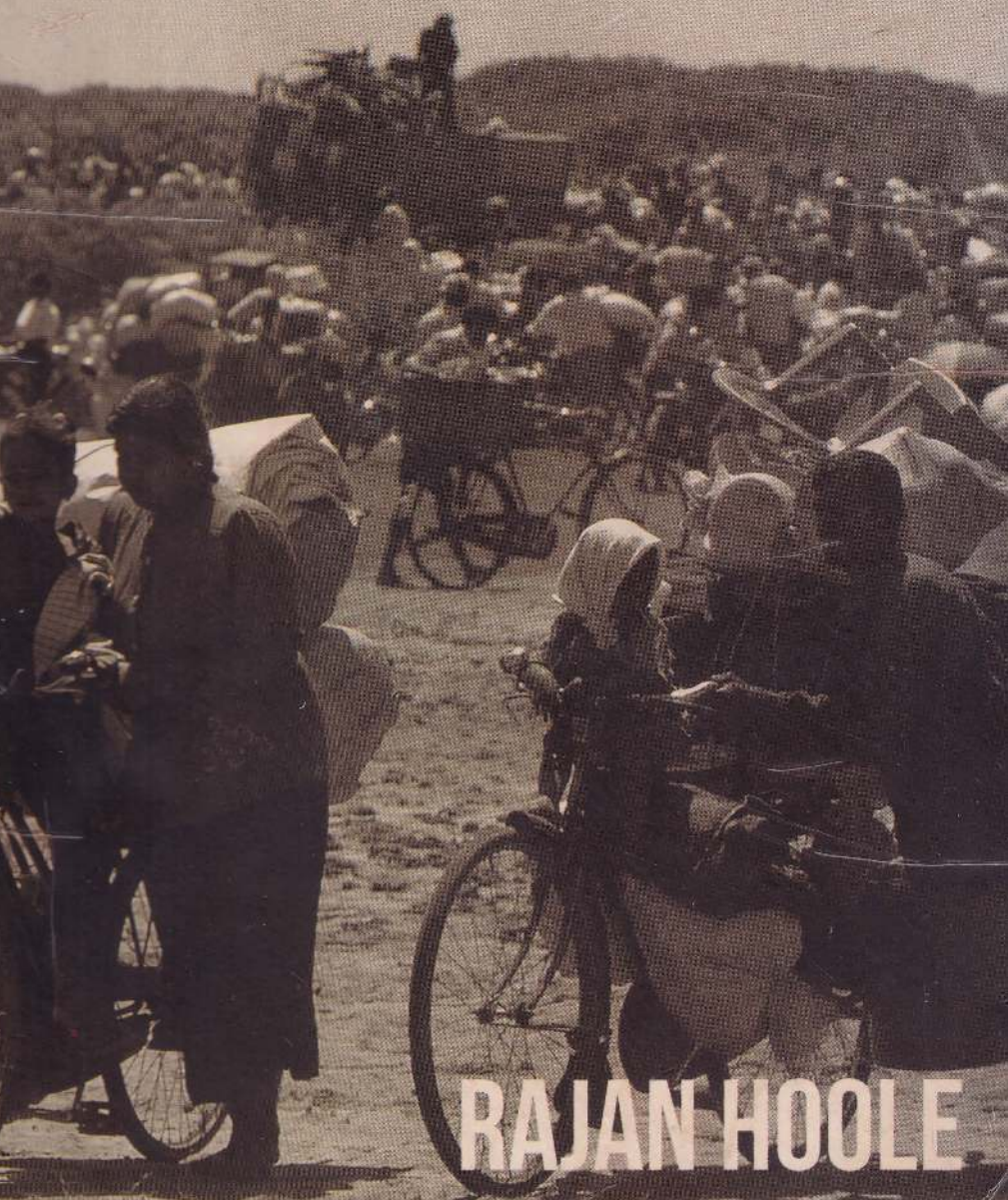


# PALMYRA FALLEN

FROM RAJANI TO WAR'S END



RAJAN HOOLE







**DR. RAJANI THIRANAGAMA**

**23 FEBRUARY 1954 — 21 SEPTEMBER 1989**

THE PALANI THIRAVAGAMA

22 FEBRUARY 1984 - 21 SEPTEMBER 1989



**University Teachers for Human Rights (Jaffna)**

# **Palmyra Fallen**

**From Rajani to War's End**

**Rajan Hoole**

**University Teachers for Human Rights (Jaffna)**

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To: Mr. S. S. Kumanayakam,  
With best wishes,

