftain to negotiate peacefully some political settlement. A good looking lady was also in the delegation. When they met the Naga Chieftain he lost no time in making overtures to the lady. He demanded that she be given to him as his wife. He was told that she was already married; he replied that it did not matter. He was then told that she already had two children; again he said that it did not matter. The moral of the story is that the norms and values accepted and cherished by a society and the existence of the judicial function keep the urges of human nature

under check. Religion and faith will not hold in check the urge for *imperium*. In respect of *imperium* enough norms have not been evolved. In any case there is no judicial function at the international level. If a proper judicial function could replace the political wing of the UNO the world could make some progress.

NOTES

1. Cleghorn Minute dated June 1799.
2. Certain laws relating to the ownership of land in the Sinhala maritime districts dating back to the Dutch period are not without significance. The Dutch enacted an Ordinance in the middle of the eighteenth century prohibiting Tamils and Muslims from buying land in the Sinhalese maritime districts, i.e. one of the three units in which the British reigned until 1833. This restriction appears to have been partially relayed later on but its application to the Colombo district continued until it was repealed after Britain completed the conquest of the island. The above information is given in textbooks of history used by secondary school students. One must turn to Dutch records to find out what was the provocation for making such an enactment. It may be that the Dutch were keenly interested in preserving lands on which cinnamon was grown but the prohibition specifically against Tamils and Muslims was obviously at the instance of the Sinhalese who wanted to prevent their lands from being bought over by persons whom they regarded as aliens. There could have been no scarcity of land at that stage of history. There could have been no sizeable demand from Ceylon Tamils as they lived on their own territory. The demand could have been from Nattukottai Chetties, when they must have been forced to buy lands to recover the loans they has given.
3. See Chapter Three for details.
4. PTI News Report of 11 January 1987 from Washington appearing in the *Indian Express* and the *Hindu* of 12 January 1987.

CHAPTER 3 PARAMETERS FOR A VIABLE POLITICAL SOLUTION

A friend of mine, an Indian Tamil, once asked me whether any tribe in the world, besides the Tamils, does not include the family name as part of one's name. He was obliged to think of this because whenever he went abroad he was asked at various places where the name had to be recorded, what his first name was and what was his family name. His attempt at explaining the name structure of the Tamils was, apparently, not very successful and he often found that his own name was reduced to an initial. He found it very odd to answer telephone calls when someone asked for him by his father's name.

I told him about an interesting situation in Ceylon. Two brothers, Ramanathan and Arunachalam, sons of Ponnambalam, were both knighted. Following the British practice of attaching the decoration to the first name, both happened to be addressed as Sir Ponnambalam!

The name structure of the Tamils needs to be explained. Every Tamil has just one name; he has no family name; he has no first-name; he has no Godfather's name; to make identification possible, his father's name, itself a single name, provides the initial. If the full name is to be furnished, the initial is expanded and the father's name stands in front of the individual's name. There is nothing to indicate the family or the parentage or the lineage of the person.

TAMILS' INDIFFERENCE TO HISTORY

The name structure of the Tamils reveals the importance they give to history as well as their own lineage and ancestry in their value system. Every village name ends

in the suffix *kulam* signifying a tank. The Tamils of today know of Ellalan and his designation Chakravarthi and of his exercising suzerainty over 32 Tamil sub-kings primarily through Sinhala chronicles. His reputation for administration of justice, his death and the destruction of his kingdom at the hands of Dutta Gemunu have not been given importance in Tamil records. Mr J.R. Jayewardene claimed that he wanted to emulate King Ellalan. But Ellalan made no such deep impression among the Tamils; they just forgot him. That Dutta Gemunu was seized by pangs of conscience on his death-bed owing to the fear that his having caused the killing of millions of Tamils would debar him from entering Heaven are all matters of great significance for our national consciousness but we have never given thought to them. All this ought to have made an indelible imprint on the history of the Tamils but such is not the case. Even the killings of 1956, 1958, 1977, 1981, 1983 and then throughout the period to date have not been recorded by *Tamils*.

King Pararajasekeran got the assistance of all the Siddha physicians in his kingdom, codified the Siddha system of medicine in 12,000 *shlokas* which came down to posterity as 'Parajasekeram Panneeraiyiram'. Some parts of this epic got into print and a copy of it was in the Public Library at Jaffna before the Library was burnt down by the Sinhala security personnel. As a result of the very low priority the Tamils give to history, their parentage, their ancestry and the past, others are concocting history in a manner so as to gain political advantages.

A matter of tremendous significance in the Dutta Gemunu–Ellalan War has not received adequate emphasis. As Dutta Gemunu's armies marched northwards winning all the battles fought and slaying the sub-kings one by one, it should have become obvious that the Sinhala armies, trained and prepared over years, were very powerful and resistance against them could be very risky and disastrous. But still, not one of the 32 Tamil sub-kings thought of surrendering and functioning as a vassal of Dutta Gemunu. All of them preferred to fight and get killed rather than surrender. This is reflected in some way in the determination

and spirit of Pirabhakaran's men.

In sharp contrast to the indifferent attitude to history, lineage and ancestry shown by the Tamils is the deep attachment the Sinhalese have shown towards their history and ancestry. Legends are well preserved in lyrical ballads, folklore, chronicles and other records. The fantastic claims made in these Sinhalese chronicles woven into Buddhism have been viewed with neutralism by the Tamils; when something forms part of faith or religion of a group or body, others do not question it. But these exaggerated legends colour the attitude of the Sinhalese in modern politics and underlie their aspirations and ambitions of a Sinhala Only polity, leaving the Tamils with no homeland.

The future of the Tamils and even that of the Sinhalese appears to have gone into the vortex of Indian politics. Indian politics is not guided by rational thinking but by *mantram* and *bhakti*. India's progress in science, engineering, technology, industry and commerce is phenomenal. In military preparedness, India is a near superpower. Individual Indians can compare with the very best in the world in different professions or disciplines. Notwithstanding all these achievements, few will deny that India's political thinking has not progressed beyond the primitive stages. Inherited prejudices govern Indian politics.

Although diplomatic restraint does not permit Aryan-Dravidian differences to come to the surface, the potentialities of the undercurrent of such differences cannot be overemphasized. Much lobbying is understood to have taken place in New Delhi to impress that the Sinhalese are Aryans from India and that India should not be guided by the links the Tamils have with it. However, it should be borne in mind that Eeylom Tamils never sought India's intervention on the basis of any ethnic links; they only sought intervention on the analogy of what took place in Bangladesh – intervention on grounds of justice and the problem of refugees. Reference to ethnic links is the result of the rivalry of political parties in the South. The following passage from a speech of Prime Minister Rajiv Gandhi delivered at Madras gives food for thought:

While some people from Tamil Nadu crossed the Palk Strait into Sri

Lanka others from as far as Orissa and Bihar had sailed long long ago to Sri Lanka. Both the majority and minority communities in Sri Lanka have strong links with India.

This image of the Sinhalese having links with India via Bihar and Orissa is fraught with mischief. If the Sinhalese had migrated to Ceylon from North India, the number of Sinhalese on the island would have been much less than the Tamil migrants, since for the Tamil migrants it is just a case of hopping across the 22-mile stretch of the shallow Palk Strait while the voyage from Bihar and Orissa across the Bay of Bengal is an arduous affair. But the facts are different. The Sinhalese are at least four times in number than the Tamils.

The Tamils never cared to take note of the fantastic legends woven about the origins of the Sinhala race. But since Prime Minister Rajiv Gandhi makes special mention of this in a prepared speech seeking to justify a farcical Accord, one is compelled to analyse these claims of Aryan origin of the Sinhalese. No historical account of the island of Ceylon can ignore the *Ramayana*. Epics are of course exaggerated to bring out some philosophy of the author but the basic narrative has some truth at the skeletal level. A war did take place; the fighting in the central hills of the island reached via Rameswaram; the people involved did exist; the locale is clearly identifiable. Surely the victory of Rama did not extinguish the race represented by Ravana. That they were *rakshasas* is the usual strategy of epic poets. Since a moral philosophy has to be expounded, the enemy has to be described as a demon. Only the hero and the people whom he leads are human beings. The description of Ravana as a *rakshasa* is unbelievable; no one could go to sleep if there were ten heads on his shoulders. . . . The Aryan arrogance of Valmiki describes Hanuman and his tribe as monkeys; no monkey could have achieved the wonderful performance credited to Hanuman.

There are some interesting episodes in *Ramayana* which are analogical to the events of modern times. Sugriva sought the assistance of an outsider, Rama, to destroy his own brother, Bali, in order to secure the kingdom for himself. Some Tamil militant groups today have allowed

themselves to be externally fuelled to destroy other militant groups, all of whom profess the same objective, completely ignoring the importance of their unity in this hour of crisis.

The most important trait in Hanuman is his faithfulness, his loyalty and his devoted service to his master, Rama. The British bankers found the same traits in the Tamils in the eighteenth century when they entrusted the Cash Department to the Tamil Shroffs.

Sugriva promised Rama to raise an army to accompany him across the sea to Ceylon. He, however, delayed getting the army ready because of the palmyrah toddy season. Even today migrant Tamil workmen will rarely move out during the palmyrah toddy season.

Ravana was not a demon or *rakshasa* with ten heads on his shoulders. He was just a powerful Sinhalese king. *Ramayana* describes his Court as having a number of females. The political correspondent and a well-known cartoonist of the Lake House Press used to speak of a 'purple brigade' as dominating the Court of Sir John Kotelawala of Kandawela.

There are several place names with the prefix 'Sita' signifying that these were the places where Ravana housed Sita over long periods in the hope that she would change her mind and agree to be his queen. All these cannot be brushed aside. It is necessary to take note of a plus point in favour of Ravana: he could have obtained Sita's favours through force, but he was not so inclined. He wanted her to become his queen and employed a number of women to keep her company and persuade her to agree to become his queen.

Prime Minister Rajiv Gandhi has made the legend of Vijaya the premise on which the Accord has been drawn up. According to the legend relating to the origins of the Sinhala race, Vijaya is described as the unruly son of a king called Sinhababu who ruled in a country called Lala, somewhere near Bengal. As he and his seven hundred followers were giving a lot of trouble to the king and his subjects, the king exiled them and put them on board a vessel on the high seas. Vijaya and his seven hundred followers are said to have reached the north-western part

of the island of Ceylon on the very day Buddha attained *nirvana* in 543 BC. A few questions need to be posed here:

1. In how many vessels were these exiled persons from the kingdom of Lala put out on the high seas?
2. Were these vessels open fishing boats or catamarams or properly constructed ocean-going vessels giving protection against sun, rain and waves?
3. Did the king get the crew to man the vessels when these men were put out on the seas with the exiles or were the unruly exiles themselves expected to pilot the vessels?
4. How many days' supply of food and drinking water were placed on board the vessel for the use of the exiles?
5. How long did the voyage take?
6. What was the monsoon which prevailed at the time of their voyage? Was it the north-east or the south-west monsoon?
7. Did all the vessels reach the land on the north-west of Ceylon?

Maritime tradition in ancient India is associated with the South rather than the North of India. If the vessels were not manned by appropriately trained crew, they would have drifted some distance and then got washed back to the shore somewhere along the Indian coast. All the vessels could not have kept together; different vessels would have gone in different directions with the waves. If the south-west monsoon did prevail, the vessels could not have made much progress against the waves and wind in the direction of Ceylon. In the case of a north-east monsoon the vessels, in all likelihood, would have drifted towards some coastal area in South India, or at most to the north-east of Ceylon.

If the vessels were manned by proper crew, there would have been among the Sinhalese a flourishing maritime community. But when the Muslims came from the Gulf countries in their vessels, the sight of the ships was such a curiosity for the Sinhalese that they called the Muslims 'Marakkala minisu', i.e. men using or owning ships. 2,500 years ago, no sailing vessel could have accommodated seven hundred men and food and water supplies for them for a long voyage.

To confiscate even fishing boats and abandon them on the high seas just as an expression of the king's anger would have evoked severe protests from the fishing community as such boats were their means of livelihood.

The whole story of Vijaya coming from Lala on the very day Buddha attained *nirvana* and the command given by Lord Buddha to the King of the Gods from his death-bed to protect the Sinhalese race and the island for them are fantastic tales. If the basis of the Accord is that the Sinhalese and the Tamils are both children of India, the settlement means that the elder brother, the Sinhalese, completely exterminates the younger brother, the Tamils, even depriving them of their ancestral homeland.

If Prime Minister Rajiv Gandhi acts on the premise that the Sinhalese are Aryans who went to Ceylon long ago, the whole of *Ramayana* must be considered a tissue of falsehood. Or else Rama must have perpetrated an act of genocide against the race represented by Ravana to such an extent that it was wiped out leaving Lanka a vacant land, ready to receive the Aryan migrants from Bihar and Orissa.

'DEMALA'

The Sinhalese hail Dutta Gemunu as the greatest Sinhalese hero; they regard him more or less as the Patron Saint of the Sinhalese race. Dutta Gemunu acquired this stature among the Sinhalese by virtue of his achievements in destroying the Tamils and bringing Lanka under the Sinhalese flag. Did any Tamil remain in the kingdom of Dutta Gemunu after King Ellalan was killed and Dutta Gemunu had killed millions of Tamils?

Any Tamil who was fortunate enough not to have been one of the 'millions of Tamils' would have fled the kingdom of Dutta Gemunu as fast as his legs could carry him, leaving Dutta Gemunu to reign supreme in Anuradhapura. Later, of course, the Tamils drove away the Sinhalese from there. When Robert Knox escaped from the custody of the Kandyan King and reached Anuradhapura in the seventeenth century, nobody there understood the Sinhalese language. Tamil was the language used by the common man.

There was a lot of fighting between the Sinhalese and the Tamils, but then that was the pattern of the early ages. When a powerful and ambitious prince began to expand his dominion by overawing the neighbouring territory, fighting was natural. In such repetitive and continuous fighting, several deeds of great military prowess would naturally take place. The Tamils have never tried to lionize their heroes and make a fuss about them; they took these fights and battles in their stride. The attitude of the Tamils towards such occurrences is best summed up in a stanza in the Tamil classic *Pura Nanuru*. The view is put pithily thus: 'When two persons enter into a fight; one kills the other; the other getting killed is nothing new; it is part of human nature.'

Sinhalese historians and other writers and the folklore among the Sinhalese, on the other hand, make a lot of fuss about these fights and lionize their heroes. They have painted a picture of hostility against the Tamils, poisoning the mind of the average Sinhalese against the Tamils. The Buddhist *bhikkus* have taken the lead in creating the prejudice against the Tamils.

In 1947, I was the Secretary of the All-Island Government Clerical Service Union. There was much discontent and a major strike of white-collar employees in the public sector erupted spearheaded by the Union. Nineteen unions in the public sector were involved in the strike. The demand of the unions was the statutory recognition of the right of association of public servants under trade union law. A major public meeting at Galle Face, to build up public opinion in their favour, was arranged. It was felt that politicians other than Marxists should be roped in. Sri Nissanka, the leading lawyer, was contacted and he consented to preside.

Although I wanted to keep Tamil politicians out of the picture, in view of the risk of communal tensions, Sinhalese friends were keen that G.G. Ponnambalam should be brought in on account of his eloquence and stature as a lawyer. Another speaker was the venerable *bhikku*, Rahula, a Buddhist scholar of eminence. When the matter was being discussed, the suggestion was made that the Sinhalese

version of the Notice convening the meeting be worded by the learned *bhikku*. Accordingly, he proceeded to dictate. When the name of G.G. Ponnambalam, the spokesman of the Tamil Congress, came to be written the *bhikku* used the words 'Dravida Congress'. I asked, 'Why not Demala Congress?' The *Bhikku* shrugged his shoulders and said, 'One does not say so.' It was then that I realized that the word Demala in Sinhalese signified some sort of contempt.

Later on, Chelvnayakam, giving evidence in the case in which he filed an election petition against Kadeapillai was asked to tell the Court the significance of the word 'Vadakkan'. He said that the word 'Vadakkan' in Tamil signified contempt in the same manner as the word 'Demala' did in Sinhalese. Many Tamils really do not know that the word Demala in Sinhalese signifies contempt. The proper noun *Demala* in the Sinhala language has degenerated and acquired an undertone of contempt or hatred. The Sinhalese when they want to refer to the Tamils politely use the word 'Dravido'.

RACIO-RELIGIOUS FUNDAMENTALISM

The word 'Sinhalavan' in the Tamil language is neutral. There is no alternative word as in Sinhalese when reference has to be polite. The Sinhalese harbour much hatred, contempt and prejudice against the Tamils; that attitude is derived from legends, an overemphasis on wars and battles; a distorted presentation of history by Buddhist *bhikkus*; and above all by certain superstitions which link religion and race.

The Sinhalese firmly believe that Lord Buddha gifted this island to the Sinhalese race founded by Prince Vijaya. They believe that Buddha summoned Sakka, the king of Gods, and commanded him to appoint Guardian deities in all the four directions to protect the Sinhalese and preserve the island for the Sinhalese race. He gave this command because he knew that the Sinhalese alone would preserve Buddhism in its pristine purity. The Sinhalese believe that divine intervention will preserve them against all odds. They consider the Tamils as intruders who should be evicted. Their whole approach towards the issue of the

Plantation Tamils was coloured by this notion.

The Sinhalese policy of repatriation is based on the objective of making the island an exclusive possession of the Sinhalese. This chauvinistic attitude has been recognized as the *Mahavamsa* mentality or the Dutta Gemunu complex. Sinhalese scholars themselves have recognized this attitude among the people. With the passage of time this racio-religious fundamentalism has acquired a progressively increasing grip over the minds of the Sinhalese.

The Sinhala name of the island was all along just Lanka. The prefix Sri was first introduced in 1948 in the name of the Central Bank of Ceylon. The Sinhala rendering of the Central Bank of Ceylon became Sri Lanka Maha Banku and the authorities insisted that the Tamil translation should also be Sri Lanka Maha Banku. At that time the official name was Ceylon and not Sri Lanka. The Tamil staff objected to this and insisted that the Tamil translation should be 'Ilankai Madhya Vanki'. This became a political issue and the Tamil editions of the publications of the Central Bank were held up for several years. It was only in 1966, after Dudley Senanayake became Prime Minister with the support of the Tamil members, that a decision was reached and the term 'Ilankai Madhya Vanki' was accepted.

In the course of the controversy, I also had occasion to submit a memorandum pointing out that the term 'Maha' was inappropriate, whether in Sinhalese or Tamil, since it conveyed an idea of size – the biggest bank and the introduction of the term 'Sri' signifying some sort of divinity was inappropriate in the name of an official financial institution. My main argument was that the concept of size introduced by the word 'Maha' would handicap a teacher in explaining the role and functions of the Central Bank. The Central Bank was by no means big; its importance lay in being at the centre of the monetary mechanism.

I was horrified to receive the observations of the Governor of the Central Bank with the remark, 'Who is Mr Vanniasingham to question the appropriateness of the Sinhala rendering which was decided by the Bhikku

Mandalaya?' Even the Governor of the Central Bank became a prisoner to the notions of fundamentalism born of the *Mahavamsa* mentality, notwithstanding the observation in my memorandum that, by analogy, Sinhalese books on economics would have to render the English Bank of England as the 'Biggest Bank of Holy England'! Fundamentalism born of the *Mahavamsa* complex is proof against rational analysis.

The watershed of the racio-religious fundamentalism is the enactment of the Sinhala Only Act. The British, who ruled very effectively for one hundred and fifty years, did not find it necessary to have an Official Language Act. The only legal enactment in relation to official language was the provision in the Civil Procedure Code that appeals shall be made in the English language.