Rajan Hoole

26<sup>th</sup> March 2015

**25<sup>th</sup> Anniversary of the Assassination of Dr. Rajani Thiranagama**

*Let this life of struggle take from us what it will; Would it but  
rupture the springs, whence flow the lifeblood of human ties, of  
what avail is the crown of victory?*

- from *Puthiyathor Ulakam (A Strange New World)*, p.107, whose  
principal author, Soosaipillai Nobert disappeared in an LTTE  
concentration camp circa 1992

*Come, thine eyes beaming brightness of Truth  
heart steeled in firm endeavour...*

*Fondly revere as scripture  
all writings fostering Truth  
Fear thou to utter a Lie*

- *Oli padaittha kanninai*, Subramanya Bharathi's vision for Free  
India





To the memory of our late students

Miss Chelvi Thiagarajah  
&  
Mr. George Manoharan

who paid with their lives for their unswerving commitment to justice and a  
future with dignity for their people.





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## Author's Preface

We are living through an era where the powers that be have become very cynical about life. In their very nature it suits them to dismiss any attempt to remember a life lost or to seek justice for one killed as wasting time over a single speck among tens of thousands who suffered a similar fate. They know that to go deep into any one death, to expose culpability and explain the irreparable harm it does to all of us, is to place the edifice of power on trial.

This is why the memory of Rajani is so important. She believed that the memory of every person who was a victim of organised, institutional violence was sacred, and she laboured to place the whole truth on record for the public to judge. The values she espoused, worked and died for are an important part of our heritage, particularly of Left activism. Rajani's life, the intensity of her struggles and intellectual development would remain an inspiration to those who seek justice and common decency in our shared life.

Left activism was crucial in mobilising the marginalised communities and giving them a voice. In Sri Lanka, this is especially true of the oppressed castes and the Hill Country Tamils. Today, when the need for such activism is keenly felt, people have no stomach for it. Former Left activists in the South saw a reformed UNP as the one hope against the Rajapakse-led SLFP. Many Tamil leftists feel that the only way of making an impact on politics or alleviating the tragic plight of their people is through an alliance with the nationalist TNA, even as it is eminently answerable for this predicament.

At the time of Independence, the Left had in its ranks some of the greatest intellects this country had nurtured, and their parliamentary speeches at that time stand testimony to it. Against the ethnic parochialism of the rulers, the internationalism of Dr. N.M Perera, Dr. Colvin R. De Silva, and Harry Abeygoonewardena came through strongly in the citizenship debates and accurately reflected the future fate of the country. Yet when debating the Motion of Independence from 1<sup>st</sup> to 3<sup>rd</sup> December 1947 (the prelude to the Ceylon Independence Act in Britain), none of them seemed wise to what it was that the Government was really trying to hide. They seemed unduly distracted by the Defence Agreement with Britain and failed to see the true extent of the Government's deceit.<sup>1</sup> That came in the form of the

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<sup>1</sup> *Documents on Sri Lanka's Foreign Policy 1947 – 1965*, esp. speeches by Pieter Kenuman and Dr. N.M. Perera, p. 67 ff, Amal Jayawardane Ed., Regional Centre for Strategic Studies, Colombo. While the Defence Agreement with Britain of 11<sup>th</sup> November 1947 may have emboldened Senanayake to aggressive posturing against India during the passage of the Citizenship Acts, the military assistance from Britain was conditional 'as it may be in their mutual interest to provide'.

classic double-cross eight months later – the Citizenship Bill.<sup>2</sup> The Left's failure to move beyond words of censure to check this enormity against the working classes spelt the beginning of its slow decay.