When the Sinhala Only Act was enacted in 1956, it was just an ordinary piece of legislation capable of being repelled or amended by a majority in the Parliament. Later in 1972, the Sinhala Only Act was incorporated into the Republican Constitution. The provisions in the Constitution have been so devised that the Act can no longer be modified. But the more illuminating aspect of the Sinhala Only Act was the first piece of legislation enacted by the Parliament that got elected on the Sinhala Only cry. Its leader was S.W.R.D. Bandaranaike who fought his way into politics by organizing the Sinhala Maha Sabha.

When suggestions for making some provisions for the use of Tamil in the Official Language Act were being considered, a University Professor of Economics went on a 'fast unto death' in the premises of the Parliament building. Mr Bandaranaike appeased him by giving an undertaking not to dilute the Sinhala Only concept and giving him a glass of orange juice to break his fast. Later on Bandaranaike appeased a gang of *bhikkus* who beseiged his residence by publicly tearing the Banda-Chelra Pact he had entered into with the Tamil leader.

The act of incorporating the Sinhala Only legislation into the Constitution was undertaken by Dr Colvin R. de Silva in his capacity as the Minister incharge of piloting the Republican Constitution through the Constituent

Assembly. Dr de Silva is a brilliant scholar. His research work done at the London University is considered to be a masterpiece. His record as a criminal lawyer is outstanding. Dr de Silva is considered to be the most outstanding Marxist theoretician in the country. He was a vigorous supporter of the franchise rights (later citizenship rights) of the Plantation Tamils of Indian origin. He was a relentless critic of the Sinhala Only Act when Bandaranaike introduced it in 1956. He advocated parity of status for Sinhalese and Tamil. As a true Marxist his political philosophy was to shun the glamour of office until the Marxists could seize power and transform the polity into a Marxist society. That Dr Colvin R. de Silva made an about turn in politics and used his intelligence and legal knowledge to fashion the racist Constitution of the Sri Lankan Republic and enshrine the Sinhala Only Act within it is evidence of the all-conquering power of Sinhala Buddhist fundamentalism born of the *Mahavamsa* mentality and the Dutta Gemunu complex.

The Tamil equivalents of the terms 'debit' and 'credit' used in accounting have for centuries been 'pattu' and 'varavu'. These words do not have a meaning different from what is conveyed by the English words 'debit' and 'credit' in so far as usage in everyday life is concerned. Government concerns such as the Income Tax Department, banks and other institutional parties have been using the words 'pattu' and 'varavu' since time immemorial. The usage is the same both in India and Ceylon or for that matter anywhere in the world where the Tamil language is in use. The Government of Sri Lanka has however managed with the assistance of some *Tamil scholars* to lay down the rule that the official equivalent of the term 'debit' shall be 'varavu' and the equivalent of the term 'credit' shall be 'selavu'. The absurdity of these equivalents is brought home by posing the question: How will you render into Tamil the endorsement on a cheque reading 'Please credit the amount to my A/c'? The Tamil equivalent of the word 'credit' coined by the Sri Lanka Government gives the opposite meaning. Notwithstanding all this, the Government has proceeded with the wrong equivalents;

at the head of printed question papers at examinations there is a note saying that Debit=varavu and Credit=selavu.

The Government's intervention in the glossary of Tamil technical terms is aimed at severing the link with Tamil Nadu in India. The writer advised his students to make it a point to listen to the various talks on Economics, Accounting, Management, etc. that come over the Madras radio. Sometime later the students complained that they could not understand because the words, i.e. the technical terms, were different. Thus, the Tamil language in Ceylon, cut off from Tamil Nadu in India, and forced to get into alignment with Sinhalese will wither away in course of time.

The attitude of the Sinhalese is definitely to bring about the extinction of the Tamils as a distinct entity and liquidate the homeland of the Tamils. Rev. Lakshman Wickremesinghe summed up the attitude of the average man in the street in his final pastoral address delivered shortly after the riots of July 1983 and which appeared in full in two consecutive issues of the *Ceylon Daily News*. While strongly condemning the acts of violence against the Tamils, he bemoaned the reaction of the average Sinhalese. He observed that while a large number of them disapproved of the violence against the Tamils and showed much sympathy and came forward to help the Tamils in distress, they did not condemn the end result: the disappearance of the Tamils from their midst. Maybe they felt that the Tamils had an edge over them in competition in various walks of life and felt that it would be better if the Tamils were eliminated.

In point of fact, the violent mobs that attacked the Tamils during the incidents of riots against the Tamils in the post-independence era used to say in their broken Tamil 'Oadu Yapane' (Run to Jaffna). In fact in many places in the South the rehabilitation of Tamils in their former residences or places of business is impossible owing to the opposition of the local Sinhalese.

No political solution can afford to ignore the general attitude of the Sinhalese towards the Tamils. The Sinhalese do not regard the Tamils as fellow-citizens; they do not want them in their midst. There is not a single Sinhalese who is prepared to stand up before the Sinhalese public

and tell them: 'Look here, the Tamils have as much right as the Sinhalese to enjoy self-government, to manage their own affairs. We cannot expect them to be in the same polity with us unless we treat them as fellow-citizens.' The Sinhalese are all of one mind: that it shall be a Sinhala Only polity. The reaction of the Tamils to this attitude of the Sinhalese was: 'Leave us alone in our barren and dry North and East.' This is easily proved by the fact that immediately after the Sinhala Only Act land values shot up ten-fold in Jaffna and Trincomalie. Since then, land values have been rising at fantastic rates.

DELUSIONS IN NEW DELHI

Mediators who seek to achieve a political solution by installing a contraption called Provincial Councils ought to look for a conscientious answer to this question: Do the Sinhalese treat the Tamils as fellow-citizens? Can the Provincial Councils wipe away the deeply embedded prejudice in the minds of the Sinhalese? Will a change in the mechanism of Provincial Administration effect a change in such attitudes?

Even an incurable optimist cannot hope that the Sinhalese would ever adopt a modern concept of nationalism if he reflects for a moment on Security Minister Aththulathmudali as an example of the Sinhalese attitude. The academic distinctions Minister Aththulathmudali holds would be the envy of any scholar. His record in a number of universities in Britain and the US is dazzling. But the exposure to Oxford, Harvard and a number of other universities or centres of learning do not appear to have made the slightest dent on the inherited armour of *Mahavamsa* mentality. No liberalism, no notion of 'live and let live' can penetrate through the crust of the Dutta Gemunu complex.

One must take into reckoning all the above facts and material in thinking of evolving a political solution to the crisis on the island. Obviously no political structure in which the Sinhala ethnic majority masquerades as the political majority is acceptable to the Tamils. Separate polities are inevitable. How are the Sinhalese hurt or their interests injured if the Tamils are left alone to manage

their own affairs in their dry and barren North and East? The Sinhalese can have all the vacancies in the public and private sectors for themselves without having to share these with the Tamils. The Sinhalese can have the seats in the university and professional institutions all for themselves. They can use all the foreign aid exclusively in their areas. One is really at a loss to understand why the Sinhalese should want to have the Tamils within their polity; only a false sense of imperial glamour built on mythical dreams can account for their objection to leaving the Tamils alone.

When he sought to place before his fellow-economists his general theory of employment in the thirties, Lord Keynes found that convincing them of the correctness of his new theory was not the major problem; the real difficulty was to get them to rid themselves of the old notions to which they had become prisoners. Radhakrishnan, the Indian philosopher, conveys the same idea when in his British Academy Lectures (1938), speaking on Buddha's contribution, he said:

He [Gautama Buddha] offers his followers a scheme of spiritual development and not a set of doctrines, a way and not a creed. He knew the acceptance of a creed was generally an excuse for the abandonment of the search. We often refuse to admit facts, not because there is evidence against them, but because there is a theory against them.

Quite a number of persons in very responsible positions have become prisoners to certain notions without having given a thought to the question at issue. Those who pontifically pronounce 'no question of Eeylom', 'Sri Lanka's sovereignty and territorial integrity', 'no separation', 'no division', 'political solution within the framework of a unitary Constitution' do not question the validity of these concepts.

Broadly, the notions to which they have become prisoners go back to the emergence of Pakistan. They still do not realize that it was a grave error on the part of the Indian National Congress to have objected to the emergence of Pakistan. It is really silly to have within the polity people who do not want to be in the same polity. The quality

of the polity and not its quantity is what underlies national greatness and prosperity.

The quality of the polity depends on non-tangible subjective factors and these can only be cultivated when the polity is small and united. Unity is the result of compatibility of aspirations; it cannot be achieved by the use of force or legal enactments. A sense of being wanted or sought after by the polity and those who manage the affairs of the polity is the force that underlies unity, that attracts the different elements of the polity to feel the urge for unity.

When the people who sought Pakistan raised the cry, the obvious duty of the Indian National Congress was to have said 'Goodbye' cheerfully; instead they raised an obstinate objection and brought misery on one and all. Instead of recognizing that bulk of the ills that bedevil India today stemmed from that obstinate opposition to leaving alone the people who formed Pakistan, many people in India have become prisoners to certain wrong notions which they consider to be God's own truth. It was not the partition of British India that brought misery but the obstinate opposition to effect partition of an artificial entity called British India.

In the case of Eeylom the use of the word partition is irrelevant. There can be partition only if there was earlier an integral entity. Tamils never wanted or agreed to be part of the same polity with the Sinhalese. They were put into the same administrative unit by the superior force of British imperialism; British Ceylon was not an integral entity; it was just like British India.

Similarly, the term separation is a perverse concept in the case of Sri Lanka and Eeylom. A woman seeks judicial separation only because she was earlier united in wedlock with a particular man. The Tamils of Eeylom never entered into any union with the Sinhalese; they specifically rejected the call for a mandate to create the Republic of Sri Lanka.

Sovereignty resides with the people and national sovereignty comes into existence only when the people in question resolve to form themselves into an association for establishing a given polity. The people of the North

and the East never formed an association for establishing a polity called Sri Lanka.

Another erroneous notion in the minds of many people in India is that the creation of two states will result in discord, clashes and wars. Such a fallacy does not stand to reason. When one gains the freedom to manage one's own affairs, one is at ease with one's neighbours and the environment in general; one finds it useful to cooperate with the environment wherever it is mutually advantageous to do so.

Nurturing these fallacies is really a ploy to mislead the Indian public and get them to blindly support New Delhi's Sri Lankan policy. India could easily get her small neighbours to support her line on matters of foreign policy by winning their goodwill instead of overawing them. The policy pursued by New Delhi allegedly in the interests of India's own security is really at the dictation of the USSR. The main objective of the policy is to distance the US from Sri Lanka; this serves not the interests of India but of the USSR.

When India first raised with the Sri Lanka Government the harshness of certain Emergency regulations aimed at the Tamils, it also brought up the question of the abandoned oil farms at Trincomalie and Sri Lanka's lease of land for the installation of the Voice of America – India's aim to distance Sri Lanka from the US was evident. The US has no imperialistic or expansionist aims; its guiding principle is only to contain communism, i.e. to ensure that no country becomes a victim of Communist infiltration and subversion. Its strategy to achieve this end, namely by pumping dollars by way of aid to corrupt Governments, may be wrong but the US cannot be itself accused of expansionist intentions. That will be clear to anyone who is prepared to take an unbiased view of matters.

If India were only looking after her own interests, the need to distance the US from Sri Lanka would not have arisen. It is the USSR which is interested in keeping as many small countries in the Third World as far away from the US as possible. The Tamil problem became a ready handle for India, USSR's agent, to throttle Sri Lanka and

make her reverse her foreign policy. It is for this reason that India was very keen to proclaim Sri Lanka's sovereignty over the North and East. If the Tamil districts had been part of Sri Lanka, India could have claimed to intervene on behalf of the Tamils. But since the Tamil districts are a separate polity, India has no excuse to intervene in Sri Lanka's affairs. Sri Lanka's *Mahavamsa* policy of securing the whole island for a Sinhala Government is an excuse for India to send her Armed Forces into the island.

India's double-faced policy is not seen through by the Sinhalese because of their deep hatred for the Tamils. If the Sinhalese were to leave the Tamils alone, India would have to leave Sri Lanka alone. So long as the Sinhalese are goaded by ambitions of imperialistic grandeur, of ruling over the Tamils, India will keep Sri Lanka within its clutches. A nation which has a homogeneous population has greater prospects of development and achieving greatness than a polity with more than one racial or linguistic group.

Viewed from another angle, a pure Sinhala polity, without Tamils, would be helpful in developing objectivity and realism in politics and contribute to an efficient government. A mixed polity readily lends itself to making an anti-Tamil cry the most effective instrument of harvesting votes. Political parties, instead of seeking support on the basis of their policies or the standard of performance, concentrate on racial slogans. An example is the propaganda of the ULF against the UNP Government of 1965 to 1970. In a house of 151, the UNP had only 66 seats while Mrs Bandaranaike and her allies held 55 seats. The UNP secured a working majority with the support of the Tamils and formed the government; this government was in office for its full term of five years. Dudley Senanayake's government over the five years witnessed a period of remarkable political stability. The same Finance Minister functioned over the five-year period. There was no serious labour unrest; the performance of the economy was good; inflation was under control. In foreign affairs the Government was able to follow a really non-aligned policy. An occasion arose when an unofficial sports delegation from Taiwan visited Ceylon and a similar unofficial delegation from

Ceylon visited Taiwan. The Chinese Embassy sent a rather rude note to the Ministry of Foreign Affairs but Dudley Senanayake stood firm and announced in the Parliament:

As far as we are concerned we want to be on the best of terms with China, USA, USSR and any other power. We will not be bullied or badgered by anyone (*Hanzard*, 27 August 1967).

Although political relations with China remained strained for quite some time after Dudley Senanayake formed the Government, they were able to renew trade pacts with China on quite satisfactory terms.

The five-year rule by the UNP under Dudley Senanayake was really creditable viewed from any angle. Nevertheless, the Opposition was able to poison the minds of the people on the score that the Government functioned with the support of the Tamils. The slogan that Dudley Senanayake had sold the country to the Tamils went home with the Sinhala voters who did not care to assess the policies of the two parties or their performance. In point of fact, although the Tamils supported the UNP Government, they did not accept portfolios, with the sole exception of the least important one of Local Authorities. Politicians and political parties are not judged on their merits but solely on the intensity of their racism. This can never make for a good government; nor does it allow the best talent to come to the fore in politics. If the polity is an exclusively Sinhala polity, i.e. Tamils are not part of the population, any politician will have to stand or fall on his merits or demerits; any political party will be judged by the soundness of its policies and the standard of its performance. The quality of the government of the Sinhala polity will be enormously enhanced if the Sinhalese leave the Tamils alone.

There is a false notion that if a separate state of Tamil Eeylom is created, there will be much animosity between the Sinhalese and the Tamils, that the relationship between the two States will be strained. The notion originates from the partition of British India into Hindustan and Pakistan: as already pointed out, the ill-feeling arose not as a result of the creation of two separate states but by the obstinate

opposition the Indian National Congress leadership (barring Rajaji) put up to allow Pakistan to emerge.

There is a Tamil proverb which says that the closer you are to another, the greater the enmity that is engendered. The human will carries within itself its own guiding principle. When two parties tend to come together, the freedom necessary to be guided by one's own will is interfered with. When the two parties are at a little distance from each other, the mutual helpfulness can be availed of without the freedom to be guided by one's own will being endangered. The whole concept of the European Economic Community and other regional groupings, the theory of federalism etc. stem from the same principle – a structural relationship which will permit mutual helpfulness without encroaching upon one's freedom to be guided by one's own will.

The Sinhalese and Tamils also can easily evolve a political structure in which they can be mutually helpful, free to think and act. A sovereign Tamil state is a pre-requisite for evolving a homogeneous political structure. Of course, that can happen only when the Sinhalese people are rescued from their *Mahavamsa* mentality, and exorcised of the Jayewardene cult of sovereignty and territorial integrity of the unitary state of Sri Lanka. Otherwise Sri Lanka has no alternative but to continue with the proud claim of national sovereignty founded on the presence of some 70,000 strong Indian Armed Forces within her borders and the subservient obligation to abide by the diktat of Prime Minister Rajiv Gandhi.

In conclusion it is worth recalling General Aung San's description of a nation:

A nation is a collective term applied to a people, irrespective of their ethnic origin, living in close contact with one another, having common interests, joys and sorrows together, for such historic periods as have acquired a sense of oneness. Though race, religion and language are important factors, it is only the traditional desire and the will to live in unity through weal and woe that binds a people together, that makes them a nation and this spirit of patriotism.

That is General Aung San's contribution to political thought. What will be the contribution of Prime Minister Rajiv Gandhi?

It can be stated with no fear of contradiction by anyone who takes a legal or constitutional or academic approach that no political structure in which the ethnically motivated Sinhalese are in a position to decide the fate of the Tamils can be considered to be a viable political solution. No political structure in which the racial majority can masquerade as a political majority can be regarded as a viable political solution.

It is worth recalling that just before the partition of British India, Jinnah offered a Confederal solution, but the Indian National Congress refused even to consider such a political structure. The constituent units of a confederation are free to manage their own affairs but come together on the basis of agreements on subjects in which they have a common interest. The authority at the Centre is not determined by majority voting; it gets constituted through treaties or agreements. The European Economic Community is in a sense a confederal political structure.

Thus, in respect of subjects like currency, external tariff, inter-state transport and communications, energy and other items, Eeylom and Sri Lanka can work out mutually advantageous working agreements, ruling out the possibility of strained inter-state relations.

But all such possibilities have been complicated by Rajiv Gandhi's controversial personal Accord with President Jayewardene to enforce a military solution on the Tamils. The Tamils have been subjected to the worst type of treatment. The terms of the Accord grant nothing that could be described as the substance of self-government. The Accord is fraught with more discord than accord and is really a subtle plan to effect the annihilation of the Tamils. Even if the Peace-Keeping Force ceases its war on the Tamils, there is no possibility of an orderly government or security for the Tamils.

Can the Tamil refugees return to their homes is a question that cannot be answered because of the extensive colonization of the Eastern and Northern Provinces with armed Sinhalese thugs. The so-called Provincial Councils cannot be established until all the refugees are rehabilitated. In a speech, Prime Minister Rajiv Gandhi said, 'Under

the agreement approximately one-third of Sri Lankan territory will be made into a single Province where the Tamils will have a clear majority.' But both President Jayewardene and Prime Minister Premadasa have made it clear that they will not allow the merger to take place. Apart from this, the war waged by the Peace-Keeping Force on the Tamils, the various conflicts that have arisen and the obstructionist attitude promised by President Jayewardene are not conducive to the functioning of the Provincial Councils.

There is very stiff opposition to the presence of the Indian Armed Forces on the island. The Sinhalese wanted the Peace-Keeping Force only to destroy the Tamil youths who were resisting Sinhala imperialism. Now that this has been achieved, they want the Indian Armed Forces to quit the island. They can easily manipulate a situation in which the Indian Armed Forces will have to quit in disgrace.

No Government will want to face an election with the Indian Armed Forces on the island. Although the destruction of the Tamil Tigers is a powerful election plank, holding an election without ejecting the Indian Armed Forces will be political suicide. Steps may be taken to hold a Referendum on this issue and force the Indian Army out of Ceylon. The position of the Tamils is pathetic: the Tigers, the only bulwark the Tamils had against the Sinhala Armed Forces going on the rampage, have been all but destroyed by the Indian Peace-Keeping Force.

A pragmatic approach is to make the Government of India set up a well-organized Interim Trust Administration to handle the question of resettlement and rehabilitation of the war-ravaged North and East. If India seeks merely to maintain what it calls a Peace-Keeping Force, it cannot get world opinion to go in its favour. If something positive, constructive and meaningfully relevant to the situation on the ground is undertaken, no one can object to the presence of the Indian Peace-Keeping Force on the island. The maintenance of an Armed Force for disarming the Tamil militants and inevitably inviting an armed response from them is a meaningless process.

The Indian Armed Forces have subdued the militants in

the two Tamil Provinces and restored essential services and a large measure of the administration. This act necessarily carries with it certain positive responsibilities. Today the Indian Government's role in the two Tamil Provinces, apart from being unprincipled and unjust, is purely negative. Resettlement, rehabilitation and repair of damages and restoration of orderly life is the crying need. Only a start has been made. The Government of India has not addressed its mind to this aspect. It is only talking of relief and redress to the families of its *jawans* who have been killed or wounded; it is completely oblivious of the sufferings and losses caused by its military adventurism against the Tamils. It is demanding cooperation at gun point to implement the Accord.

Cease-fire will be declared not only if the militants lay down arms, but must also undertake to work the Provincial Councils. In other words, the Government of India wants to hand over the Tamils to genocidal Sinhala imperialism. Every conqueror throughout history has assumed certain responsibilities of a positive and constructive character. India cannot evade the responsibilities of a conqueror. The task of rehabilitation is immense. Tens of thousands of families have been deprived of their belongings, their huts and homes, their means of livelihood. The maritime community has suffered the most; their boats were destroyed by the Indian Navy.

In the Eastern Province mass settlement of Sinhala armed thugs as colonists has made the environment most inimical for Tamil refugees to return to their villages.

The damage done is colossal: rehabilitation will be an immense task and will require vast funds. Sri Lankan tradition is to divert aid for less worthy purposes; tents provided by a foreign country to help the cyclone victims have found their way into Army camps. Since funds have to come from the West, from donors, it is but logical and natural for the mediator to invite at least some of those countries – without involving the superpower category – like Canada, Australia, Norway and New Zealand to participate in the Interim Trust Administration. With an Interim Trust Administration, Sri Lanka and the Sinhalese

can make no complaints; anti-Indian feelings will also evaporate. No viable political solution can be achieved without a change in attitude. Will India take a pragmatic view and act accordingly?

CHAPTER 4

THE GANDHI-JAYEWARDENE ACCORD: ITS NEGATIVE IMPLICATIONS

The Accord between Prime Minister Rajiv Gandhi and President Jayewardene was signed on 29 July 1987 at Galle Face Green in the city of Colombo. Galle Face Green is, or rather was, the most preferred venue for open air mass meetings held by political parties, trade unions and other such organizations. Formerly various parties used to hold meetings there but of late it is exclusively reserved for the governing political party. There is a long stretch of the sea west of the venue; in the east there is the main highway to the south; towards the tapering northern end stands the old Parliament building; a short distance away towards the north stands the Queen's House (former name), the residence of the representative of the British Raj, now occupied by the President. South of the venue stands the Galle Face Hotel in which the elitist foreigners used to stay.

The only provision in the Accord which is precise relates to the disarming of the Tamil militants, the Tigers. Every other provision is vague, obscure and inconclusive. The very name 'Tigers' has become a nightmare for the Sinhalese. The Sansoni Commission found that the idea of a youth organization among the Tamils took shape after the Sinhala police went on the rampage at a meeting held at the Jaffna Esplanade in connection with the World Tamil Conference.

The World Tamil Conference held a series of seminars at which distinguished scholars from various countries read research papers. The finale of this was an open air meeting which the Tamil public at large could attend. The police drove into this crowd and opened fire at the *ad hoc* electric installation. Eleven persons died as a result of electrocution. The crowd was baton-charged. Some persons got killed

in the stampede. The foreign dignitaries on the platform were taken to safety with much difficulty. It was this experience which made the youths, who were hitherto a ginger group in the Tamil Arasu Kadchi, ignore the politicians and set up a militant organization to achieve their ends.

The youth movement attracted a large number of followers in spite of the stern discipline, the rather hard living conditions, the risk to life and limb, the sacrifice of a future career, the separation from home and near and dear ones, and above all the risk of getting captured and tortured. There were splits among the militants and several splinter groups functioned professing the same objective, namely a sovereign Tamil state of Eeylom. In fact they worked in mutual cooperation on some occasions, particularly those stationed in the Vadamadachi district.

At the Thimpu Conference the various groups presented a united front: they walked out of the Conference with perfect unanimity. Some ideological differences appear to have surfaced thereafter with certain groups indicating their willingness to settle at levels much below their professed objectives. In fact, one group, which kidnapped an American couple, demanded a ransom of several millions to be given in Madras and the release of a Catholic priest, who, however, did not want to be released. This demand for money clearly revealed a serious lack of commitment to the professed objectives. The obvious demand they should have made was that the US should pressurize Sri Lanka to hold a plebiscite in the Northern and Eastern Provinces to decide whether they want to be an independent State or remain a part of Sri Lanka. The ransom demanded by that group discredited the whole movement, and indeed the Tamils as a nation.

Some of these militant groups had been indulging in serious crimes in Tamil Nadu but the law enforcement machinery of Tamil Nadu had not taken necessary action against them. It is significant that the groups which were involved in criminal acts in Tamil Nadu were the groups that indicated their willingness to settle much below their professed objectives. The two groups which really fought

against the Sri Lankan Army, the LTTE and the EROS, do not appear to have been involved in criminal acts in Tamil Nadu. Allegations have been freely made and press reports confirm that New Delhi has been setting up one group against the other:

Rajiv Gandhi had clearly spoken out against Tamil Eelam but more galling to the Tamils was the marginal support he extended to Colombo even as his government was playing off moderate Tamil groups against the militants and at times one militant group against the other. M.G. Ramachandran's commitment to the Liberation Tigers of Tamil Eelam balanced New Delhi's ill-concealed hostility to it (*Week*, 25-31 October 1987).

But M.G. Ramachandran himself was under the thumb of New Delhi and the funds collected in Tamil Nadu aggregating to a few crores were held back and not given to the militants until the eleventh hour when they could not really be used. Karunanidhi himself says:

Two years ago when I offered a part of the DMK collections from the public, LTTE did not react because the Tamil Nadu Government threatened that the Rs 3 crores collected by the government would not be given to them. I knew that and did not feel bitter (in an interview to the *Week*, 25-31 October 1987).

It is difficult to believe that Prime Minister Rajiv Gandhi and Chief Minister Ramachandran conducted themselves with such unconcern for the elementary proprieties of behaviour in the international context. When a group of people in one country have revolted, demanding a sovereign state of their own, on the grounds that the configuration in existence is determined by imperial powers and that they want to be left alone in their dry and barren homeland, another state, big or small, has the freedom to remain neutral or publicly declare its support for the rebels.

That the Government should intervene in such fund collections is highly improper; in addition, the Chief Minister of Tamil Nadu used their control over such funds as a lever to give expression to their animosity towards a rival political party, the DMK. The Tamil militants were told that if the funds gifted by the DMK leader were accepted, the Rs 3 crore collected under their auspices

would not be given. Thus forced, the Tamil militant group had to return or refuse to accept the gift made by the DMK. The funds that came under the control of the Tamil Nadu Chief Minister aggregated to about Rs 4 crore and were given only very late in 1987 so that the funds could not effectively be made use of.

India offered to be a mediator between the Tamil militants and the Sinhala government of Sri Lanka. After the Thimpu Conference, at which no agreement was reached, New Delhi proceeded to issue deportation orders on three persons associated with the militant groups. Two of them were lawyers; one lawyer actually represented one of the militant groups at the Thimpu Talks; the third was an adviser to one militant group. One of the persons to be deported actually left the country; another was deported to Britain because he was a British citizen; the third was put on a plane and sent to the US because he had a passport with a multiple entry visa to the US. He refused to get down from the plane on landing in the US. In the meantime, his wife filed a writ petition in the Court. The Government could not justify the issue of a deportation order because he had committed no offence against the law in India and was there on a valid visa; so he was allowed to remain in India.

Now, New Delhi wanted to get at the militant leaders themselves. One of them disappeared; the others were available. Since the militant leader who disappeared was the real militant, New Delhi did not or could not do anything significant against the others. About a month later the militant leader who really counted appeared in Madras. He was summoned to New Delhi; there he refused to talk on the subject on the plea that without his political adviser, he was unable to discuss anything. Then the Indian Government allowed the deported political adviser to be brought back to India.

The Thimpu Conference really broke up as the militants did not want to participate while the Sri Lankan Armed Forces were massacring Tamil civilians. Even as the Conference was in progress, information of a large-scale killing by the Sri Lankan Armed Forces reached the militants. Prime Minister Rajiv Gandhi has talked a number

of times of a cease-fire but he does not appear to have been specific. Had he conveyed to both parties that a cease-fire must obtain for the duration of the negotiations, surely the Government of Sri Lanka would not have ignored it. Sri Lankan authorities, it is reasonable to assume, were convinced that New Delhi was hostile to the Tamil militants and any breach of cease-fire by the Sinhala Armed Forces would be ignored by New Delhi. The deportation move clearly indicated New Delhi's hostility to the Tamil militants.

At the Thimpu Conference all the militant groups acted in unison when they walked out. It was only gradually that differences arose among the militant groups. It is not stretching a point too far to infer that New Delhi wanted to isolate the most committed militant group, the Tigers, in order to force them to surrender to President Jayewardene's terms. While Prime Minister Rajiv Gandhi's anxiety to be a successful mediator can be appreciated, it cannot be said that he kept in mind the stark fact that every action of his would have a serious impact on the image of India.

In relation to the Gandhi-Jayewardene Accord, this is what a former Indian High Commissioner wrote in the *Indian Express* of 4 August 1987:

Consultations, if that [sic], with the Tamils militants were rushed with no assurance of their complete and willing acceptance of the package, especially on the part of the LTTE. Indeed the strangest part of the whole exercise is that neither the Tamil militants nor even the moderate TULF has signed the Agreement. The Government of India has implicitly assumed total responsibility for their acceptance and implementation of the provisions requiring action on their part.

The mediator has become a key participant. . . .

Should the Indian Armed Forces be committed outside the nation's boundaries, except in the course of war, without explicit parliamentary or even formal cabinet approval?

According to one report, the Political Affairs Committee of the Cabinet met after Mr Gandhi's return from Colombo to ratify the agreement. It would be shocking if this were to imply that there was no cabinet approval as such before the agreement was signed. Ad hoc consultations with ministers or opposition leaders at different times, is no substitute for procedures that should necessarily be followed. . . .

The composition of this force [i.e., the Peace-Keeping Force] does not appear to have been clearly specified. In any event, a peace-keeping force or observer group, is something different from a force enjoined

with a positive duty to compel compliance on the part of unwilling or even hostile elements on either or both sides of the ethnic divide. The fact that the Indian contingent will be placed under the Supreme Commander of the Lanka Forces [President Jayewardene] could be misunderstood by the Tamils or even others.

The unholy haste with which the Accord was signed, with most matters being allowed to dangle under the description 'Residuaries', remained a mystery. A news item printed in bold type in the *Hindu* under the caption 'Pact halts Motion' on 7 August 1987 helped to clarify matters:

A Resolution condemning the Sri Lankan Government was halted at the last minute in the US House of Representatives.

The strongly worded resolution asked the Government of Sri Lanka to spare no efforts to stop altogether violations of human rights of Tamil civilians by Government forces and establish a central registry listing the names of all detainees in order to account for missing persons.

The Resolution's principal author, Mr Mervyn M. Dymally, Democratic Congressman from California, withdrew it when the news reached Capitol Hill that an agreement had been reached by the Prime Minister, Mr Rajiv Gandhi and the Sri Lankan President, Mr J.R. Jayewardene.

The resolution, which had strong bi-partisan support in the House of Representatives and many congressmen had offered to co-sponsor it, had sought to 'condemn unequivocally' acts of terrorism directed against civilians by 'all parties'. Its passage and also the approval of a similarly worded resolution in the Senate were a foregone conclusion.

One can now understand why the Accord was signed in such haste and how keen Prime Minister Rajiv Gandhi was to shield his friend and the Sinhala Government of President Jayewardene from public criticism and exposure.

As mentioned earlier, the only provision in the Accord which is precise and of significance is the one relating to the disarming of the militants. From the day the Republic of Sri Lanka was created in 1972 without the participation of the main group of elected Tamil representatives, the Sri Lankan Government had faced what it calls 'terrorism' from Tamil youths. Over fifteen years this 'terrorism' has grown in dimension and has drained off the resources of the Sinhala Government of Sri Lanka despite all support from the Aid Sri Lanka Consortium countries, and supply of materials and influx of mercenaries from Israel, South Africa, China, Pakistan, South Korea, the US and the UK. President Jayewardene has only been losing ground and has never made any headway against the militant Tamils.

At the SAARC meeting at Bangalore in November 1986,

Pirabhakaran was summoned and told by the Government of India that President Jayewardene had lost all patience and that unless a settlement was reached soon, he would unleash his armed forces in a final and decisive bid to crush the militants. This would mean immense loss to the civilian population and India could do nothing about it. The Seventh Fleet would also move in. The editorial of the *Hindu* of 25 April 1987 is illuminating:

The message was conveyed to the LTTE chief, Mr V. Pirabhakaran, in Bangalore and elsewhere in late 1986 that the Jayewardene Government had virtually threatened to kill thousands of Tamil civilians in pursuit of a military solution, unless a quick political settlement could be worked out and that India, given its policy perspective, would not be able to do anything about this. It was also suggested that the Seventh Fleet might enter the picture if a quick deal was not struck, and that the Government of India would be helpless in the face of this development.

The suggestion that the Seventh Fleet might move in was clearly a bogey and was conspired jointly by President Jayewardene and top decision-makers in New Delhi or perhaps exclusively by New Delhi. When this threat failed to get Pirabhakaran to respond in the manner desired by President Jayewardene, a new strategy appears to have been contrived by New Delhi and Colombo.

There has been close understanding between Prime Minister Rajiv Gandhi and President Jayewardene for a pretty long time. On the other hand, Indira Gandhi (according to the TULF leader, Amrithalingam) had told the TULF leader not to confine themselves to India and to canvass the case of the Tamils in various foreign countries, particularly in the West. Clearly, Indira Gandhi wanted world opinion to influence the parties to the dispute and to allow the political solution to be shaped by world opinion. But Mr Rajiv Gandhi, in a volte-face, has been at great pains to suppress world opinion that would be adverse to Sri Lanka. The following quote from the *Week* is apposite:

The Tamil groups thought India would intervene militarily to check the drift to disaster.

What followed was something else. India began soft-peddalling the

Tamil cause. Foreign Secretary Romesh Bhandari was most acceptable to Colombo while Indira Gandhi's special envoy, G. Parthasarathy, was anathema. Bhandari rushed to Colombo in March, 1985 to reassure Jayewardene that with Indira Gandhi ended India's old Sri Lanka policy. India had begun equating Sri Lanka State terror against the Tamils with the defensive violence of the guerillas and would not admit that it was a genocide of the Tamils.

The screw began tightening on the Tamil groups in Madras . . . (25-31 October 1987).

A highly respected journalist, the late G.K. Reddy, who was reputed to move very close to decision-making seats in New Delhi wrote thus:

There has undoubtedly been a change in India's Sri Lanka policy, but the officials concerned here maintain that it is a change for the better. . . .

There is a section of opinion in Delhi which feels that with all its rigidities and limitations, the Sri Lankan President, Mr J.R. Jayewardene is the best bet at present; he has the power and prestige to sign and implement an agreement.

Prime Minister Rajiv Gandhi has made India's Sri Lankan policy a highly personalized affair. It became an affair between Prime Minister Rajiv Gandhi and President Jayewardene ostensibly on the grounds that President Jayewardene was the best person to sign and implement an agreement.

A corollary of this personalized approach was the need to change horses mid-stream, both at the official level and the Deputy Ministerial level. G. Parthasarathy, considered to be a very capable civil servant and who was *au fait* with all aspects of the Government of India's Sri Lankan policy, was initially kept at a distance and later replaced by Romesh Bhandari, whose pro-Sinhala and anti-Tamil attitude was distinctly visible at the Thimpu Conference. In fact it is stated that he used unparliamentary language to a senior lawyer, who represented one of the militant groups, and had to withdraw it later. The moves to issue deportation orders are traceable to Romesh Bhandari.

At the junior ministerial level, first Khurshid Alam Khan had to move out. Later, Bali Ram Bhagat was sacked for his 'elements of genocide' remark in relation to the killings of Tamils by the armed forces of the Sinhala Government

of Sri Lanka. In fact, the removal of Bhagat from the ministerial position was announced with much glee in the media in Sri Lanka. But a perusal of the *Hanzard* record of his statement and replies leads one to conclude that Bhagat maintained much restraint and objectivity and weighed his words carefully when conveying his ideas.

Media persons and columnists in India have often observed that India's Sri Lankan policy suffered from ad-hocism, casualness, incoherence and inconsistency and have sought to ascribe such shortcomings to the frequent changes in personnel at official and the junior ministerial levels. But the truth is quite the opposite. It is the inability of different officials and junior ministers to grasp, to understand, to appreciate and to attune themselves to the nuances, overtones and undertones that were inextricably involved in the Sri Lankan policy fashioned by Prime Minister Rajiv Gandhi, after he rendered the earlier Sri Lankan policy of Mrs Indira Gandhi's Government, a mere matter of ancient history.

Prime Minister Rajiv Gandhi's Sri Lankan policy was and is very steady, consistent and purposeful; it is of course quite different from and diametrically opposed to the Sri Lankan policy of Mrs Indira Gandhi. It is highly personalized – an affair just between President Jayewardene and Prime Minister Rajiv Gandhi. The failure of officials and junior ministers to adapt themselves to the changed policy was what led to the frequent changes of personnel in officialdom and junior ministerial levels.

What exactly Prime Minister Indira Gandhi visualized as the political solution to which the parties should be pressurized is not known, but she definitely sympathized with the sufferings of the Tamils. She studiously avoided making any commitments as to what India would or would not do, since to keep the parties in a state of suspense was the most effective way of compelling the parties themselves to reach a settlement. Prime Minister Rajiv Gandhi's thinking ran along quite different lines. He must have probably thought thus: 'These Tamils are a tiny lot; supporting them will not result in any tangible return; the Sinhalese efforts to crush the Tamil Tigers are

nowhere near success. If the Sinhalese are helped to succeed there could be tangible returns since they constitute a State. Further the Sinhalese are represented by one individual – President Jayewardene and he counts internationally.’

Prime Minister Rajiv Gandhi’s policy is distinctively averse to the Tamils with ill-concealed hostility to Pirabhakaran, solely because he insists on *swaraj* for the Tamils, while other groups can be bludgeoned into accepting a mirage of a homeland, a merger of the North and the East which would be undone by a referendum. The Tamils are a tiny lot and their resentment at being crushed is of no consequence. It is however necessary to put up a public posture of solicitude for the interests of the Tamils and their aspirations, although in reality Rajiv Gandhi’s policy is in perfect harmony with the objectives of President Jayewardene. There is *animus ad idem* in the fullest sense of the term between President Jayewardene and Prime Minister Rajiv Gandhi on the question of disposing of the Tamils on the island.

The island was never a single polity. The observation of the first British official in June 1799 clearly stated that the possession of the island was divided between two nations, the Sinhalese and the Tamils, and a map showing the division was prepared for the information of the Colonial Office. The Portuguese, the Dutch and the British till 1833 maintained separate administrative organizations for the Sinhala and Tamil territories.

In 1833, the whole island was brought under a single administrative unit. At every stage of constitutional advance, the Tamils demanded safeguards against domination by the Sinhala ethnic majority. Ultimately when a responsible Government was restored in 1947, a clause was inserted in the Constitution which denied the Parliament capacity to enact laws discriminatory, in favour of or adverse to any one community. This was agreed to jointly by the British and the Sinhalese. The insertion of that clause was not for the Tamils; it was not the result of any agreement between the Sinhalese and the Tamils. Just like the Gandhi-Jayewardene Accord, it was an Accord between the Sinhala majority and the departing British without any

understanding being reached with the Tamils.

It was later discovered that this clause had far-reaching implications. It rendered the polity a conditional polity: the Sinhalese and the Tamils came into the polity on the condition that the ethnic Sinhala majority would not discriminate against the Tamils; if there was discrimination the Tamils had the option to quit the polity and form their own state. The clause was an entrenched clause, i.e. the Parliament cannot repeal or amend it.