From around the 1930s, indignation against social oppression and the need for an organised effort to relieve it moved sensitive youth to take up left activism. Rajani, as a medical doctor, would have readily empathised with Dr. S.A. Wickremasinghe who fought for the abolition of 'social and economic inequality and oppression arising from differences of class, caste, race, creed and sex' that were consequences of political subjection. Dr. Wickremasinghe poignantly captured the inequalities that pervaded Ceylon through a story of a woman from the village of Talahena, near Colombo. The woman who was suffering from malaria delivered her child while lying on a dirty mat. The corpse of the infant was laid on a 'kolapotha' with no clothes on. The woman had no help in the house save a boy at the door, presumably to drive the devil out. He contrasted these savage conditions with the wealth and waste indulged in by the upper classes and the political elite.<sup>3</sup>

The early idealism of the Left made a strong impression on students in the 1970s, and the then left-wing leaders were giants of their time. At that time they truly represented the racial equality to which the so-called liberal democracy in this country only paid lip service. Regi Siriwardene<sup>4</sup> reflects as a young insider in the 1940s how the killing of the worker Govindan in the Mooloya Estate strike of 1940 became a political issue that exemplified the preponderance class politics then over ethnic politics: "*No demagogue or careerist in the South today would try to make political capital out of the killing of a Tamil estate worker. Nor would any Southern-based political party mount a national agitation as the LSSP did, for the prosecution for murder of a Sinhalese sergeant who had shot the Tamil worker. For that matter the national conscience would hardly be agitated today by the question of whether the killing of one man was justified or not.*" Our indifference to a plethora of crimes by the State reflects where we stand today. Often these crimes have an ethnic colouring and are repeatedly denied, or covered up, by the powers that be. Even the token attempts in the 1990s to address crimes during the suppression of the 1987 – 1990 JVP insurgency, are now missing (see *Arrogance of Power*). The

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<sup>2</sup> As late as 1947, D.S. Senanayake told the House during the debate on the White Paper, "We have no such [snobbish ideas that Indians are not wanted here]...We love the Indians...There is hardly any difference with regard to the view of my learned friend Diwan Bahadur I.X. Perera himself...My friend says, 'We want full citizenship'. I tell you, 'If you live here, we will embrace you'."

<sup>3</sup> Inaugural meeting of the Lanka Sama Samaja Party, 21 Dec.1935, *Ceylon Daily News*, 23 Dec. 1935

<sup>4</sup> *Working Underground, The LSSP in Wartime: A Memoir of Happenings and Personalities*, ICES, 1999



result is the hopeless degeneration of national life into crime, violence, communalism and corruption.

The Left's compromise with communalism and narrow nationalism, in 1964, was truly a great fall; reminiscent of that of the proverbial Knights of the Round Table:

*For now I see the true old times are dead,  
When every morning brought a noble chance,  
And every chance brought out a noble knight<sup>5</sup>*

The Left failed to discern at the time of independence that the departing British and their local surrogates had connived to undermine them by the simple expedient of decitizenising a large segment of the working class. As Siriwardene notes, in particular, the Left being caught on the wrong foot over the language issue, its failure to come to terms with the JVP uprising in 1971 which claimed left inspiration, its patronising inability to comprehend the gravity of Tamil nationalism, the majoritarianism, Sinhala nationalism and statism inherent in its 1972 constitution that further undermined the minorities and its failure to see federalism as a solution to the latter were reasons for its colossal decay.

The fall of the Left meant that there was no one that the country, especially the youth, could look up to in the hope that wrongs would be righted. To Siriwardene (*ibid*), the fall did not 'accentuate any feelings of nostalgia': *"I am too conscious of the roads not taken, the possibilities left unfulfilled, for that. Unlike those who look back to those years as a political Eden before the fall of 1964, I see the decline as inherent in the limitations and partialities of the vision of the earlier period...the vanguard party had no viability once the LSSP moved into the period of open mass politics...The vanguard model was born under conditions of Russian autocracy; the assumption it implied, that one party had the monopoly of programmatic wisdom, was incompatible with a competitive political system. In the contemporary world, in societies possessing such a system, the motor of social change has not been a single party but a combination of many forces, including not only political parties but also social action groups of various kinds, and Sri Lanka hasn't proved an exception."*

Rajani came into left politics conscious of the developments sketched above. She did not look to building a party, but rather a plural social movement in her locality. Her movement would gain strength through small victories, and by forming ties of solidarity across Sri Lanka, South Asia and the wider world.

For Rajani, life could find meaning only by partaking in the tribulations of her people. She felt responsible for their destiny. Unlike for many,

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<sup>5</sup> Alfred Tennyson, *Morte d'Arthur*

sufferings broadened the scope of Rajani's humanity. She was disciplined to think as an internationalist. However, she recognised that she could not identify with the suffering in the wider world if she distanced herself from the sufferings of the people she was born among; the ones who formed the most meaningful sphere of her actions. Thus even amidst the trauma of the Indian Army's takeover, she felt deep sympathy for the peasant soldiers from Punjab, Bihar, and Bengal who were dying in Jaffna without any clue about why they were sent and what they were meant to accomplish.