The Parliament was not a sovereign Parliament. In this context, the enactment of the Sinhala Only Act could be declared *ultra vires* by an appropriate Court. In fact there was already a case before the Privy Council challenging the validity of the Sinhala Only Act. Therefore, it became necessary to protect the Sinhala Only Act by hook or by crook. The strategy the Sinhala politicians adopted was to discard the Dominion Constitution in its entirety and create a brand new Republic with a new name. With this end in view, they called, at the General Elections of 1970, for a mandate from the people to constitute a Republic of Sri Lanka and give unto it a Constitution. The mandate was given by the seven Sinhala Provinces but not by the two Tamil Provinces in the North and the East. The Republic of Sri Lanka, constituted without a mandate from the people of the North and the East, cannot encompass the two Provinces. Further, the elected members of the main political party operating in the North and East did not participate in the Constitution-making process. A fraudulent intent underlies the creation of the Republic: the Constitution of the Republic of Sri Lanka is not legally valid in the Northern and Eastern Provinces. Thus, the revolting militants were fighting against an unlawful aggressor.

But Prime Minister Rajiv Gandhi will not hear anything suggestive of an unlawful entity in respect of Sri Lanka. In respect of Fujii, he draws attention to the nature of the Fujian Constitution and insists that it should be respected. But he would not hear of the legal infirmities or the fraud underlying the Sri Lankan Constitution. For reasons of geo-political strategy, he wants the fiction of a single polity of Sri Lanka with national sovereignty and territorial

integrity embracing the whole island. He can throttle Sri Lanka by making use of the Tamils and their revolt if only he proclaims that Sri Lanka is one sovereign, integrated, political unit. In order to overawe Sinhala Sri Lanka he has got to maintain the fiction of an integrated Sri Lanka within which Tamils are a discontented subjugated lot.

If Eeylom is separate, he has no excuse to poke his head into Sinhala Sri Lanka. That is the rationale of India's stance. Solely out of deference and regard to India's interests, the Tamils and the militants were agreeable to the fiction of a sovereign Sri Lanka, especially as Prime Minister Rajiv Gandhi assured autonomy for a merger of the North and East, the homeland of the Tamils.

Let the Sinhalese enjoy the fiction of sovereignty and territorial integrity; we will have the substance of self-government. It was on such an assumption that the Tamils agreed to blunder along with India on a totally unacceptable legal fiction. It is obvious, now, that the relationship must be guaranteed by India; the safety and security of the people of Eeylom should be assured by the presence of the Indian Armed Forces.

But unfortunately it does not appear that Rajiv Gandhi's Government is sincere about the merger of the two Provinces. The two Provinces form the homeland of the Tamils, and every Tamil, militant or non-militant, man or woman, child or elder are all of one mind in regard to the preservation of the homeland. No group of people having a distinct entity and anxious to preserve that entity can ensure self-preservation unless there is a geographical focus. This homeland concept is recognized in various states in India. When President Zail Singh was invited by the Chief Minister of Jammu and Kashmir to settle down in Kashmir after retirement, the former pointed out that under the law of the land he could not own immovable property in Kashmir. Is a more telling proof of the importance of preserving the homeland necessary? In Nagaland only the indigenous people have the vote. The cut-off date for citizenship, implying voting rights, has been the crux of controversy in respect of Assam. All these are restrictions against the inflow of outsiders.

However, in the Northern and Eastern Provinces the homeland is violated by mass colonization schemes carried out by the state under which Sinhalese selected on the basis of their criminal record and those selected by politicians for their racist and chauvinistic outlook are settled in the midst of Tamil villages with the obvious object of annihilating the Tamils. It is impossible for Tamils to continue to live in their villages when these Sinhalese are settled in the neighbourhood by the state. Such colonists are really persons prematurely released from jail. The aim is to alter the demographic pattern as well as to make it impossible for the Tamils to live in their homes.

Surely, those who drafted the Accord should have thought of a cut-off date. The obvious date is 1948, the date of independence. Who will vote in the referendum to be held at the date decided upon by President Jayewardene is vague and undefined. Any number of Sinhalese could be inducted and the referendum made to deprive the Tamils of their homeland. India does not agree to a referendum in Kashmir on the grounds that traditional territories are not to change hands on the basis of plebiscite which would be influenced by extraneous forces. But on the question of merger of the Eastern Province, the Accord signed by Rajiv Gandhi, of his own volition, makes the decision to be determined by future colonization of the territory by Sinhalese of dubious extraction, for the special purpose of colonizing the traditional homeland of the Tamils.

Prime Minister Rajiv Gandhi's failure to get the subjects to be allotted to the Provincial Councils specified before the Accord was signed is another serious mistake. According to an editorial in the *Hindu*:

The attitude of the Sri Lankan Government towards the devolution package supposed to be settled with India has been distinctly unhelpful; the substance of the package is known to be not up to India's expectations and falls considerably short of what even the Tamil moderates, the TULF leaders want (12 October 1987).

The other party to the Accord is not sincere. President Jayewardene had said over the radio that Sinhala Armed Forces would be there to protect the Sinhala colonists and

that the Indian Forces would not go there. If the Indian Peace-Keeping Force is responsible for the safety of the people of all communities and the Sinhala Armed Forces are to withdraw to the barracks, as stated in the Accord, this instruction to the Sinhala Armed Forces to protect the Sinhalese breaks the backbone of the Accord. Again, President Jayewardene has stated that the merger would not last and that he would himself canvass at the Referendum to vote against the continuance of the merger. But Rajiv Gandhi wants to persist with the Accord.

Prime Minister Rajiv Gandhi's *bona fides* are dubious for the following reasons:

- At a very early stage, while playing the role of a mediator, he had given clear signals to one party to the dispute that he was disposed to favour that party.
- He had studiously excluded consideration of the legal and constitutional infirmities of the Sri Lankan Republic to encompass the Northern and Eastern Provinces while in respect of the ethnic conflict in Fiji he drew pointed attention to the nature of the Constitution.
- He avoided the Directive Principles laid down by Article 51 of the Indian Constitution which enjoins the Government of India to endeavour to refer the dispute to arbitration.
- Although the Aid Sri Lanka Consortium countries were keen that the ethnic conflict should be resolved (some of them even suspended aid to Sri Lanka because of the violation of the human rights of Tamils), Rajiv Gandhi did not want any other country to interfere in the mediation. The presence of another country in the picture would have prevented Sri Lanka from denigrating India.
- A mediator's function is to try to bring about an agreement between the parties to the dispute. However, this Accord was not agreed to or confirmed by the Tamil groups.
- The provisions in the Accord, except for disarming the militants, are vague and give rise to greater discord.
- The urgency in signing the Accord has an ulterior motive – to shield the Sri Lankan Government from adverse criticisms in the US Congress the Congress

Resolution condemning the Sri Lankan Government for Human Rights violations was due to be discussed on 4 August. This Accord was intended to and did pre-empt the discussion.

- The Accord being signed at Galle Face Green reveals an interest in conferring advantages on particular political parties in Sri Lanka's internal politics.
- Relegating vital issues to the category of Residuaries gives rise to greater discord and confirms the ulterior motive.
- The size of the Armed Forces transported to the Northern parts of Sri Lanka is far in excess of those needed for peace-keeping functions.

Rajiv Gandhi has done a number of things in this connection which indicate that as a mediator he has gone out of the way to help Jayewardene and his Government. The highly publicized argument that the Accord enhances the security of the region and India's own security is an untenable exaggeration. Various countries like Israel, South Africa, China, Pakistan, South Korea and others never entered into an agreement or cultivated any friendship with Sri Lanka – much less acted to the detriment of India. They were only selling materials, equipment and weapons for hard cash and in most cases the items sold were really obsolete and not of much value in a serious war between two countries. The accusations against USA were unwarranted.

What is the quid pro quo expected by Prime Minister Rajiv Gandhi in helping the party to the dispute actually in the wrong and, in the process, spending some fifteen to twenty million rupees a day on the war against the Tamils, without making any tangible advance? India's role as a mediator is full of contradictions and mystery and remains inexplicable.

The scheme of organizing the polity on the basis of a Parliament and Cabinet at the Centre, and Provincial Councils with their Board of Ministers and a Governor appointed by the Centre is a mutilated structure of federalism. Federalism is built around the principle of sharing functions and powers between the Centre and the constituent States by mutual agreement. The specific

functions are determined by a consideration of the suitability of the Centre and the State to perform them. Thus, defence, currency and banking, external tariff, inter-state transport, energy, foreign relations and such matters are automatically assigned to the Centre. Most of the functions of the State devolve on the constituent units. This sharing of power is laid down in the Constitution; it is not an issue giving rise to conflicts between the Centre and the State.

The whole idea of Provincial Councils being set up to resolve ethnic conflicts has of late taken on the flavour of fundamentalism. India is imposing on Sri Lanka its own model made worse by President Jayewardene's constraints. In India the Centre-State relationship is subject to the canker of a provision which enables the Centre to suspend the State Government and impose President's rule. This provision was introduced at the end of the sessions of the Constituent Assembly and was stoutly resisted by certain delegates, particularly those from Punjab. That unfortunate State has experienced the imposition of President's Rule seven times. On the last occasion, Punjab was subjected to the imposition of President's Rule for – it is freely stated and depicted in cartoons – winning the elections in Haryana for the party in power at the Centre. But the voters of Haryana did not oblige.

When Party X is in power at the Centre and Party Y in the State, the Centre engages in 'toppling operations'. The Centre-State relations in India have never been of much quality. In Sri Lanka it would be still worse. The Provincial Council structure is only calculated to create more discord.

The Galle Face Green Accord which, in the final analysis, is only an accord between two individuals, notwithstanding the high political positions they hold, has created more violence and discord than it sought to remedy. In the North and the East, the Peace-Keeping Force is waging a ruthless war against the Tamils. What they are fighting for is still a mystery. In the South and the West, which were earlier quite normal, there is serious violence aimed at the leadership of the governing party. The President of the UNP himself has been killed.

President Jayewardene says that he has implemented the Accord legislatively. The legislation related to matters which were left over as Residuaries when the Accord was signed. The legislation was finalized without the Government of India being shown the draft. Even the TULF, which has lost all credibility among the Tamils because of its servility to President Jayewardene, is thoroughly dissatisfied with how the Residuaries were finalized.

On the side of the Sinhalese, there is no one to pursue the implementation of the Accord. The senior Cabinet Minister in charge of Finance in President Jayewardene's Cabinet has unequivocally demanded that General Elections be held to replace the obsolete Parliament. Other senior members of the Cabinet are keen that the proscribed JVP, which is thought to be behind the violence in the South should be made a legitimate Party. Both the demands cannot be evaded any longer by President Jayewardene. The legal position and democratic rights can no longer be suppressed or evaded by means of armed might or Machiavellian accords.

The General Elections will have to be held in the Sinhala Provinces with JVP being made a legitimate party. Of course, no elections can be held in the North and the East with some 200,000 refugees out of the island. Further, the Sri Lanka Republic has no legitimate right over the North and the East. The Government of India, with its Accord aborted, has no alternative but to tell Sri Lanka to hold a Referendum in the North and the East to validate the Republican Constitution since the people of the North and the East had earlier refused to grant the mandate sought for creating the Sri Lankan Republic. Further mediation should depend on the outcome of such a Referendum in the North and the East.

CHAPTER 5

MARXIST CONTRIBUTION TO THE TRAVAILS OF THE TAMILS

If in any non-Communist country, a Marxist Party offers to support or espouses the cause of an aggrieved group, it does *not* do so to help the aggrieved group to secure relief or remedy but solely to make use of the aggrieved party's platform. It uses the grievances to strengthen its own popularity and make use of the aggrieved party in effecting a breakdown of the Governmental machinery and functioning.

The opportunity to seize power comes when a complete breakdown of the Governmental machinery and community life is achieved through a general strike or similar upheaval. A general strike in which a number of trade unions are involved is a classical method of bringing about a complete breakdown of the State machinery. Invariably, armed support is obtained from a foreign Marxist State. The Armed Forces may be pressurized to change their loyalty. But trade unions are the most preferred cat's paw to be utilized because a strike also paralyses the economy and chaos is easily created.

Of course, when the Marxist group achieves power the trade unions are told to keep their mouths shut. Numerous cartoons appeared in the media in Ceylon when Dr N.M. Perera, the champion of trade unions – while in the Opposition – rejected outright all these demands when he became Finance Minister in the ULF Government in 1970. This is the standard pattern of behaviour of Marxists before and after seizing power. In political terminology democratic parties secure or capture power at an election; Marxist parties seize power through a coup d'état. The words 'capturing power' are within the rules of the game. A

bowler captures a specified number of wickets, but in the process he concedes so many runs. That is perfectly permissible. But we do not speak of a bowler seizing so many wickets for so many runs.

The Marxists never miss an opportunity of espousing the cause of an aggrieved party for their own benefit. In the process they make sure that the aggrieved party does not have a dialogue with the employer or the authorities, lest in the course of such dialogue or negotiations some of the glaring grievances be remedied. When some such relief is obtained the aggrieved party will not be available to the Marxist group when they plan the assault on the State machinery through a general strike or some such upheaval. They are also keen that the problem facing the aggrieved party is not analysed or dissected. If such studies are undertaken, the elements that require to be remedied will come to the surface and the authorities or employers might proceed to remedy such grievances. The Marxists want only the demands to be publicized, not the details of the problem and they also see to it that the demands are placed at an impossible level so that the grievance remains without relief.

If there is an existing trade union and the leadership of the union is not likely to toe the line of the Marxists, the aim of the Marxists is to erode the support for the union and build up a separate union of their own. They felt, like the chauvinistic Sinhala politicians, that the Plantation Tamils should be the first target, but for a different purpose. The Sinhala politicians wanted that the Plantation Tamils should be the first target in their aim to create a Sinhala Only polity by depriving them of their franchise. The Marxists also thought that the Plantation Tamils should be utilized for a general strike leading to a seizure of power.

Plantation Tamils formed the core of labour that produced tea, a large source of national income and foreign exchange. Hence in the early thirties, the Marxist forces sought to gain control over the Labour unions in the Plantations. But K.R. Natesa Iyer who led the Plantation Tamils was not going to be taken in by the Marxists. He had a thorough grasp of the problems faced by the Plantation

Tamils and was keen to get their grievances redressed. The Marxists could make no headway in enticing the Plantation labourers away from Natesa Iyer. (Natesa Iyer's publication *The Burning Question* is one of the earliest to bring out the problems of the Plantation Tamils from their standpoint.)

It was at this juncture that Mark Anthony Lister Bracegirdle came into the picture and gave some aid to boost the Marxist organization of the LSSP. Bracegirdle, an Englishman who had migrated to Australia, came to Ceylon and was employed on the tea estates. He was a Communist and readily appeared on the platforms of the LSSP in the plantation areas. The fact that he was one of the employers and his white skin tended to attract much publicity for the LSSP efforts to bring the plantation labourers into their fold. The Government initiated proceedings to deport him but was foiled on legal grounds on a writ application made by the LSSP group.

It gave a lot of popularity to the LSSP in politics but eventually Bracegirdle left the island and the LSSP could make no impact on the Plantation Tamils. But after Natesa Iyer, the leadership of the Plantation Tamils came into the hands of men with limited calibre and a poor grasp of politics. The entire Ceylon Indian Congress became camp followers of the two Marxist parties. At the 1947 General Elections, the Plantation Tamils' voting strength was at peak level. They were able to return seven candidates from the Ceylon Indian Congress. In more than fifteen other electorates the votes were of such numbers that they could be the decisive factor. However, under the direction of the Ceylon Indian Congress all such votes went to the Marxists and their allies.

This behaviour of the Ceylon Indian Congress requires some serious thought. They ought to have taken note of the actual facts. At the time the Donoughmore Constitution was debated and enacted, the colonial authorities, at the instance of the Sinhalese and in spite of the objections of the Government of India, introduced rather restrictive domicile requirements and thereby decreased the voting strength of the Plantation Tamils. In 1939, a scheme of

deportation of daily-paid Indian Tamil employees in the public sector was effected in spite of Nehru's visit. In November 1940 and again in 1941, the Ceylon Government had raised with the Government of India at special Conferences, the question of restricting the franchise rights of the Plantation Tamils. Knowing fully well that theirs was a delicate problem, should they not have acted with caution?

The Executive Committee of the Ceylon Indian Congress included owners of tea estates and capitalist businessmen. They were definitely not Marxists and had no plan to bring about a Marxist revolution. The Marxist leaders had no sympathy with the Plantation Tamils; they had nothing but contempt for the Tamils. A Marxist-Sinhalese married a Tamil Marxist of high repute but she refused to take her husband's name. The husband was really sent to Madras to work among the trade unions. When in 1939 the Sinhala Only Ministers brought in a Resolution to discontinue and deport the Indian labourers on daily pay in the public sector, the Marxist members supported the move. Whenever issues affecting the interests of the Plantation Tamils came up in the Courts, their interests were watched by such top Tamil lawyers as Nadesan, Ponnambalam, Barr Kumarakulasinghe and others and not by the Marxist lawyers. Did the Ceylon Indian Congress reach an understanding with the Marxist groups in regard to the interests of the Plantation Tamils?

The question will have to be looked at from another angle. These Marxists were all men of calibre; they were almost all Sinhalese. As individuals, they were respected in their professions. They did not suffer in politics from racial or linguistic barriers. The Sinhala Marxist politicians were very careful not to mention that according to their doctrine, religion was the opium of the masses. In fact, many of them showed up on religious occasions in white garb and with a tray of flowers. They were not handicapped by the Marxist creed towards religion. In fact, many *bhikkus* in robes were associated with them.

In spite of all this, they never enjoyed support at the national level. They had support in particular geographical

pockets by reason of caste or some special considerations. The Sinhala nation at large did not extend support to them because of their alien creed and their scheme of cadre-raj. On one occasion Dr N.M. Perera bemoaned that in Ceylon elections had come to stay. Plenty of Tamils today are applying for citizenship in European countries and the US. If they exhibit themselves as Marxists and apply in a body running to several lakhs what would be the response of the Governments and the people of those countries? While your citizenship status is undecided, you exhibit yourself as having eternal allegiance to a political creed which does not find approval in the mainstream of the nation's political thinking. The result is not difficult to visualize.

Today, Thondaman of the Ceylon Indian Congress (now Ceylon Workers' Congress) has sworn eternal allegiance to President Jayewardene and his party. President Jayewardene is the most reactionary capitalist politician opposed to the interests of the working class and the downtrodden. His racism need not be mentioned. Recently Thondaman stated that he could have become a Minister in 1948 had he so desired. In 1948 D.S. Senanayake was the Prime Minister. With all his faults, Senanayake had one virtue: he kept his word and would not resort to prevarications. The Ceylon Indian Congress, on the other hand, had a harebrained leadership, guided solely by the Marxists or other Machiavellians.

It was the Marxists who induced the Ceylon Indian Congress to boycott the Act for Registered Citizenship. They wanted to preserve the state of discontent till such time as they could make use of the Plantation Tamil labour for a general strike which would paralyse the state machinery and the economy and enable them to seize power. This boycott resulted in only 134,000 out of some 875,0000 persons involved securing citizenship.

Most of those who secured citizenship were outside the grip of the Ceylon Indian Congress; they did not respond to the call for boycott made by it. Throughout the period of nearly four-and-a-half years when the Ceylon Indian Congress Members of Parliament functioned, they followed

the dictates of the Marxist groups. It was only later that Thondaman decided to fall at the feet of J. R. Jayewardene.