Rajani's focus was solely in preserving integrity in her commitments rather than popularity or fame. She sought to work among the outcasts of the Tamil society whose sufferings were trivialised for nationalist propaganda; nobody identified with these people or found common cause with them. She worked extensively with abused and traumatised women. Once politically motivated and able to stand up for themselves, they could become a bastion of strength within society to change people's outlook and attitudes. As part of their education they were encouraged to learn from experiences and struggles in other societies. She felt a deep sense of solidarity for struggles everywhere, particularly the plight of Hill Country Tamils and the Sinhalese rural folk caught up in state and militant terror during her last years. Her decision to return from England with her two little daughters into the web of the very organisation whose inhumanity she had come to detest bears testimony to her character and sense of mission. Former Tanzanian foreign minister and subsequent political prisoner and exile, Mr. Mohamed Abdul Rahuman Babu, testified to Rajani's internationalism and her faith in the triumph of justice at the commemoration for her at the University of Jaffna, 22<sup>nd</sup> November 1989:

*"I first met her at a meeting organised by the African students in London in support of the Eritrean people to self-determination. You'll be surprised that Rajani, coming from Jaffna, getting herself involved in an issue that does not concern Tamils, but concerns a remote people, three million people, in a corner of Africa, which Africa itself has ignored. You hear of liberation struggles, of Angola, of Mozambique, of South Africa. It's fashionable to talk about these struggles, but you don't hear about the struggle of the Eritrean people, because it has been embargoed, because it is a black colonial power against a black people. So to find somebody like Rajani conscious of this says a lot about the kind of person she was.*

*Rajani lived and died at a great moment in history when we are seeing significant changes taking place in the Third World. The Third World went through the first phase of struggling for independence, and we were all involved in the national liberation struggles in one way or another. We got our independence only to discover that that independence has been hijacked. It had not served the people, but served a handful of*



*people. It has left the poor people of Africa and Asia in a most poverty stricken state of affairs ever experienced in history.*

*It is no longer a struggle against a distant oppressor...But it is a struggle within ourselves, and it needs a lot of determination and sacrifice because in this struggle it is easy to be isolated, it is easy to be called the enemy of the people, an enemy of the state. So the cost is very high and Rajani sacrificed her life for that, to side with the people."*

A strong element in Rajani's passion for justice was her insistence on human relationships untrammelled by artificial barriers thrown up by institutions, discriminatory policies and customs. She detested any idea of greatness that required making others small through human barriers, institutional power, enforced poverty and deprivation. Her main criticism of the LTTE was related to this. An unjust order, however distressing, was irrational: a transient will-o'-the-wisp that leaves a great sense of foreboding of an ephemeral order that is extremely destructive while it lasts. Time and again, our attention was drawn to what the South African struggle, one that Rajani closely identified with, shared with our own.

Most militant groups had a core that could appreciate persons with ability, people who could steer organisations in a healthy direction, joining other groups. It brought closer cooperation for the common public good. The LTTE, on the other hand, looked only at its narrow interests and targeted talented persons in other groups for elimination. A consequence was that any criticism of it became anathema. The cost of Prabhakaran's greatness was a society paralysed by terror. It was such a leadership that led the people into the killing fields of Mullivaykkal in 2009, with hardly a voice from the senior Tamil political leadership raised in protest, except that of Mr. Anandasangari.

Rajani was keenly conscious of the inevitable attraction of movements such as the LTTE to the young who felt powerless against an arrogant and brutal state. She believed that every life was precious and opposed individual killings for political ends. While she had no doubt that Prabhakaran was the immediate obstacle to the Tamils being allowed breathing space, any anger she felt against him was muted by what she felt for the callous and thoughtless opportunism of her own class – the good middle class TULF supporters.

Rajani engaged youth who took to violence against the State with sympathy and understanding. Her message to them was consistent. She agreed that the actions of the State were without excuse and shared in their yearning for liberation. But, she stressed that liberation must begin with self-questioning. Rajani was prophetic in her warning that the path the youth were embarking on would, ultimately, wound, weaken and humiliate the

Tamil society and render it powerless against the very state they were fighting against.

Through the 1980s, seeing what she conceived as a people's struggle being utterly debauched, with nothing left except the ambitions of a few who did not balk at mass murder, Rajani was moved to write these damning words:

*"The Tigers' history, their theoretical vacuum, lack of political creativity, intolerance and fanatical dedication will be the ultimate cause of their own break up. The legendary Tigers will go to their demise with their legends smeared with the blood and tears of victims of their own misdoings. A new Tiger will not emerge from their ashes. Only by breaking with this whole history and its dominant ideology, can a new liberating outlook be born."* (The Broken Palmyra Vol. II, 6.3.4)

Rajani's activism was motivated by the understanding that ordinary people who want to get on with life without being weighed down by antagonisms have a natural propensity for reconciliation. A senior lady from a leading traditional Left family observed that when Tamils from the Vanni were driven to IDP camps after the last round of war many ordinary Sinhalese went with food and other necessities for them. The Army stopped them from proceeding and took over their donations saying that they would deal with the matter. The lady observed, *"That is the point where reconciliation should have begun, with people to people contact. The opportunity was lost."*

This book is not meant solely as a tribute to Rajani Thiranagama. It is my hope that it serves as an urgent reminder for the people and leaders of this country that the need of the hour is to uphold the ideals of justice and reconciliation that Rajani stood for.



## Acknowledgments

From many years before the compilation of this volume, since the time we got together at the University of Jaffna at the end of 1986, the author incurred an immense debt to his colleague Dr. K. Sritharan, whose long standing contacts with the Tamil rural Left, judicious assessment of factual evidence, counsel, and political judgments have been the indispensable component of the work of the UTHR(J), during Rajani's life and after; to Meena Nallainathan who went through the drafts from the early stages and Nirmala Rajasingam for going through the drafts and complementing the material, to Sumathy Sivamohan, Jeannine Guthrie, Ramani Muttetuwegama, Elilini Hoole and Rohini Hensman for factual and editorial suggestions; to Rajani's daughter Sharika for making several suggestions for improvement and to Vasugi Ganeshananthan for editing several of the difficult chapters of the draft. The author acknowledges his debt to Shreen Saroor of the Women's Action Network for answering several queries and helping to balance his perspective on several events and issues. The author also received considerable support in editing and content from parties he cannot presently name. Responsibility for the contents is the author's own.

The UTHR(J) received succour from scores of individuals who are not named in this book. Among those who have left us and find no mention in the body of the book, we acknowledge a tremendous debt to Dick and Pauline Hensman and Lanka Nesiah, who had over many years been a timely source of strength and support. Jothy Hoole, with his wide contacts, has been a constant companion in our work from home in Jaffna when he was electrical works engineer at the KKS Cement Factory and subsequently as pastor of a church in Mannar. He contributed significantly to our reports and to this book as one intimately familiar with the plight of the people in the region he lived among and ministered to.

The book as Rajani would have wished, is mainly to remember the ordinary people who boast of no pomp or heraldry, but lost many loved ones and have been left to cope with trauma, poverty, repression, and physical disability. They were let down and suffered grievously for the vanity, greed and vainglory of those who knew better and ought to have done better.



## Introduction

### Apartheid South Africa and Lanka: State Racism Replaces Natural Law

*Of fortitude bereft  
Honour in integrity none  
Evil they spawn, O little one  
Brave in words alone*

- Subramanya Bharathy

#### 1. Mandela and the Importance of the 'Common Good'

The passing of Nelson Mandela has touched off a series of reflections for us in Lanka, particularly on our missed opportunities and failures as a nation. Tisarane Gunasekera finds most remarkable in Mandela and the ANC that "Their vision and their actions had been uncompromisingly non-racist. They regarded Apartheid not as a crime against blacks but as a crime against humanity." Whites – and other non-white people – were actively encouraged to take part in the struggle. The writer cites Mandela's signal for the future of independent South Africa, when white supremacists on 10<sup>th</sup> April 1993 assassinated Chris Hani, a leading member of the ANC, hoping to provoke a bloodbath against the Whites. Mandela told the nation, *"This is a watershed moment for all of us. We must not let the men who worship war and who lust after blood, precipitate actions that will plunge our country into another Angola."*