THE MARXIST FACTOR IN THE EEYLOM TAMILS' PRESENT CONDITION

Ceylon got Universal Adult Franchise in 1931. In the intervening period of nearly half-a-century, no Marxist was returned to the Legislature/Parliament either from the Northern Province or the Eastern Province at any general election or by-election, with the sole exception of P. Kandiah, a Communist who was elected in 1956 from the Udupiddy seat (after the second or third attempt). This was after an *ad misericordiam* was made by his wife to the effect that if her husband was not elected at least on that occasion, he might die; he did, in fact, die before the end of the term of that Parliament. Tamils are so individualistic that Marxism makes no appeal to them except marginally. It is this rather strong individualism that has led to the Tamil militant groups being so numerous.

A proof of the predisposition in the national character of a people to develop Marxist leanings is the responsiveness they evince to the Cooperative Movement. A people who readily take to cooperation have a strong democratic fervour and are not inclined to accept Marxist regimentation. The Cooperative Movement in Ceylon was most successful in the Northern and Eastern Provinces. The Department of the Registrar of Cooperative Societies recognized this fact, apart from observations in the text of the Annual Reports. In the statistical tables Jaffna used to stand at the top of the table followed by Colombo, the metropolis, and Batticala in the East. Till 1957, when a particularly racist Minister took charge of Cooperation, Jaffna was at the top of the statistical tables.

Governor McCallum took the initiative, in the first decade of the twentieth century, to organize the Cooperative Movement in Ceylon. He appointed a Committee consisting of senior officials and some prominent public men to inquire into and report on the possibilities of organizing such a movement. The Committee found that it could do no better than make use of the Constitution, Regulations

and by-laws of a Cooperative Society already in existence at Dumnara in the Central Hills as a model for the proposed legislation. This Cooperative Society was functioning for the benefit of the mat-weavers of the area who were all Sinhalese, but the persons who organized the Society and guided it were two Tamils (Rajanaygam and Hensman) who happened to be stationed at Kandy for some length of time in Government service.

In recent times, the Government has seriously mutilated the Cooperative Movement with the result that it is no longer a people's organization; it has become an agency of the Government in power. Nevertheless the Cooperative Societies in the North and the East do function with vigour although the opportunities, scope and facilities afforded to them are rather limited.

Sinhala imperialism rendered the Tamils a group with serious grievances thirsting to revolt. At such a juncture it was inevitable that the Marxists would interfere. Some Marxists have penetrated into the militant movements and function as advisers. Their influence is only skin-deep but this is more than enough to ruin the Tamils! Consider the following names:

- Tamil United Liberation Front (TULF)
- Tamil Eeylom Liberation Front (TELF)
- Tamil Eeylom Liberation Organization (TELO)
- Eeylom's People's Revolutionary Liberation Front (EPRLF)
- People's Liberation Organization of Tamil (Eeylom) (PLOT(E))
- Liberation Tigers of Tamil Eeylom (LTTE)

There are still others and all of them use either the word 'Revolution' or 'Liberation' reflecting Marxist influence. But they have no clear-cut ideological base. They really want *swaraj* – the right to manage their own affairs and be the architect of their own future; but the two words, 'Revolution' and 'Liberation', have a powerful appeal for them.

The Marxists hit upon the word 'Liberation' for a subtle reason. Any group with a serious grievance can be persuaded to believe that their sufferings are due to someone having

chained them and holding them in bondage. The poorly paid employee, the peasant unable to get a good price for his produce, all could be made to believe that someone else was the source of their misery.

The strategy of the Marxists is to seize power by overthrowing the existing Government, maybe through a coup following a major general strike which paralyses the Governmental machinery and disrupts the economy. Whatever strategy is used, it is necessary to bring the masses into a fighting mood and make them believe that 'freedom' and bliss are round the corner. The use of the word 'Liberation' is exceptionally appropriate from the standpoint of the Marxists. They are not interested in redress or remedy for the grievances; they are only interested in mobilizing all the discontented groups to facilitate their plan of overthrowing the existing Government and setting up their own cadre-raj in an entirely different political and economic set-up. They see to it that demands are made at levels which are impossible to meet. The language problem of the Tamils – really created by the Marxists – is an example.

When Sir John Kotelawala ousted Dudley Senanayake from the Prime Ministership after the *hartal* of 1953, a situation pregnant with tremendous potentialities presented itself. Kotelawala was the ideal reactionary whom the Marxists would wish to be in the seat of power since he would commit mistakes and pursue stupid policies which would take the discontent to a climax. The ranks of the Tamil politicians were already badly split consequent on Chelvanayakam making a big issue of the citizenship of the Plantation Tamils after Jawaharlal Nehru was holding discussions with the Sinhala Government on this subject.

Kotelawala began with the same Cabinet that functioned under Dudley Senanayake and this included Ponnambalam, the leader of the Tamil Congress. Although Kotelawala personally invited Ponnambalam to join his Cabinet, he was persuaded very easily to dismiss the latter on the score that he was taking all the industries to the Tamil districts. This is a diabolical lie.

There were no industries to speak of. Before Ponnambalam

took over the Ministry with blueprints and plans from foreign experts for production in the cement and paper factories, nobody in the country had thought that there was a scope for heavy industries in Ceylon. In the days of the State Council with the Sinhala Only Board of Ministers, Industry was only one part of a portfolio. When the Soulbury set-up took shape, the portfolio of Industries was allotted to someone who was really despised by the 'inner Cabinet'. Before Ponnambalam, none of the Sinhala politicians were willing to take the portfolio for Industries. But when he showed the potential for setting up heavy industries in the public sector, the portfolio of Industries attracted the heavyweights among Sinhala politicians. When Ponnambalam was dismissed, the other members of the Tamil Congress remained with Kotelawala's Government, along with some independent Tamil members.

Dr N.M. Perera, the leader of the LSSP, recognized this as an ideal opportunity to create trouble. On the occasion of the Queen's visit, an address on the behalf of the people was read out in English and Sinhala only; Tamil was ignored. Dr Perera introduced a private member's motion in Parliament seeking to have both Sinhala and Tamil recognized as Official Languages with parity of status. In addition, his Party held a public meeting at the Colombo Town Hall to advocate the issue. It became a hotly debated topic and naturally raised racial passions. Chelvanayakam and his associates used it as a crucial election plank. The Sinhalese reacted with Sinhala Only and a conflagration ensued.

Let us take an objective approach and examine the significance and use of language. Language is the medium of communication and has been evolved by man for his use and benefit. The phenomenon of people making sacrifices for their language or spreading a language is absolutely irrational. Businessmen and traders in a different linguistic area master the language of the area thoroughly to the extent necessary for successfully carrying on their business. They are thoroughly fluent in oral communication, but they cannot read or write in that language. On the other hand, those who have studied the language at school

very often find it difficult to grasp and converse or give a public speech in that language. Hence the *prachar* for any language is hypocrisy. There is no need to propagate one's language; others, if they need it, will learn it themselves.

Since we proceed on the premise that language is for communication, let us classify the different uses of language:

A. *Oral communication.* This is the most elementary use of language; it serves this purpose for everyone in the particular linguistic group, whether the persons are literate or illiterate.

B. *Written record and communication.* This category of the uses of a language requires precision and renders a service spread over time and space. Examples that come to mind readily are deeds and other instruments relating to property rights and obligations, books of accounts, etc. Of course, correspondence is something obvious. The more developed a community, the more significant is this category of use of a language.

C. *Education/instruction.* The use of language under this category falls under two sub-categories:

(a) *Instruction at the elementary level.* Education at this level is invariably compulsory in most countries. Hence the mother tongue is the obvious choice.

(b) *Instruction at the university and professional levels.* Knowing the unknown is much easier through one's mother tongue; however, knowledge and other material conveying these ideas, concepts and analysis are not available in most languages which constitute the mother tongue of the children of the less developed countries. In fact, even some Western languages are not adequately equipped for the purpose. The horizon of knowledge is getting broader and broader. Further, we are continuously revising our views and thoughts; there is an element of dynamism in the corpus of knowledge. It is therefore obvious that countries like India and Ceylon which had the benefit of a fair spread of the English language (through British imperialism) should stick to the English language as the medium of education at the university and professional levels. It would be extremely unwise to allow sentiments and prejudices to colour our decisions in these matters in which rational

analysis and objective approach is of crucial importance.

D. *Functions of the state.* The use of language under this head is best viewed under five sub-categories:

(a) *Communication with the public.* This is a two-way affair: from the public to the organs of the administrative machinery and from the latter to the public. Communication is needed on an individual *ad hoc* basis as well as on a collective or common basis (e.g. use of forms, notifications etc.). Communication with the public can and ought to be provided in the language of the common man. There will be no problem if only two or three languages are involved. In fact the British observed this principle in certain departments (e.g. education) during colonial times.

(b) *At the administrative or departmental decision-making levels.* This is internal communication within Governmental organizations. Obviously two or more languages cannot be employed. The Deputy Head of a Department cannot write his Minutes in one language while the Head of the Department writes in another language.

(c) *At the inter-departmental level.* In the control and monitoring functions of management, obviously only one language can be used. Communications with Treasury, Audit and Ministry are covered by this category.

(d) *At the political/decision-making level.* This includes Cabinet Papers, preparation of working papers and memoranda, discussion in the Cabinet and records of such decisions. It is mischievous to talk of two languages at this level. Obviously one Cabinet Minister cannot put up a Cabinet Paper in one language and another in a different language. One Minister cannot discuss at Cabinet meetings in one language while the others discuss in another language.

(e) *Communication with foreign agencies and governments.* It is totally unrealistic to think that a small country or any country of the Third World can use its national language in the performance of this function. Only an internationally recognized language can perform this function and for Ceylon, India and other such countries, English is the obvious choice.

Recently, President Jayewardene spoke appreciatively of the terse comment Dr Colvin R. de Silva made during

the debate in Parliament when the Sinhala Only Act was enacted: 'One language two nations; two languages one nation.' The President said that this was valuable advice which was not heeded.

The advice is pure mischief and its appreciation by President Jayewardene is calculated to mislead the Tamils. As the foregoing analysis shows, two languages cannot be languages of the administration. Further, administration requires a high degree of professional competence, particularly in the higher echelons of the hierarchical structure. The Institute of Chartered Accountants of Sri Lanka, while holding the Preliminary and Licentiate examinations in all the three languages (English, Sinhalese and Tamil), insists on candidates sitting for the two professional examinations in the English medium. Other professional facilities in the field of Management or Management Accounting just do not exist.

The language of such a small community as the Sinhalese can never develop to become an effective medium of communicating modern thought and continuous development of scientific thinking. Decision-making in most spheres of Government depends on an assessment of appropriate data and statistical material. With so much growth in international assistance and control, no deliberation, discussion or decision-making will be relevant without the use of the English language. The politicians who pursued the Sinhala Only Act and the consequential policies did so with a false sense of national pride founded on the Vijaya myth, Dutta Gemunu's exploits and the *Mahavamsa* faith of divine protection, but in reality their calculated aim was to liquidate the Tamils. Sinhala Marxists were in no way different from the Sinhala chauvinists.

Marxists make use of the Parliament only to strengthen their hold and popularity among the masses since the forum provided by the Parliament is of inestimable value; they never regard the Parliament as an instrument for exercising power. Once they seize power, it is the cadres that will control and run the Government; the cadres of the Communist Party, always selected from above, will carry on all functions of the State.

The entire facilities and structure provided by a Parliamentary democracy is to be exploited to enable them to achieve the ultimate seizure of power for the cadres of the Communist Party. For this purpose, the workers and trade unions have to be won over and exploited. In Ceylon, the labour on the plantations were all Tamils; elsewhere also, especially in key sectors, the Tamils were in sizeable numbers at the levels of the employee class brought into the trade union organization. These trade unions were to be the instrument of a general strike culminating in chaos and ultimate seizure of power. Hence the Marxists were solicitous of the Tamil language and the language rights of the Tamils.

The concept of language rights is a piece of inane nonsense as the above analysis shows. But then, *Language Rights* is a very effective slogan to win over a linguistic group.

Later on, the Marxist groups realized that the classical pattern of a general strike was out of the question; the strategy for seizure of power should be Parliamentary subversion and for that getting elected in large numbers was a necessity. Thus, when the voting power of the people was to be the strategy for seizing power, the Sinhala masses – instead of the Tamil workers – had to be patronized.

Dr Colvin R. de Silva, the most astute Marxist theoretician on the island who entered Parliament with the help of the Tamil votes, had no qualms of conscience when masterminding the Republican Constitution of 1972. He deprived the Tamils of the non-discrimination clause in the earlier Constitution, and declared that the Regulations for the Reasonable Use of Tamil Language was a mere subordinate legislation. In the process, he helped to elevate the Sinhala Only Act, which was until then an ordinary piece of legislation, to the sanctity of a constitutional provision.

It is not merely that the Marxists let down the Tamils; they misled the Tamils which proved to be disastrous for them. It was the Marxist influence which led the Ceylon Indian Congress to boycott the legislation for registration as citizens of Indian origin. The boycott, pursued till the eleventh hour, resulted in numerous technical defects in

the applications. The Sinhala Government made full use of these technical shortcomings to reject the applications. Earlier during the session, 1947-52, the Ceylon Indian Congress members of Parliament – whose intellectual calibre was not very high – tended to admire the oratorical excellence of the Marxists and always voted at the bidding of the Marxists. They showed themselves as allies of the Marxists and alienated the Sinhala Government and the public.

It was the noisy and demonstrative support for parity of status put forward by the Marxists that misguided the Tamils. Had it not been for the Marxists, the Tamils would have insisted on the status quo continuing, i.e. the retention of the English language: this would have found substantial support among the Sinhalese. Demanding the retention of the status quo ante would have placed another weapon in their hands to pursue their demand for *swaraj*. The Tamils came into the Dominion polity on an assurance of non-discrimination by the ethnic majority; when this was not fulfilled, the Tamils could have legitimately claimed to opt out of the Dominion constituted in association with the Sinhalese and formed their own Dominion.

The Marxist infiltration among the militants – at the level of advisers and policy-makers – has been responsible for the cadre-raj idea and it is this idea that led to clashes between the militant group and the others; it is also responsible for making these groups ignore the importance of the political offensive, i.e. to explain to the world at large the case of the Tamils for *swaraj*.

In fact, it was the Marxist influence which prevented the militants from laying down as a pre-condition for dialogue and negotiations (at Thimpu) that the Sinhala Government must desist from referring to them as 'terrorists'. Such a pre-condition would have been easily accepted by the Sinhala Government; if the label 'terrorists' had not been used, the world would have viewed their case with greater understanding. It was this label that did all the damage. Had they not followed the Marxist way of thinking and used the word *swaraj*, President Jayewardene would not have been able to defend his position, and India could not have thought of entering into an accord with Jayewardene.

Any group with serious grievances only courts disaster if it pins its faith on Marxists or gets attracted by Marxist strategy. There is no universally applicable strategy for a struggle for *swaraj*. Even the TULF got attracted by the Marxist incantations and began using the word 'politburo'. This Marxism might be just skin-deep but it is more than enough to bring ruin.

CHAPTER 6

THE CONSTITUTION OF EEYLOM

One may ask why engage in Constitution-making for Eeylom when two powerful personalities in seats of power have emphatically pronounced 'No Eeylom'. A very relevant question to which an answer is absolutely essential.

President Jayewardene's pronouncement is the outcome of an obsession for *imperium* which gets merged with the *Mahavamsa* mentality. This individual urge for *imperium* is fed by and in turn feeds the urge for *imperium* in the collective personality of the Sinhala race. Empires have never lasted long and the Sinhala reign over the Tamils is bound to be short-lived. Undoubtedly there are strong strands of genocidal approach intertwined with the urge for *imperium*.

Prime Minister Rajiv Gandhi has never given the reasons for stating: 'no question of Eeylom'. But Mr Rajmohan Gandhi has offered the following reasons in an article, 'Our Sri Lanka Policy', in the *Indian Express*: 'Any Indian support for Eeylom would become an argument and an asset for the separatists and secessionists in several sensitive places in India.'

Minister Aththulathmudali of Sri Lanka has observed cryptically: 'An independent State of two million Tamils means *a fortiori* another independent state of 60 million Tamils.'

Prime Minister Rajiv Gandhi seems to have reached the above conclusion under hypnosis. It is really sad to reflect that persons at the helm of affairs of the second largest polity in the world allow themselves to be hypnotized and are incapable of grasping some fundamental truths. They do not even learn by experience. India suffers from an admiration for *imperium*: it connived at the Chinese *imperium*

swallowing Tibet under the fond illusion that a grateful China would remain a true *bhai*. Today India nurses the illusion that Sinhala Sri Lanka will remain grateful for the assistance India renders – the moral support of suppressing the crime. It seems to think that Sri Lanka will readily toe the line. However, India will not be able to find a political solution for the ethnic conflict in Sri Lanka; if it could it would have solved its own ethnic problems with the *mantram* ‘political solution through peaceful negotiations’.

Prime Minister Rajiv Gandhi’s intervention to restore Sinhala imperialism with its elements of genocide, at any rate the annihilation of the Tamils, reduces his previous protestations of ‘no military solution’ to hypocrisy. When a military solution was found to be beyond the capability of President Jayewardene, Rajiv Gandhi gallantly lent him the mighty Indian Armed Forces to achieve what was impossible for President Jayewardene’s limited armed might.

In Tamil there is a word which when transliterated reads ‘*mannvasi*’. It signifies that the physical and chemical contents of the soil wield some influence on the vegetable and animal kingdom that inhabit the surface above. This influence is said to be discernible in plants and animals, and there is a strong belief among some persons that Man’s character and outlook are also conditioned by the soil he inhabits.

Water-divining is mostly based on the species of grass and other vegetation that grows on the surface and its peculiarities. Most temple wells have good water because the ancient water-diviners located such sites and the community built temples at such sites. There is a tradition that the person who selected the site for the Palace at Nallur, made the decision on the site by tasting the underground soil.

Whether there is any substance in this belief, we may never learn in a scientific manner. But it is possible to explain one’s behaviour by relating it to the soil from which he hails. One really wonders whether the location of India’s capital at Delhi wields some influence on the persons who are in the seats of power in New Delhi. The capital of the kingdom of the Kauravas is believed to be

where New Delhi now stands. Hastinapura was the centre of the monarchy of Duryodhana. New Delhi or some place thereabouts has often been the centre of authority of a succession of imperious rulers. One wonders whether the soil of New Delhi has been wielding some influence on the outlook and values of the rulers who ruled from there. The world knows that Jawaharlal Nehru was, in the freedom struggle of India, a man of great vision, liberal outlook and had all the virtues associated with men who are great in heart and soul. But after becoming Prime Minister in New Delhi, he developed a well-pronounced imperious outlook. Who could have ever dreamt that Jawaharlal Nehru would want to oust Chief Minister Bhargava of Punjab and impose President's rule solely because he felt that considerations of personal prestige demanded such a course of action?

The possibility of a connection between the display of *imperium* and being located in New Delhi in seats of power offers itself as an interesting area of research. If very reasonable people turn out to be imperious after getting authority in New Delhi, some such connections might actually exist.

Secessionist trends are micro and not macro in origin. A remedy for the malaise in the body-politic can be found only after a careful study of the causes that underlie each separate malaise. If India thinks that the suppression of Eeylom will enable it to suppress the demand for Khalistan it is being childish in the extreme. A better grasp of the nature of the federal principle, allowing the states to manage their own affairs, and a recognition of the fact that the interests of the polity at the Centre are not synonymous with the interests of the Party in power will go a long way towards national integration.

There is too much talk of Peace. Peace is not something to be sought per se. Peace is a concomitant of something else – a just society. A just society emerges when justice prevails and there is an assurance that justice will be preserved. Search for justice and evolve an orderly society ensuring justice – and we will have peace automatically.

An orderly society is possible if the political structure

and the organization of the polity are informed by a keen sense of justice in every aspect of the organization. A systemic set-up by itself cannot achieve an ideal society because the society is composed of men and women. Human nature is a bundle of impulses and urges, some of which may be noble and praiseworthy while others are unworthy and to be detested. On the other hand, it is possible to evolve a systemic structure which will encourage, foster and cultivate the noble or desirable urges in human nature while discouraging the undesirable urges in Man.