South Africa raises for us the perennial questions of violence and non-violence. It was the crucible in which Gandhi's non-violence was forged and later, in Mandela's time, Africa became a theatre of anti-colonial struggles. Mandela has acknowledged the Cuban role in the military confrontation in Southern Angola in 1987/88 against South Africa and its allies as decisive for the willingness of Apartheid South Africa to negotiate. In a violent reality, one cannot flippantly pass judgment between violence and non-violence, and yet, every drop of blood is a terrible responsibility. Dietrich Bonhoeffer, a German who bravely resisted the Nazi regime, tried tentatively to bridge the dilemma with his notion of 'responsible action'.<sup>6</sup>

Rajani Thirananagama, the main subject of this book, who was a keen sympathiser of the South African and other liberation struggles through much of her adult life grappled with the question of violence right to the

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<sup>6</sup> Bonhoeffer wrote in his *Ethics*: "[The action of a responsible person] is performed wholly within in the domain of relativity, wholly in the twilight which the historical situation spreads over good and evil; it is performed in the midst of the innumerable perspectives in which every given phenomenon appears. It has not to decide simply between right and wrong and between good and evil, but between right and right and between wrong and wrong."

end. She, with her wide contacts, had introduced the LTTE to the ANC and other liberation movements in London in the early 1980s. This was why what she said or wrote was very important for the LTTE as it confronted its acute problem of credibility. Unlike Mandela with his firm anti-racism that appealed for broad support, the LTTE was never able to achieve a broad humanitarian outlook that would invite others into the struggle for Tamil rights as human rights.

At the same time, in Lanka, several leaders have not only been implicated in mob violence and military reprisals against minority communities, but have also defended such actions as necessary. How then should we understand President Rajapakse's saying of Mandela that that the greatest tribute we can pay *'this great son of South Africa and statesman is to preserve the values of democracy, diversity and unity that he so cherished'*?

Hugo Grotius, the leading jurist of Roman Dutch Law, who advocated that all be subject to international law, had written that 'he would not condemn individuals or a minority of the people who, in the last resort, defended themselves against atrocious cruelty, provided they did not abandon consideration of the common good'.<sup>7</sup> The common good was consistently upheld by Mandela. In contemporary Sri Lanka, however, human and civil rights are routinely violated by the state in the name of the common good, while the LTTE had long ago abandoned any conception of it. The kind of reconciliation that is now being talked about in Lanka complacently appears to take it for granted that there would be no telling of truth as there was in South Africa.

Roman Dutch Law, as systematised by Hugo Grotius, which both Lanka and South Africa inherited from their former Dutch colonial rulers, is founded on Natural Law. Natural Law has strong credentials as a system of justice that could embrace a polity having multitudinous peoples, as one founded on the moral law to which our conscience bears witness, and recognised by many as the inevitable source of international law.<sup>8</sup> Among its contributors were the Roman jurist Marcus Tullius Cicero, Thomas Aquinas and the Spanish jurists from the era of colonial conquest. From this tradition, Fernando Vazquez (1564) and Samuel Pufendorf (1672); respectively forerunner and successor of Grotius, made the strongest

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<sup>7</sup> *De jure belli ac pacis* (The laws of war and peace) 1.4.7

<sup>8</sup> From the Babylonian *Hymn to Samos*, from the Laws of Manu, from the *Book of the Dead*, from the Analects, the Stoics, the Platonists, from the Australian Aborigines and Redskins, [the student of ethics] will collect the same triumphantly monotonous denunciations of oppression, murder, treachery and falsehood, the same injunctions of kindness to the aged, the young and the weak, of almsgiving and impartiality and honesty. He may be a little surprised (I certainly was) to find that precepts of mercy are more frequent than precepts of justice; but he will no longer doubt that there is such a thing as the Law of Nature – C.S. Lewis in *The Poison of Subjectivism*



critiques of colonial conquest and its cruelties. Both South Africa and Sri Lanka, failed to advance beyond the precepts of Roman Dutch law, and in different ways, saw the development of state racism. Lanka has fiercely denied any imputation of racism. Yet neither Lanka, nor South Africa need have gone down this road.

Critiques of Natural Law, whose high tide was the 16<sup>th</sup> to 18<sup>th</sup> centuries, frequently point to its origins in the Western religious and philosophical traditions. More influential however is the critique based on relativism. As the age of Western colonial conquest advanced, some of the strongest critiques of this conquest came from the Natural Law school, and relativism was a suitable rationale for domination under the name of patronage. Yet Natural Law does not require a religious basis; it requires acceptance of objective truth. Karl Popper has argued that to reject the quest for objective truth is to reject the possibility of science. Objective truth, however, is something we may never fully know, but can approach through an unending quest of conjectures and refutations.<sup>9</sup> The truth we have is serviceable, but not absolute.

Current international law is guided by *jus cogens* (so-called peremptory norms), which are customary rules of international law that permit no derogation, and thus prevail over international agreements and other customary rules in conflict with them. Genocide, torture and enforced disappearance of persons are broadly proscribed by *jus cogens* though with less support for the last item. While having the force of universal recognition, the weakness of *jus cogens* stems from the absence of agreement among states on recognising *jus cogens* norms and their lack of commitment to something they formally agree to in order to earn brownie points. That has been the fate of the Universal Declaration of Human Rights, although the document is an extremely useful step. Enforcement as will be discussed in the End Note constantly meets obstacles from the sovereign equality of states, which is also part of positive international law.

While there is a debate about the derivation of *jus cogens* from positive law and natural law, its importance in jurisprudence is that it takes accepted norms as part of the "common good" and this is also the way to new

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<sup>9</sup> The following extract from the Introduction to Popper's *Conjectures and Refutations* gives the main lines of Popper's thinking on the problem of knowledge that is both human and without individual whim and arbitrariness: "The solution lies in the realisation that all of us may and often do err, singly and collectively, but that this very idea of error and human fallibility involves another one – the idea of *objective truth*: the standard which we may fall short of. Thus the doctrine of fallibility should not be regarded as part of a pessimistic epistemology. This doctrine implies that we may seek for truth, for objective truth, though more often than not we may miss it by a wide margin. And it implies that if we respect truth, we must search for it by persistently searching for our errors: by indefatigable rational criticism and self-criticism."

positive norms. The way forward in the present scenario is pointed out by the judgments that appeal to natural law, or the law of conscience, to find room for new *jus cogens* norms by invoking the contradiction between expectations created by positive norms such as of 'legal equality, non-discrimination and the equal and effective protection of the law'; and the domestic laws and practices of states. The 2003 judgment on the rights of Undocumented Migrants by the Inter-American Court of Human Rights of 2003, took the creative step of advising affirmative action, which is not provided for in *jus cogens* norms (although several countries, India, Ireland, South Africa, Malaysia, and the U.S. have such policies) – in effect paving the way for a new norm. Cancado Trindade, the presiding judge, stressed the principal role of conscience in his recent book: "Nowadays international crimes are condemned by general as well as conventional International Law. This development has been fostered by the universal juridical conscience, which, in my understanding, is the ultimate material source of all Law (see section 10 below)."

## 2. Developments in Lanka and South Africa

The 1940s witnessed parallel developments in Lanka and South Africa, which were a continuation of segregationist attitudes and practices of the 1930s and earlier. In both countries, the coming of the Left made possible the organisation of the working class across ethnic lines. This was reflected in Ceylon's estates strike in 1940 where the Trotskyite LSSP took active part. In Mool Oya a worker Govindan was killed in Police firing. A new wave of urban strikes followed postwar. Police firing in Dematagoda on 5<sup>th</sup> June 1947 killed the clerk Kandasamy. On 16<sup>th</sup> June 1947, in the last days of colonial rule, the Public Security Ordinance was placed on the statute book. In South Africa too, the coming together of Indian and African peoples created alarm.

The Indian community in South Africa began its passive resistance to Natal's ghetto laws in 1946. Natal had an Indian population of 250,000, many of whose forebears had come to work in sugar plantations. The same year, more than 75,000 African miners who were grossly underpaid in relation to their white counterparts, struck. The miners were forced back to work at gunpoint, killing twelve workers and injuring many more. The newly independent India brought before the UN on 22<sup>nd</sup> June 1946 a complaint over South Africa's ghetto laws against Indians in Natal.<sup>10</sup>

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<sup>10</sup> Smuts, while insisting on South Africa's sovereignty, told the UN that his government was willing to submit to a determination by the International Court: "*My Government, however, has consented to the matter being referred to the International Court. It will agree to that reference being enlarged so as to include facts as well as law. The Court may conduct any inquiry it thinks right on the facts, sending a commission to South Africa if it wishes, so as to establish the true facts and to arrive at the true determination of the law.*"