The poets, philosophers and thinkers of earlier days sought to achieve this end. Proverbs, fables, parables and didactic poetry induce Man to cherish a set of values and norms which foster the more desirable and noble urges in him. But all such efforts of thinkers and philosophers remained confined to preaching. Such preachings evaporate into thin air in the face of temptations which invite him to give expression to the less noble urges and impulses. If the environment, i.e. the system is brought into play, the effect may be better.

In the old days, control was exercised over others through physical prowess, capability to fight and gain victory and thereby be in a position to protect others. The monarchy in ancient times represented just that role. The British system of politics introduced in our countries gave an opportunity to all and sundry to aspire to be a little *rajah*. If only one can get a sizeable number of votes, one becomes a member of a governing body. Thenceforward, *imperium* dominates the Man. Hundreds are thus brought to the fore with some sort of right to exercise authority. Rivalry and factionalism develop in a large number of men without any device to exercise restraint over their pursuits.

When B.K. Nehru observed that a person least qualified and least worthy of the role aspires to be a politician under our political system, he was really referring to the urge for *imperium* being kindled or awakened by the political system now in force in most Third World countries.

Our political structure derived from the West is based on a tripod: the Judiciary, the Executive and the Legislature. The Legislature constitutes the perimeter – the ultimate

authority. The governing principle underlying the political structure is universally admitted to be the rule of law. Every person in the Executive is ultimately conditioned or governed by some law or other enacted by the Legislature. Law-making is the function of the Legislature: it is logically and necessarily composed of the elected representatives of the people at large. That is the essence of democracy.

In the political system we have inherited from the British, the Executive function at the top is manned by men elected by the people at large to perform the legislative function but with one qualification. They should be a team of like-minded persons who enjoy the confidence of the majority of the elected legislators; if they cease to enjoy such confidence, they cease to be a part of the Executive. This system – it is not worthy of being termed a principle – is the root of all evil.

Thirukkural has a chapter 'Amaichchu' in which the characteristics of persons entrusted with ministerial functions are stated in a nutshell. Intelligence of a high order is of course a *sine qua non*. But above all a person who assumes ministerial responsibility ought to be one with a high level of self-discipline and a remarkable degree of self-restraint. He should keep an open mind and be receptive to ideas. He should be a visionary, and should be able to visualize the long-term implications and consequences of every action. He should be able to get on with a wide variety of personnel who would be working with him. He must maintain a judicial detachment and reach decisions and take action objectively so that uniform justice underlies his decisions and actions in every case. But he should retain the human touch.

Obviously, vote-catching expertise is not among the qualities and characteristics essential for the successful discharge of ministerial responsibility. Therefore, it is essential that future ministers be selected, not elected, through mass appeal. However, if the personnel for top executive positions are to be selected on the basis of calibre, proven capabilities and known track record evaluating character and capacity, are we not entrusting the actual executive functions to bureaucracy?

The Presidential form of Government will help to eliminate the ills that afflict public life in most Third World countries. When the Chief Executive is elected by an electorate comprising the whole country, it ensures that Executive functions are not relegated to bureaucracy. The uniform application of the law to every case necessitates an impersonal approach; otherwise the doctrine that everyone is equal before the law will be severely undermined. There must however be enough machinery to ensure that bureaucracy does not lose the human touch or ignore the real problems of life faced by the people.

The Presidential form of Government will enable proper monitoring and control responsibilities to be assigned to the elected representatives of the people and this will more than compensate the risk of the executive function becoming bureaucratic.

If the Executive head for each portfolio is selected on merit, calibre and character by the Chief Executive of the polity, i.e. the President, it will prevent politicians from interfering in the day-to-day administration for the purpose of favouring a political supporter, a friend or a relative. On the other hand, a Minister depending on Parliamentary support for survival as a Minister, and electoral support to remain in the Parliament is bound to deviate from his path of duty – giving undeserved or undue benefits to some and, necessarily, being unjust to others.

It is a fashionable but highly distorted and exaggerated perception to suggest that such formalized administration would mean red tape and routine, a failure to appreciate human problems, and an inability on the part of the administrator to be adaptable to circumstances and act promptly in emergencies. Under the system outlined here, the administrator regularly meets the Monitoring and Control Committee of the Ministry and subjects the performance of his department to critical examination. This Committee will be presided over by the Secretary of the Ministry and will have an appropriate collection of elected legislators having some knowledge and interest in the subjects under the Ministry. The rules, regulations and circulars issued by the Department would be periodically

reviewed. All subsidiary legislation will be examined by these Committees before they are finalized. Thus the contact between the elected representative of the people and the bureaucrat will be at a formal and meaningful level. Today the elected representative of the people just throws his weight around in the corridors of administration. Under the proposed system the ordinary citizen need not go in search of politicians to get what is his due.

An important consequence of this system of excluding elected Parliamentarians from the Executive sphere will be a distinct rise in the calibre and character of men and women aspiring to enter the Legislature. The politician of today, guided as he is by the urge for the exercise of *imperium*, will find himself out of place in the Legislature. To be a mere Legislator, to study and deal with major issues of policy and performance, to examine substantive and subsidiary legislation, and to study the implications of departmental rules and regulations would be a boring job for him, if indeed he does not find himself out of his depth. Only the educated, the intelligent and those gifted with a high degree of social conscience will be attracted towards the Legislature. Such persons will find a sense of vocation in being in the Legislature and contributing their mite to a more orderly society which assures a better life for its citizens. Our Parliaments and Legislatures will be august bodies of which we can feel proud.

JUDICIAL FUNCTION

The Judicial Function is the most important of all the three categories of state functions – at least in the eyes of the Eastern thinkers.

The King protects the people
Justice protects the King.

Thus runs a famous couplet from *Thirukkural*, a Tamil classic that has been translated into a number of languages including Sinhalese. The word 'King' should be interpreted

to mean political stability in the present context.

I quote here a few observations of Retired Chief Justice Tennekoon of Sri Lanka:

If political parties do not call a halt to this kind of thing, we can envisage a time when the Opposition will not only have a shadow cabinet but a shadow Supreme Court waiting in the wings to take office after a General Election.

The retiring age for the Minor judiciary was 60, for High Court Judges 62, Court of Appeal Judges 63, and Supreme Court Judges 65. It looked like a neatly calculated step-ladder for anyone who wanted to climb it. At each stage, the appointment was by the Executive, whether it be High Court Judge, Judge of the Court of Appeal or the Supreme Court. That arrangement was not calculated to ensure that the judges would remain independent.

Another matter . . . was the practice of the Legislature and Executive putting the Courts and Judges close to the scene of politics. An example of this may be seen in the election petition jurisdiction. Many a judge's career has suffered because he has unseated a politician who has later come to occupy a position of power.

Referring to the other complaints about the Judicial system, Mr Tennekoon said the chief one among them was delay. . . . Delay was usually due to the failure of the judicial machinery to function properly, to the ingenuity of lawyers in obtaining dates. . . . Much of the delay which plagued the courts was due to the dilatory tactics of lawyers. . . .

Continuing he said the judge and the judge alone represented the public interest in speeding the administration of justice. . . .

Earlier, the expression 'independence of the Judiciary' existed only in textbooks. But today politicians find it necessary to protest at political meetings that Sri Lanka has an independent judiciary.

In India where lawyers resort not only to writ petitions but also to physical demonstrations, the situation is perhaps worse. A five-member Bench of the Supreme Court found it necessary to observe:

We are making these observations because we find that of late there is a growing tendency to attribute bias, prejudice or improper motive to a judge if he delivers judgement which is not to the liking of the person concerned (*Hindu*, 25 December 1986).

The independence of the Judiciary is significant to a handful

of persons in position who get involved in a conflict with those manning the State machinery. But the vast majority of the people – the ordinary citizens – seek expeditious and inexpensive justice; it is really a crying need because a man who is oppressed with the feeling that he is unable to get justice is the most discontented individual. The youths whom President Jayewardene chooses to dub 'terrorists' are really young and energetic with a tremendous spirit who have grown desperate for want of justice and who are determined to get justice not only for themselves but for the society at large. They have resorted to arms solely because, as Margaret Thatcher pointed out to President Jayewardene, when the ballot is frustrated, people take to bullets.

The people of the South, cocooned as they are with the 'Wolf, Wolf' cry of President Jayewardene, have not cared to know what the militant Tamil youths seek, what they think and what they do. Some time ago, the militant Tamil youths, according to press reports, had written to the judges in the North and the East giving them a piece of their mind on the parlous state of the performance of the judicial function. The militant youths have since set up their own Courts; by all available reports, the services of these Courts are keenly sought after.

Labour litigation is abundant today and discontent is mounting rapidly. When a poor labourer, who feels aggrieved by the treatment meted out to him by his employer, seeks judicial relief he is confronted with the highbrow enquiry 'Can your client afford my fees?'

'Justice delayed is justice denied' is an ancient dictum frequently emphasized by some judges to the lawyers appearing before them. It would be invidious to mention names of such judges but knowledgeable persons will readily recall to mind the names of a few judges and concede that the canker called delay never afflicted the Courts over which such judges presided. Today judicial circles are teeming with apologies for delays. No apology is needed; delay must be ended. That is what the public demands. Apologists have christened the malaise as 'law's delays' instead of using the obvious phrase 'judicial delays';

the nomenclature is conducive to inhibiting remedial action. No law lays down that justice shall be delayed. No provision in any statute says that an action coming up for trial shall be dated every three or four months for over fifteen years before it is taken up for hearing.

Retired Chief Justice Tennekoon observed:

Much of the delay which plagued the Courts was due to the dilatory tactics of lawyers, their preoccupation in more cases than some of them could handle satisfactorily and the prevailing custom of professional courtesy of lawyers towards each other (*Ceylon Daily News*, April 1980).

These observations mean in effect that there is an undue concentration of market demand. In the language of economics, there is a demand for lawyers' services at a few sources of supply. However, this is a *derived demand*; there is absolutely no demand for lawyers' services per se. These services have to be made use of to secure the enjoyment of *Justice*. These services, it is very important to remember, are not a homogeneous product; it is remarkably unique – the quality varying from one source of supply to another.

According to a passage in a New Law Report of Sri Lanka, a certain lawyer (he was a Q.C. and a politician) was laboriously stating the law involved in the case he was arguing. While he was continuing with his submissions, Dr Colvin R. de Silva, who had absolutely no interest in the case and who merely happened to be at the bar table barged in and told the Court that the lawyer was misleading the Court, that the correct law on the matter was quite different, and he quickly put in a nutshell the correct legal position. The Court thanked him for his intervention and the Q.C. was worsted.

This incident gives considerable food for thought. The manner in which de Silva intervened is quite extraordinary; he intervened because he feared that the Court might otherwise be effectively misled into an erroneous concept of the law resulting in serious miscarriage of justice.

The judicial system introduced in our country and others in the East by the alien imperial rulers is based on different values cherished by another society. The East has never

understood a judicial system governed by judicial passivity and activism of paid lawyers. Nevertheless, we need not change the system or the corpus of the law now prevailing. There is a Tamil proverb which says that in the hands of a competent person, even a blade of grass becomes a powerful weapon. There is another proverb which says that if a person getting his hair dressed, sits in the proper position, the barber will do a good job.

The country deserves a judicial function manned by the best talent available in the country. The political structure must ensure that men of the highest calibre and character form the judiciary. It is also essential that those who are to fill the judicial positions should develop a high degree of self-discipline, restraint, a detached outlook, objectivity and must possess a keen sense of justice. These qualities can be imbibed only if they are trained and guided from an early age. In the banking world, where efficiency is very high in the business sector, recruitment is restricted to those below a certain age. Recruitment to the judicial services must be made at an early age and their outlook, values and self-discipline should be groomed under careful guidance. Taking into consideration all the requirements of the judicial function, the following scheme of recruitment and training is suggested:

1. A competitive entrance examination open to all graduates below the age of say, twenty-four, must be held annually and a steady number from the top-ranking segment must be selected as trainees. The successive segments may be recruited for the Administrative or Foreign services. The examination ought to be the Civil Service kind, giving equal opportunity to graduates from every discipline.
2. The trainees so selected should undergo a course of training for a period of three years in law and other disciplines considered essential for effective performance of the judicial function.
3. At the end of the period of training, they should be attached to senior judges as apprentices for a period of at least eighteen months. In such a capacity they can be of use in relieving judges from routine work and

can learn procedural norms.

4. Thereafter they will take up appointments in the minor judiciary and progressively move up the ladder of judicial postings.
5. The entire judicial service would be filled only by those so recruited. The highest judicial appointments are available only to those in the judicial service.
6. A Judicial Service Commission consisting of a specified number of judges of the Supreme Court will be responsible for the training, refresher training, disciplinary control, promotions and other personnel functions of the judicial service.

The scheme outlined above will ensure a highly competent, detached and independent judiciary and there will be no need for politicians to protest in and out of season that the judiciary is independent. It will provide the necessary systemic structure to ensure that the best talent in the country is secured to man the judicial service; there can be no political influence. The scheme of refresher courses will help to ensure that the members of the judicial service keep abreast of current ideas and legal thinking. Although some eminent persons have come to grace the judicial service under the present scheme of recruitment from the legal profession, there is nothing in the system to suggest that the country's best talent is secured for the performance of the judicial function.

There are frequent suggestions that the legal procedure requires amendment to eliminate delays and straighten out the judicial process. Even though the procedures need improvement, competent persons on the Bench can get over the drawbacks. A judge need not be a prisoner of procedures originally designed for a different set of circumstances.

Two cases involving identical procedural hitches, reproduced in the New Law Reports of Sri Lanka constitute a good illustration. The law relating to labour disputes had no special provision for identifying the employer. In the action by a labourer on an estate, the respondent was specified as the superintendent of the estate. In the other case also the respondent was mentioned as the superintendent

of the estate. The two superintendents came to Court and raised the inevitable objection that the Superintendent of the Estate was not a legal person. The Tribunal ruled against the labourers on this ground in both the cases. Both cases came to the Supreme Court and were heard by two different judges. One judge upheld the objection taken by the respondent that the action was bad in law as the superintendent of an estate is not a legal person. The other judge, however, took a different view that the illiterate labourer knows his employer only as the superintendent of the estate. In his own handwriting he inserted the name of the superintendent as the respondent and upheld the appeal of the labourer. Thus, the judge need not be bound to legal procedures. Shortly thereafter, the Legislature amended the law enabling a labourer to file action against the superintendent of an estate named as the employer. Deficiencies in the law can easily be set right by the occupant of the Bench if he is a man of calibre.

A criticism that may be levelled against such a judicial system is that it will tend to stand aloof and above the people and their representatives, the Parliament. Such a view is baseless. The Parliament can certainly lay down guidelines for the judiciary by way of statutes. However, the law-making authority is the ultimate arbiter: such guidelines by way of statutes are formal and finalized only after public debate and are uniformly applicable to all such instances. Neither an individual Member of Parliament nor any Executive can wield any influence on the judiciary.

Today, the standard form of punishment for a convicted criminal is a prison sentence. The psychological impact of imprisonment is devastating; the slur cast on his family is undesirable. Corporal punishment is the most appropriate for criminal offences. But we have made corporal punishment taboo. Under the system suggested, the convicted criminal will be ordered to donate blood at regular intervals for a specified period of time. Of course, medical considerations will be taken into account. But the standard form of punishment will be compulsory blood donation. This will have a salutary effect on the convict, and save his family from dishonour and hardships. Also, the expenditure

incurred by the state will be remarkably less.

We shall now briefly outline the contours of the organic law governing the legislative and executive functions:

- The Chief Executive functionary in the polity shall be the President elected by popular poll – the entire State forming the electorate. The term of office shall be four years. There shall also be a Vice-President holding office for a coterminous period of four years. The President and Vice-President shall be elected as a team. The persons proposing a name for the Office of the Presidency shall also propose a name for the Vice-Presidency. In the event of the President ceasing to exist or otherwise being rendered incapable of performing the functions of the Office of the President, the Vice-President will succeed him.
- The four-year period of the President and the Vice-President shall not be extended or shortened. (Provision is to be made for removal of a President or Vice-President for grave misconduct through appropriate impeachment procedures.)
- The Auditor General, the Public Prosecutor, the Commissioner of Elections and the Director of Census and Statistics will not be under the Executive Control of the President or any of the Portfolio Secretaries; their functions and responsibilities and their remuneration will be laid down by statutes. Such statutes will also lay down guidelines for the aforesaid officials to communicate and have rapport with the appropriate Portfolio Secretaries and the President.
- There shall be a specified number of portfolios and the entire executive functions devolving on the State shall be distributed among these portfolios, care being taken to ensure that cognate subjects are grouped together under the same portfolio. (There will be no ministerial inflation as we witness today.)
- The administration of each portfolio shall be the responsibility of a Secretary of State who will be selected and appointed by the President, in consultation with the Vice-President. A Parliamentary Committee, designated the Parliamentary Committee for Higher

Appointments, will have the right and duty to monitor the credentials of each such appointee and send its report to the President and the Parliament, but it will have no power to veto such appointments.

- The President, the Vice-President, Secretaries of State in charge of portfolios and their Assistants exercising decision-making power or drawing a remuneration above a specified level and the officials mentioned above shall divest themselves of all their assets and liabilities on assumption of office, in favour of the Public Trustee. The Public Trustee shall cause these estates to be administered on the behalf of such officials by a special unit of the Department of the Public Trustee. All expenses of the administration of such trusts shall be met out of public funds.
- The Public Trustee shall continue to administer such an estate even after the official ceases to hold office during the lifetime of such party without any charge – the expenses of administering the trust will be borne by the Exchequer.

PARLIAMENT – ITS RELATIONS WITH THE EXECUTIVE

- The Parliament will consist of two Houses and both Houses will be continuing institutions. There will be no dissolution of either house at periodic intervals.
- The House of Representatives will be composed of members elected territorially. Each constituency will be coterminous with an appropriate administrative region. All electorates shall be multi-member constituencies. There will be no single-member constituency. The number of members for each constituency will be specified periodically on the recommendation of an Electoral Commission for whose function the necessary forms and guidelines will be laid down by the statute governing Parliamentary Elections.
- The Senate will consist of members elected by Electoral Colleges representing different professions, institutions, university graduates and the like. The total number of members in the Senate will be limited to a specified number by the statute of Parliamentary Elections.

- The Senate can refer back bills or other Resolutions to the House of Representatives but will have no veto power.
- Members of Parliament shall be ineligible to hold any office under Government or enter into any contract with the Government or any of its agencies.
- There shall be a Monitoring and Control Committee relating to each portfolio consisting of members of both Houses of Parliament. The procedure for appointing members to the various Monitoring and Control Committees will be laid down by the statute governing Parliamentary Elections.
- The Monitoring and Control Committee will oversee the administration of each portfolio functioning under the relevant Secretary of State.
- A Planning Committee consisting of all the Secretaries of State and a limited number of members chosen from either House will coordinate the plans and programmes of the Government from the long-term point of view.
- Members elected for the House of Representatives of the Senate will retain their seats for a period of six years but in respect of the first batch of members elected to either House, one-third of the number of members will be retired by drawing lots at the end of the second year, and another one-third at the end of the fourth year by similar drawing of lots. The resulting vacancies will be filled by elections held with maximum possible speed. Normally the House will be in vacation for the relevant period until after the vacancies are filled by election.
- Both Houses of Parliament will be continuous bodies with life in perpetuity; only the composition will keep on changing periodically.
- Senators and Members of the House of Representatives can stand for re-election any number of times.
- The President and the Vice-President shall not stand for re-election beyond the third term. The maximum period a President can hold office will be thus 12 years.
- The remuneration and other concession to Members of Parliament shall be laid down by statute.
- An institution can be named after an individual only if

the institution was founded as a result of the munificence of such individuals.

- No roads or streets or other public highways shall be named after a politician except if the residence of the politician was located on such a highway for a good length of time. Every provision in the existing law which provides for depriving a person of his civic rights shall be deemed to be void *ab initio* except in case of election offences where the offender planned to deprive other citizens of their freedom to exercise their civic rights.
- Anyone who seeks or solicits or otherwise makes an attempt to obtain an undated letter of resignation from a Member of Parliament or other official shall be deprived of his civic rights for life.
- Any punishment imposed by the House of Representatives or other Legislature shall be only a token punishment.
- The Oath of Allegiance a member of Parliament or other official or individual might be required to take shall be straight and simple in its wording as follows: 'I . . . solemnly, sincerely and truly declare and affirm/swear that I shall be loyal and faithful and owe allegiance to the Republic of . . .' No one can be required to take an oath to uphold the Constitution since one can take an oath only to an abstract principle. The Constitution is after all liable to be amended; it represents a set of rules which are meant to uphold some principle such as the Rule of Law, democracy, social justice, etc. Of course, the unity of the country is an important principle. But all these are subsumed by taking an oath to be loyal and faithful and owe allegiance to the Republic. To require a person to take an oath to uphold the Constitution amounts to transferring the allegiance from the substance to the shadow.
- The Republic shall be a secular State and will uphold the right of the followers of every faith to practice their religion. Public funds shall not be spent in support of any religion. The State will however provide legal and other facilities for any religious institutions to function under the law of the land. In respect of any educational or health services provided by an organization sponsored

by any religious body, the State may grant financial subsidy on a matching fund basis provided services provided and employment in the establishment are not restricted to followers of the said faith. Any political party that seeks recognition as a political party for purposes of representation in the Legislature must have in its Constitution a specific clause to the effect that the party has no alliance or affiliation or links, overt or covert, with any religious organization or movement and affirms its commitment to secularism.

- No political party will be recognized as a political party for purposes of representation in the Legislature unless it lays down in its Constitution a categorical declaration that the party has no links with any political party or other political organization or agency of the State in a foreign country and it eschews any form of violent overthrow of the government.
- All means of mass communication, namely the radio, television and the press shall be controlled and governed by a National Media Centre which derives its authority from a statute and is not under the administrative control of any Secretary of State.
- In the case of a federal structure, the Chief Executive of the State will be a Governor with a Deputy Governor. The government of the State will function in terms of the Constitution and other laws and will not be displaced by anything called President's rule. In respect of any subject of national significance, e.g. security, such subjects will be on the list of concurrent jurisdiction and when circumstances make it necessary in the national interest, the State services will function under the direction and guidance of the Central Government which will be free to deploy such personnel organization as it sees advisable.

A P P E N D I X

CONSTITUTIONAL STRATEGIES

I made repeated efforts to get in touch with the Tamil militants, with a view to impressing on them the overriding importance of the political offensive, focusing attention on the constitutional and legal aspects. This would immediately reveal the complete lack of legal validity for Sinhala Sri Lanka to encompass the Northern and Eastern Provinces and expose the fraudulence of Sri Lanka's claim to national sovereignty and territorial integrity.

The action of the Sri Lankan Government in enacting the sixth amendment to the Constitution and proscribing the Tamil militants, militated against mature sections of the Tamil public exchanging views, discussing and advising the Tamil militants to follow constitutional avenues and seek world opinion rather than concentrate on the use of bullets and violence. I believe that the wrong stance of New Delhi can be corrected only by the creation of strong public opinion in support of the Tamils both in India and, importantly, in the West. With this end in view, I presented to the Tigers, through a close relation of Pirabhakaran's, 250 copies of my earlier work, *Sri Lankan Legitimacy over North and East* with my compliments. I also met Dhileepan (who later fasted to death) in Jaffna and several other individuals in touch with the LTTE. In Madras, with the help of some expatriate Tamils, I managed to meet Anton Balasingam and some others of the Madras political committee on two occasions to present my views and urge them to give priority to political propaganda.

The Tiger politicians appreciated my arguments, but were hesitant to act along those lines. They plainly told me that such a course of action would bring them into direct confrontation with New Delhi which they wanted

to avoid. They relied on manipulating decision-makers in New Delhi through M.G. Ramachandran and other politicians and officials besides the support and sympathy of Tamil Nadu.

I could not, however, meet Pirabhakaran himself. He appears to have been cocooned by a few Marxist politicians. According to reports, Pirabhakaran has no particular political ideology other than dedication to achieving a sovereign state of Tamil Eeylom. The scheme of administrative machinery he set up, when in control of Jaffna, did not smack of the cadre-raj approach so popular with the Marxists. In fact, it was quite popular and found wide acceptance. In the judicial system, he followed the ancient *Panchayat* principle of the Tamils and other Indian national groups.

In view of this, I addressed Pirabhakaran both in Tamil and English through devious channels. Given below is a letter I sent to someone in America who, I hoped, might be able to persuade Pirabhakaran to follow constitutional lines. I do not know what effect such communications had on him, or even if they reached him.

Dear Mr X,

I gathered that you were taking much interest in Eeylom affairs and were later disillusioned. Knowing you in the past and what Y wrote, I do not think you have lost interest in the cause as such. Our position has never been as bad as it is today. India wants to withdraw the bulk of its forces and the Sinhala Armed Forces will take over. New Delhi is feeling the pinch of costs and the length of involvements. Already some units have been withdrawn to the frontier with Pakistan. New Delhi wants some facade of Provincial Councils set up for it to withdraw its forces claiming that a political solution has been achieved. It has no qualms of conscience. It is really adventurism that made Rajiv Gandhi enter into the Accord – an ambition of getting hailed as a world peace-maker. The TULF and the other militant groups desiring to wreak vengeance on the LTTE, urged Rajiv Gandhi by indicating agreement to the proposed Accord and we are in the present unenviable plight. In New Delhi the notion that the Sinhalese are

Aryans seems to have taken hold. The desire to buy Sinhala friendship by selling the Tamils has found acceptance.

Acceptance of any form of Provincial Councils constitutes the knell of the Tamils. Such a political solution will lead India to withdraw with victory – after having settled the ethnic conflict! Apart from this the Scheme of the Provincial Councils is a negation of democracy, rule of law and other norms. It is a case of politicizing administration, i.e. politicians carry on the day-to-day administration. When administration is politicized – instead of being carried on by professional civil servants in terms of established norms and the law of the land – corruption and bribery dominate the scene and even the most principled person gets corrupted by force of circumstances.

I attach herewith two copies of an article I wanted to send to the *Tamil Times* which is said to have resumed publication. But on completing the article I feel that it should not be published. It outlines at the end a strategy to be pursued; it should be acted upon instead of being published prematurely. I have therefore not sent the original to the *Tamil Times*.

I understand that one Mr Z in America not only takes a keen interest in Eeylom affairs but also wields a lot of influence on Pirabhakaran and the Tigers. In fact I was to have met him early in 1987; ultimately I did not meet him; perhaps somebody else did not relish my meeting him. That is now past.

There are conflicting reports: that the LTTE is negotiating for a settlement; that LTTE has demanded decolonization of the Sinhala settlements in the Eastern Province. No settlement within the present unitary constitution or the Gandhi-Jayewardene Accord can be accepted without ruining the Tamils as well as the Tigers. At the same time resort to arms is out of the question in the present conditions quite apart from the moral grounds that innocents get killed. Pirabhakaran should of course surrender arms without arguing and bring relief to the Tamil public. He need not enter into argument as to the quantum. He could take up the position that these are the arms in his hands. He need not commit in any manner in regard to the implementation

of the Accord. He could easily say that he and his group are not interested in the Provincial Councils but give an assurance that they will not resort to any form of violence when the Government holds the Provincial Council elections. This will clear the air and enable the Tigers to come into contact with the people formally and openly.

The strategy I have outlined in the article at the end is the only route to salvation. Rightly or wrongly the Tigers are regarded as representatives of the Tamils. In any case, Pirabhakaran has been sincere and dedicated to the cause in an unrivalled manner. He has acted foolishly and has been arrogant also. But we have got to look at the matter from the standpoint of the national interest. There is no alternative but to have Pirabhakaran and his group in the leadership for the strategy I have outlined. I would earnestly plead that you get in contact with Mr Z and persuade him to move in the matter along the lines of the *spoilt votes strategy*. My information is that he could persuade Pirabhakaran very effectively.

The *spoilt votes strategy* is the only instrument at our disposal to confront Gandhi with a popular verdict against his wretched Accord. He is 100 per cent pro-Sinhalese; his hurried signing of the Accord was to prevent or really pre-empt a debate in the US House of Representatives condemning the violation of human rights in Sri Lanka. We must confront him with a popular verdict for his arrogance in saying that only 2000 boys are opposed to the Accord.

I have certain other suggestions to make if there is an organization in USA to speak on behalf of Eeylom Tamils. But let us get ahead with this first. I am entering the hospital on Wednesday the 18th for a cataract operation. When you reply, I will be back from hospital. In fact I typed this letter with much difficulty.

signed . . .

P.S. The only feasible political solution is a confederal structure similar to what Jinnah affirmed to the Congress through Mountbatten in 1946. It was rejected by Nehru, apparently owing to his obsession with socialist central planning and a strong Centre. There is greater harmonization among the States of the EEC than among the states of the Indian Union.

WHAT NEXT?

An analytical study of the travails of the Tamils will only lead to one conclusion: they failed and neglected to avail themselves of the various opportunities that presented themselves for employing powerful constitutional strategies. Democracy is government by public opinion and favourable public opinion in support of the oppressed people is the most obvious course of action in the constitutional plane.

Hindu philosophy speaks of three elements: *Kariyam*, *Karuvi*, *Kartha*. *Kariyam* is the pursuit envisaged; *karuvi* is the instrument to be employed; and *kartha* is the party following the pursuit in question. All these three elements must be morally unobjectionable. Creating a favourable public opinion is an obvious *karuvi* to overawe the oppressor by the weight of public opinion in support of the oppressed. Gandhiji's philosophy is much the same, except that he made it obscure by bringing spiritualism into the picture and employing unedifying Hindi phraseology and diction. Non-violent non-cooperation is a necessary step or condition and *Satyagraha* seeks to awaken not only the conscience of the society but also that of the oppressor. Public opinion overawes the oppressor and compels him to recognize the rights of the oppressed. The task of creating a favourable public opinion is rendered easy by the confluence of circumstances and hence such opportunities must be carefully seized.

Tragedy began to overtake the Tamils around the mid-twenties of this century when the British colonial office made a sudden reversal in its colonial policy. British imperialism took care not to disturb the existing balance in the social, racial and religious structure of the population in its imperial possessions. When transferring power to the people it followed a policy providing constitutional safeguards, checks and balances to grant protection to the minorities. An established norm in the matter of representation in the Legislature was to ensure that no single community acquired a numerically dominant position to outvote all the others combined. These norms had nothing much to recommend themselves in terms of political science but in the context of artificially created

political entities of the imperial government, they had some pragmatic value and might have served to weld the units into national entities.

In the case of Ceylon the principle of balanced representation was installed in the composition of the Legislative Council installed in 1921 as well as in the one installed in 1924. But shortly after the 1924 Legislative Council began to function, a Royal Commission was sent under Lord Donoughmore (see Chapter One) which reversed the earlier tradition of constitutional safeguards for minorities and enshrined territorial representation with the pompous announcement that communal representation promoted communalism and that territorial representation would promote a national approach. Ramanathan championed the cause of the people (really Sinhalese) against Martial Law administration of 1915, and Arunachalam spearheaded the formation of the National Congress.

The Tamil politicians of that date, barring Ramanathan, were hesitant, nervous and shy to assert the Tamil identity and protest that the reforms were inimical to them. Obviously, the Tamils were deeply influenced by nationalist Indian leaders like Tilak, Gandhi, Nehru, Rajaji and others and felt that they should project the national identity and subordinate their racial, religious and linguistic identity without addressing themselves to the question whether there was a Ceylonese nation.

Anagarika Dharmapala had proclaimed at the beginning of the twentieth century that Ceylon belonged to the Sinhalese and that others were intruders; but the Tamils never cared to give a thought to what the Sinhalese were thinking; they did not learn from the fact that Arunachalam, the founder of the National Congress, the *fons et origo* of nationalism in Ceylon, was discarded for the sake of Sinhala racism.

Had the boycott of the State Council in the peninsula been properly explained, interpreted and utilized, the British authorities could have been made to see light. But as fate would have it, the boycott was presented to the world in a light most unfavourable to the Tamils. The Jaffna boycott was a fine opportunity to present the cause of the Tamils

but was miserably misused by a harebrained group of youths.

Soulbury Commission

The next opportunity when a constitutional strategy could have been effectively employed but was not, relates to the pleadings before the Soulbury Commission. It was a sin of omission committed by G.G. Ponnambalam. Although he pleaded the cause of the Tamils with remarkable brilliance, he failed to give thought to the possibility of the Tamil members of the State Council being bought over. In fact, one had already been bought over by the release of one portfolio from the Sinhala Only Board of Ministers; another was in the process of being purchased even as the Soulbury Commission was hearing the representation of the Tamils. How E.R. Thambimuththu was purchased, a mortal blow for the Tamils, was only too well-known to be ignored.

The State Council was elected in 1936 and its term was prolonged by proclamations from abroad on the pretext of the Second World War. Ceylon was not a theatre of war; even in Britain the General Elections were held before the war was completely over. The demand that the decision on constitutional changes should be made only by a newly elected State Council could not have been easily dismissed, if it had been made. Obsolescence of any elected body is admitted by the practice of elections being held every five years. A body that had been extended for ten years could not be allowed to decide an important issue like changes in the Constitution. Fresh elections before the acceptance of the Soulbury White Paper would have upset the apple-cart of D.S. Senanayake. It would have brought into focus the opposition of the Tamil linguistic group. The introduction of the Soulbury and the Dominion Constitutions were the result of conspiracy between the colonial office and D.S. Senanayake. The grant of Dominion status was primarily to install Senanayake in power,

The next opportunity of employing constitutional strategy occurred in 1956 with the enactment of the Sinhala Only Act. With this act, the Tamils were emotionally prepared to tell the Sinhalese 'Leave us alone in our barren and dry

North and East.' The sharp rise in land values in the North and East after the enactment of the Sinhala Only Act and the associated racial violence against the Tamils is clear evidence of bias against the generality of Tamils. They wanted to bid adieu to the Sinhalese and fend for themselves in their homeland. The Tamils outside the North and the East rushed to own some property in their homeland. But the political leaders were opposed to them.

A proposal was put forward by two members of the Parliament that all those who voted against the Sinhala Only Act should keep away from the sittings of the Parliament thereafter, and carry on ultra-Parliamentary agitation. Note, it was not ultra-constitutional activity but only ultra-Parliamentary agitation. But Chelvanayakam, who was the leader of the bulk of the Parliamentary representation from the North and the East, was determinedly opposed to refrain from attending Parliament. The two members who put forward the plan were loners; they had no following and the valuable opportunity was not utilized.

With the ultra-Parliamentary agitation, the elected members of the North and East could have formed a Constituent Assembly of their own, constituting a new polity called the Dominion of Eeylom under the British Crown. They could have communicated their decision to Her Majesty and all other members of the Commonwealth and quietly gone ahead with the organization of the state machinery and other paraphernalia. The finer points of this strategy are obvious. No one could claim such action illegal.

People in the Dominion of Ceylon owed allegiance and loyalty to the Crown and not to Prime Minister Bandaranaike or his Sinhala Only Parliament. The Sinhala Government of Prime Minister Bandaranaike could have done nothing but watch passively as we proceeded along with our Dominion of Eeylom. If the political leadership had meant what they said and professed, we could have achieved Eeylom several years ago in a very lawful manner and become a member of the United Nations. But our political leaders professed one objective and acted quite differently. Suntharalingam described them very correctly as federal

agents of Sinhalese imperialism.

The strategy outlined above could have been pursued at any time between 1948 and 1972 when the Sri Lankan Republic was created. But the circumstances were most appropriate after the Sinhala Only Act of 1956 and the racial violence of 1958 because world opinion could have been easily secured; similarly unity among the people was guaranteed at that time. But some curse on the Tamils ensured that they picked hypocrites as their leaders and got welded into slavery, in the bargain.

At the Thimpu Talks the spokesmen of the Eeylom Tamils had a golden opportunity to obtain *swaraj* for the Tamils without firing a single shot or losing one valuable life. Had the Tamil militants demanded at the Thimpu Conference an undertaking from the Sri Lanka delegation that the Sri Lankan Government would desist from referring to the Tamil militants as terrorists and posed this undertaking as a pre-condition for participating in the talks, the Sri Lankan delegation could not but accede to the demand (see Chapter Five). This would have caused the case of the Tamils to be seen in an entirely different light in the international sphere. The vast aid which Jayewardene was able to secure from the West for fighting the terrorists would not have been forthcoming.

Another strategy was to challenge the legal validity of the Sri Lankan Republic to encompass the Northern and Eastern Provinces. The contention that the Sri Lankan Republic does not lawfully encompass these Provinces is an unimpeachable legal position but it has not been taken up by our spokesmen.

The legal position is exhaustively analysed in my book *Sri Lankan Legitimacy over North and East* (US Library Congress No. CE 5908; S.L. 313/86). It is also examined in a series of articles published in the *Saturday Review* in 1982 and in two articles in the *Eeelanadu*, 1984 as well as in one issue of the Tigers' own *Ekkalam*.

The argument is quite simple. A Republic gets created only by a solemn resolve of the people concerned. Even the Preamble of Sri Lanka's Constitution says that the Republic is constituted and the Constitution enacted on

the authority of a mandate granted by the people at the 1970 General Elections. However, the votes in favour of the mandate from the Northern and Eastern Provinces aggregated to only 14 per cent of the votes polled; thus the Sri Lankan Republic does not encompass these two Provinces. It was created with a fraudulent intent: to defraud the Tamils of the safeguards provided in the Dominion Constitution. The non-discrimination clause of the Dominion Constitution and the assurances conveyed on the floor of the House by the then Leader of the House, D.S. Senanayake, at that time the undisputed leader of the Sinhalese, makes the Dominion of Ceylon as constituted in 1946-48 a *conditional polity*, i.e. if the condition of non-discrimination is violated, the aggrieved party can opt out of the polity.

No one can take up arms against a duly and lawfully constituted state – a Republic at that. When the Tamil militants took to arms, it devolves on them to justify their action to the world and thus challenge the legal validity of the Sri Lankan Republic.

At present another opportunity is offering itself to exercise a constitutional strategy to further our efforts in the cause of *swaraj* for Tamil Eeylom. The Tamils should not miss this opportunity after having lost so many lives and sacrificed a large number of youths and suffered so much. Pirabhakaran and EROS had initially taken the correct stand when they said that they would surrender their arms to the superior force of India but were not interested in the Provincial Councils. We submit to the superior force but do not accept and cooperate with the unprincipled schemes of governmental organization envisaged in the Gandhi-Jayewardene Accord.

Pirabhakaran and EROS should take the position: we surrender our arms; we will not resort to violence to obstruct the elections to the Provincial Council but we are not interested in participating in the Provincial Council set-up because it does not even marginally satisfy the aspirations of the Tamils for *swaraj*. The militants must use the term *swaraj*. Laski's dictum that the objective of a movement must be an abstract principle and not the

form or structure of Government has been proved to the hilt by the bungling of the Tamils over decades with Regional Councils, District Councils, Development Councils and now Provincial Councils.

Let anyone contest the Provincial Council elections. We will not interfere with them. But we will ask the voters at large to go to the polling booths, get the ballot paper and write on it 'We want Eeylom'. The ballot papers will get spoilt. Let the number of spoilt ballot papers rise to 90 to 95 per cent of the total votes polled. Let the contestants have the votes of their relatives and close friends amounting to 5 per cent. That will be a popular verdict against the Gandhi-Jayewardene Accord.

We must rouse public interest and enthusiasm to achieve *swaraj* through the Gandhian technique of non-violent non-cooperation. The TULF never employed Gandhian methods. Once you cooperate with the ruler by entering the Parliament, you have acquiesced and accepted the political structure. Thereafter you have no alternative but to abide by the majority verdict. The Tamils never employed the Gandhian strategy against the imperialism of the Sinhala Government. Fasting and marching is not Gandhian strategy; so long as members elected by the people fill the seats of the Legislature and Councils set up by the Sinhala imperialists, there is no Gandhian strategy.

The same strategy can be used at the time of the Parliamentary Elections. We can ask the people to spoil the ballot papers by writing on them that 'We want Eeylom'. We can get our own people to contest the elections to ensure that polls are held. When the overwhelming bulk of the ballot papers are spoilt, our people will announce that they are not entering the Parliament because the popular verdict was against participation in the Kotte Parliament. In fact, the same strategy can be used in the Provincial Council elections also.

This strategy will confront Prime Minister Rajiv Gandhi with a popular verdict rejecting his Accord with Jayewardene. We could prevail upon India to bring the matter for arbitration before a panel of constitutional lawyers and jurists, as Article 51 in the Indian Constitution (Directive

Principles) enjoins it to do.

At the time of the Presidential Elections Pirabhakaran will be our candidate. It is not a contest for Presidency but for a popular verdict that the people of the North and East stand apart from Sri Lanka.

It is Pirabhakaran and his group that should take the initiative. He has committed blunders and acted very foolishly in choosing to fight against the Indian Armed Forces. But his sincerity and dedication to the cause of Eeylom is unsurpassed. He has got to be the leader in employing the constitutional strategies on Gandhian lines.

BIBLIOGRAPHICAL NOTES

The Constitution of the Democratic Socialist Republic of Sri Lanka, 1978 and thirteen Amendments (Government Publications Bureau, Colombo).

The Constitution of Sri Lanka (Ceylon), 1972 (Government Publications Bureau, Colombo).

Ceylon (Constitution and Independence), Orders in Council, 1946 and 1947.

The White Paper of 31st October, 1945 – The Soulbury Reforms Proposals.

Soulbury Commission Report, 1945, CMD-66/7.

S.P. XIV of 1944 – Ministers' Draft Constitution.

S.P. XVII of 1943 – This contains the Declaration of 26th May, 1943 by the Secretary of State for the colonies making a specific commitment on constitutional changes.

S.P. XXVII of 1938 – This contains Caldecott's Despatch on Reforms dated 13th June, 1938.

S.P. XVIII of 1938 – This relates to the Bracegirdle Affair.

S.P. XI of 1937 – This contains the Board of Ministers' Constitutional submitted without reference to the State Council.

Donoughmore Commission Report on Constitutional Changes, CMD-3131.

State Council Debates, 1931 to 1947.

House of Representatives Proceedings (*Hanzard*, 1947 to date).

Michael Roberts (ed.), Documents of the Ceylon National Congress and Nationalist Politics 1919 to 1950 (published by the Government in 4 volumes).

Handbook of Parliaments. There have been eight such handbooks relating to each Parliament elected in 1947, 1952, 1956, 1960 (March), 1960 (June), 1965, 1970 and 1977. These handbooks are very valuable sources of reference in that they give the bio-data of every member elected, voting figures, every Party's manifesto issued at every election and other valuable information. These are titled 'Daily News Handbooks' and were issued by the Lake House Publishers.

Proceedings of the Conference between the Ceylon Delegation

and Indian Delegation on the question of the Franchise 1940, 1941 and 1947. Issued by the Ceylon and Indian Governments jointly (three editions).

B.H. Farmer, *Pioneer Peasant Colonization* (Oxford); *A Divided Nation* (London).

S.A. Pakeman, *Ceylon* (London, 1964). This reflects the attitude of the British on constitutional changes. Pakeman was Professor of History at the University College, Colombo. He was also a Nominated Member of the State Council for some time.

S. Arasaratnam, *Ceylon*, Englewood Cliffs (N.J., 1964).

S. Pathmanathan, *The Kingdom of Jaffna* (Colombo, 1978).

Ven. Bhikku Rahula, *The History of Buddhism* (Colombo, 1956).

I.D.S. Weerawardena, *Government and Politics in Ceylon – 1931 to 1946* (Colombo, 1957).

Sir Ivor Jennings, *The Constitution of Ceylon* (3rd edition, London, 1949).

Sir Ivor Jennings & H.W. Thambiah, *The Dominion of Ceylon* (London, 1952).

S. Namasivayam, *The Legislatures of Ceylon* (London, 1950).

S.U. Kodikara, *Indo-Ceylon Relations since Independence* (Colombo, 1965).

S.G. Perera, *History of Ceylon for Schools* (Colombo, 1949).

L.E. Blaze, *History of Ceylon for Schools* (revised edition).

G.C. Mendis, *Ceylon Today and Yesterday* (Colombo 1957).

Ceylon under the British (Colombo, 1952).

The Early History of Ceylon (Calcutta, 1954).

E.F.C. Ludowyk (ed.), *The Modern History of Ceylon* (London, 1966); *Robert Knox in the Kandyan Kingdom* (London, 1948).

G.G. Ponnambalam, *Presidential Address, First Plenary Session, All Ceylon Tamil Congress* (Colombo, 1944).

Tarzie Vittachi, *Emergency 1958: The Story of the Ceylon Race Riots* (London, 1958).

International Alert: Emergency Sri Lanka (1986).

Satchi Ponnambalam, *Sri Lanka – The National Question and the Tamil Liberation Struggle* (Tamil Information Centre).

S. Sivanayagam (ed.), *Sri Lanka July, 1983 – Violence against Indian Tamils* (Tamil Information Centre).

Virginia A. Leary, *Ethnic Conflict and Violence in Sri Lanka* (International Commission of Jurists, 1981).

Study by Aurelia Cristescu for E/CN 1981 and Study by Hector Gros Espiell for EC/N 1980) on The Right of Self-Determination (UN Publications).

S. Sivanayagam, *Ten Years of Jayewardene Rule* (Tamil Information Centre).

Tamil Times, London W 139 QN. This is a monthly; it highlights the sufferings of the Tamils.

India Today – Several issues have given a detailed study of the problem in Sri Lanka, particularly 15 June, 30 June and 15 November 1987.

Frontline – by the publishers of *The Hindu*. Almost every issue has touched on the Sri Lankan crisis.

Sunday – The Sri Lankan crisis has been covered in several issues.

Week – It is a Malayala Manorama publication. Several issues have dealt with the Sri Lankan issue. On many occasions, information not available in other sections of the press is brought out with stunning effect.

Hindu, Madras.

Indian Express.

Ceylon Daily News, Colombo.

Sunday Observer, Colombo.

Island, Colombo.

An Open Letter to Prime Minister Rajiv Gandhi.

INDEX

- aasia* 102f
 Accord 110, 127, 131, 135, 140,
 143, 145, 147, 183, 190, 191
see also Galle Face Green
 Aid Sri Lanka Consortium 95,
 136, 144
 All Ceylon Tamil Congress 64
 American Missionary
 Organization 35
 Amirthalingam 6, 137
 Arunachalam, Sir Ponnambalam
 13, 17, 38f, 40, 43ff, 47,
 48, 55, 58, 61, 64, 87, 107,
 155, 155f, 186
 Aryan-Dravidian differences 109
 Athulathmudali 3, 120, 163
- Bajpai, Sir G.S. 72, 74, 77
 Banda-Chelra Pact 117
 Bandaranaike, Mrs 14, 15, 16, 18,
 19, 21, 62, 84, 86, 124
 call for a mandate 19f
 Bandaranaike, S.W.R.D. 13, 14,
 39, 57, 59, 61, 117
 Bangladesh 109
 Bhagat, Bali Ram 138, 139
 Bhandari, Romesh 99, 138
 Bhargava, Chief Minister 105, 165
 Board of Ministers 26, 51
see also Sinhala Only Board of
 Ministers
 Bose, Subhash Chandra 40
 Bracegirdle, Mark A.L. 150
 British Dominion of Ceylon 12, 37
 British imperialism 23, 38, 157
 attitude towards the Sinhalese 37
 attitude towards the Tamils 27, 28
 policy of *divide et impera* 29, 29f
 political changes during 23
 Brito, A.T. 44
- Buddha, Lord 69, 115, 121
nirvana 92, 112, 113
 Buddhism 88f, 92, 109, 115
- Caldecott, Governor 36, 50, 53,
 54, 55, 56, 57, 58, 72
 speech on Indian labour in Ceylon
 72f
 Central Bank of Ceylon 116, 117
 Ceylon:
 as a Crown Colony 23, 24, 37, 74
 Dominion of 19, 20, 188, 190
 Ceylon Citizenship Act 77, 81
 amendment of 81f
Ceylon Daily News 119
 Ceylon Indian Congress 82, 83,
 84, 150, 151, 152, 161
 Ceylon National Congress 13, 39,
 44, 47, 48, 72
Ceylon Observer 44
 Ceylon Workers' Congress 72, 82,
 84, 85, 152
 Chalmers, Sir Robert 47
 Chamberlain, Neville 100
 Chattan 88
 Chattopadhyaya Kamaladevi 27,
 64
 Chelvanayakam 16, 64, 65, 82,
 115, 155, 188
 China and Tibet 1f
 Citizenship Registration Act 82,
 83, 152
 boycott of 82, 83, 84, 152
 Cleghorn Minute 23, 30
 Cleghorn, Sir Hugh 23
 Cocks, Hugh Cecil 75
 Colebrooke 30
 Colebrooke-Cameroon
 Commission 24

- Daily Graphic* 41
 'Demala' 113f, 115
 Desai 80
 Devonshire formula 25, 37
 Devonshire-Manning Reforms 25, 36, 42
 Dharmapala, Anagarika 43, 45, 186
 Dhileepan 181
 Digby, William 41, 44, 46
 DMK 133
 Donoughmore Commission 18, 25f, 29, 40, 42, 78
 Donoughmore Constitution 36, 37, 150
 Donoughmore era, constitutional advances in 48
 Donoughmore, Lord 17, 25, 186
 Donoughmore Reforms 27, 42, 70, 76
 Dutta Gemunu complex 69, 118
 Dymally, Mervyn 2, 11, 136
 Dyson, E.T. 28, 29

 East India Company 24
 educational facilities 30f, 32
 Eeylom 7, 21, 23, 48, 65, 93, 97, 100, 105, 122, 125, 127, 132, 142, 165, 182, 183, 184, 188, 191, 192
 constitution of 163ff
 judiciary 169ff
 legislature 167ff
 Presidential form of Government 168
 Tamils 88, 109, 153
 Ellalan, king 88, 90, 92, 108, 113
 EROS 133, 190
 European Economic Community 126, 127

 Ferguson 41, 44, 46
 Fernando, Sir Marcus 34, 68
 Fuji 12, 93f, 96, 141
 constitution of 95, 141
 New Delhi's policy in 93

 Galle Face Green 114, 131, 145

 Accord 2, 101, 131
 Gandhi, Indira 9, 40, 137, 139
 Gandhi, Mahatma 40, 41, 185, 186, 191
 Gandhi, Rajiv 1, 3, 11, 87, 93, 94, 96, 98, 109, 110, 111, 113, 126, 127, 127f, 131, 133, 134, 135, 138, 139, 141, 142, 143, 144, 145, 164, 183, 191
 attack on 3
 'no Eeylom' statement 8, 121, 163
 Gandhi, Rajmohan 163
 Gemunu, Dutta 69f, 88, 89, 90, 108, 113, 159
 see also Dutta Gemunu complex
 Goonesinghe, A.E. 39
 Gore, Ormsby 50

 Hanuman 110
Hanzard 17, 87, 139
Hindu 2, 10, 72, 94, 105, 136, 137, 143
 Hitler 100
 Holy War 88, 92
 Huxham, Harold James 52

imperium 102ff, 163, 166, 169
 communism 102
 India:
 partition of 122, 125f, 127
 relations with USSR 123
 Indian Constitution:
 Article 51, 101ff, 144
Indian Express 135, 163
 Indian National Congress 27, 41, 47f, 67, 71, 121, 122, 126, 127
 Indian Tamils 70, 77
 citizenship of 76f
 Interim Trust Administration 129f
 Iyer, K.R. Natesa 149f
 The Burning Question 150

 Jayetileke 28, 49, 56, 60, 76
 Jayewardene, J.R. 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 17, 21, 22, 39, 87, 93, 97, 98, 99, 100,

- 102, 108, 126, 127, 128, 131,
135, 136, 137, 140, 143, 144,
145, 146, 147, 153, 158, 161,
164, 171, 183, 191
call for a mandate 22
Jayewardene, N.U. 52
Jayewardene, Ravi 3
Jinnah 127, 184
- Kandiah, P. 153
Kandyan Convention 30
Kannagara, Minister 30
Karunanidhi 133
Keynes, Lord 121
Khalistan, demand for 105, 165
Khan, Khurshid Alam 138
Knox, Robert 113
Kotelawala 13, 14, 111, 155, 156
Kularatna, P. de S. 30
Kumaraswamy 13
- language, importance of 156ff
English 157, 159, 161
Sinhalese 159
Tamil 159
Layton, Admiral 50, 51, 52, 53,
54f, 57
LSSP 150, 156
- Machiavellian approach 7, 11, 147,
152
Mahadeva, Arunachalam 56
Mahavamsa 69, 89, 91, 116, 117,
118, 120, 124, 126, 159, 163
Mannar 28, 56, 69, 91
mannvasi 164
Marxists 15, 18, 77, 82, 84, 114,
118, 148ff, 182
McCallum, Governor 153
Money Vote 71
Monroe Doctrine 1
Montagu-Chelmsford declaration
46, 47
Montagu, Edwin 47
Mountbatten, Lord 50, 53, 55,
57, 184
- Natesan, Suppiah 56
Nehru, B.K. 166
Nehru, Jawaharlal 40, 67, 71, 74,
75, 78, 79, 80, 81, 86, 87,
105, 151, 155, 165, 186
New Delhi 22, 67, 105, 109, 120,
133, 134, 135, 138, 164, 165,
181
foreign policy of 5, 6, 67, 87, 102
Sri Lankan policy of 123, 138, 139
Nissanka, Sri 114
Northern and Eastern Provinces
20, 127, 132, 140, 141, 142,
143, 144, 153
see also Sri Lanka
- official language 14
Order-in-Council 24, 28, 45
- Paget, Sir John 63
Palk Strait 110
Pararajasekaran, king 108
Parthasarathy, G. 138
Peace-Keeping Force I, 126, 127,
128, 128f, 135, 144, 146,
164, 192
Peiris, Sir James 34, 38, 68
Perera, E.W. 48
Perera, N.M. 56f, 76, 148, 152, 156
Perinpanayagam 13f
Peterpillai, Father 31
Pirabhakaran 1, 10, 109, 137, 140,
181, 182, 183, 190, 192
Plantation Tamils 27, 48, 76, 78,
79, 81, 85, 86, 87, 88, 116,
118, 149, 150, 155
franchise of 79
- Pochkhanawala Banking
Commission 33
Ponnambalam, G.G. 114, 115, 187
Prasad, Rajendra 105
Premadas 3, 128
Provincial Councils 1, 12, 120,
127, 128, 143, 146, 183, 184,
190, 191
Punjab 105, 146
Pura Nanuru 114

- racial violence 16f
 Radhakrishnan 121
 Rajagopalachari 126, 186
 Rama 110, 111, 113
 Ramachandran, M.G. 133, 134, 182
Ramayana 110, 111, 113
 Ravana 110, 111, 113
realpolitik 96, 99, 100, 101, 102
 Reasonable Use of Tamil Language Act 15, 15f, 18, 160
 Reddy, G.K. 138
 Renison, Patrick Muir 75
 Ridgeway, Sir Henry West 39
 Rodrigo, Edmund 76
- SAARC meeting 136f
 Sakka, king of Gods 115
 San, General Aug 3, 23, 126
 Sansoni Commission 131
 Saravanamuththu, P. 51
 Senanayake, D.S. 6, 13, 14, 15, 16, 17, 18, 19, 39, 51, 52, 54, 55, 56, 59, 61, 63, 76, 77, 78, 79, 80, 81, 82, 86, 87, 116, 124, 125, 152, 155, 187, 190
 empire-loyalism of 6
 Senanayake, F.R. 13
 seven-tenth *swaraj* 25f, 27, 73, *see also swaraj*
 Seventh Fleet 10, 137
 Shastri, Lal Bahadur 18, 85f, 87
 Silva, Colvin R. de 117f, 158, 160, 172
 Silva, K.M. de 34, 41, 43, 46, 47, 58, 59, 68
 History of Sri Lanka 34, 41, 43, 46, 47, 58, 68
 Singh, Zail 142
 Sinhababu 111
 Sinhala:
 attitude towards Tamils 5, 12, 115f, 119f
 empire-loyalism of 23, 38ff, 74
 attire 38
 language 38, *see also language*
 names 38, 39
 employment opportunities for 68, 121
 relations with the British 23f
 Sinhala Maha Jana Sabha 13, 43, 59, 117
 Sinhala Only Act 14, 15, 19, 62, 63, 64, 65, 117, 118, 120, 141, 159, 160, 187, 188
 Sinhala Only attitude 92, 117
 Sinhala Only Board of Ministers 36, 42, 49, 50, 54, 55, 57, 59, 67, 72, 151, 156
 Sinhala Only polity 69, 109, 149
 Sinhalese-Muslim riots 43, 45, 47
 Sita 111
 SLFP 13
 Soulbury Commission 18, 61, 156, 187
 Soulbury, Lord 55, 63, 77
 Sri Lanka:
 constitution of 20, 101, 118, 189f
 control over the Northern and Eastern Provinces 7, 8, 9, 20f, 95, 96, 100, 167, 181, 189
 naming of 20
 relations with the US 6, 123
 Republic of 12, 19, 20, 21, 95, 122, 141, 147, 189
 Srimavo-Shastri Agreement 15, 86
 Stanley, Governor 27, 56
 Stubbs, Governor 50, 53f
 Suntharalingam 23, 64, 188
swaraj 46, 93, 95, 99, 105, 140, 154, 161, 162, 190
- Tamil Congress 78, 82
 Tamils:
 employment opportunities for 32ff
 indifference to history 107
 language of 15, 118, 119, 160, *see also language*
 see also Reasonable Use of Tamil Language Act
 relations with the Sinhalese 23
 see also Sinhala

- Temperance Movement 43
 Tennekoon, Chief Justice 170, 172
 Thambimuttu, E.R. 42
 Thiagarajar, Jeganathan 56
 Thimpu Conference 99, 132, 134,
 135, 138, 161, 189
Thirukkural 167, 169
 Thondaman 72, 80, 82, 85, 87, 152
 Tibet, *see* China and Tibet
 Tigers (LTTE) 1, 6, 7, 10, 11,
 95, 98, 102, 131, 133, 135,
 139, 154, 181, 183, 184
Times of Ceylon 53, 60
 TULF 22, 93, 137, 147, 154, 162,
 191

 ULF 15, 16, 19, 20, 62, 124, 148
 Universal Adult Franchise 26, 27,
 36, 42, 78, 153

 UNP 12, 14, 15, 21, 63, 85, 93,
 124, 125, 146

 Valmiki 110
 Vanniasingham 116
 Vanniyars 91
 Venkateswaran 98
 Vijaya, Prince 92, 111, 113, 115,
 159
 Vivekananda, Swami 40f

 Wall Street crash 76
 War Council 50f, 53, 60
Week 137
 Wesleyan Mission 30
 Wickremesinghe, Rev. Lakshman
 119
 World Tamil Conference 131
 Wriggins, Prof. Howard 35

PUBLIC LIBRARY
 JAFFNA
 SPECIAL COLLECTION

PUBLIC LIBRARY
 JAFFNA 10407 CC
 SPECIAL COLLECTION

228904