A particular source of alarm for the rulers in Lanka was India, which cited as the basis for its complaint to the UN, the long standing contractual arrangements between the governments of India and South Africa, which resulted in Indian emigration to South Africa, and consequently India's continuing responsibility. The arrangements were almost identical for the migration of labour to Ceylon. Vijayalakshmi Pandit in her electrifying speech reminded the UN of the context of Imperial history under which Indians had originally travelled to the colonies, where under the conditions of contract they would gain citizenship rights after the completion of a term of indentured labour – generally five years. In another novel departure, she pleaded that her colleagues give greater weight to Articles 10 and 14 of the UN Charter where *'the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin'*, in favour of the restrictive Article 2(7) which barred the UN from intervening in 'matters which are essentially within the domestic jurisdiction'. Vijayalakshmi quoted with great effect the Preamble to the UN Charter drafted by her opponent, the South African Prime Minister Jan Smuts himself, of its aim to *'re-establish faith in fundamental human rights, in the sanctity and ultimate value of human personality, in the equal rights of men and women of nations large and small'*.<sup>11</sup> Despite their long sparring relationship, Gandhi regarded Smuts as a friend.<sup>12</sup>

Smuts, who had a reputation as a wise and leading statesman in European affairs was greatly disturbed. Backed by Britain, he defended the colonial logic of paternalism and, in order to defer the Assembly voting on the matter, offered to place the matter for determination before the International Court of Justice where Smuts wanted the Court only to consider if the matter fell within the purview of the UN Charter he had helped to fashion. A compromise suggestion by the British envoy Sir Hartley Shawcross was for the Court to decide *'whether or not South Africa has neglected to observe any international obligations in her treatment of Asiatics.'*

However the UN Assembly resolved with a two thirds majority (29 for, 13 against and 7 abstentions) that it *'Is of the opinion that the treatment of Indians in the Union should be in conformity with the international*

<sup>11</sup> Irwin, Ryan M., *Imagining nation, state and order in the mid-twentieth century*, International Security Studies, Yale University, 2011

<sup>12</sup> Before Mrs. Vijayalakshmi Pandit, India's representative, left for the UN, Gandhi had said to her: "I don't mind whether you come back having won your case or having suffered defeat. But you must come back as a friend of Field Marshal Smuts (*vide*, biography of Smuts by his son J.C. Smuts)." In one of his many conversations with Gandhi about those imprisoned for civil disobedience, Smuts told him that "it has hurt me more than you to imprison those people. It has been the unpleasantest episode of my life to imprison men who suffer for their conscience." (Ramachandra Guha, *Gandhi before India*).

*obligations under the agreements concluded between the two governments, and the relevant provisions of the Charter’.*<sup>13</sup>

Those who voted against the resolution included the US representative J.F. Dulles and most members of the Imperial club: Canada, New Zealand, South Africa and the United Kingdom (Australia abstained). It was this club which Ceylon joined in 1947 by its defence and external affairs pacts with Britain. Vijayalakshmi contended that Britain had worked against India at the UN: *“This was done subtly and in a clever fashion, but it was sabotage.”*<sup>14</sup>

The importance of the UN Resolution 44(I) of 8<sup>th</sup> December 1946 for Ceylon is that it had in advance declared Ceylon’s coming citizenship laws affecting Indian Tamils odious to informed international opinion. In South Africa, the issue was not citizenship, but the civil rights that flow from it. In Ceylon, the three Acts wiped out in one fell blow, the citizenship and civil rights of a ghettoed community.

In that early dawn of Independence, India stood for an interventionist internationalism that would protect human rights everywhere, including of migrant Indian communities. Upon assuming office as prime minister, Jawaharlal Nehru told a press conference on 27<sup>th</sup> September 1946, *“The kernel of our policy is the ending of colonialism all over Asia, or for that matter, in Africa and elsewhere and racial equality...and the end of domination or exploitation of one nation by another.”*

Seeing how the tide was flowing, we might infer that Britain resorted to rearguard action that would protect its economic and strategic interests. Britain had worked closely with Smuts, who in 1921, as a member of the Imperial war cabinet, spoke to his colleagues on the subject of greater Indian rights: *“You cannot deal with the Indians apart from the whole position in South Africa; you cannot give political rights to the Indians which you deny to the rest of the coloured citizens in South Africa.”* To Smuts, the events from 1920 to 1922 were an object lesson, where several strikes were put down with brute force resulting in hundreds of deaths, including close range shooting of 119, men, women and children of an African millenarian Christian sect. Notably, 20,000 white miners joined 70,000 striking black miners in Witwatersrand against wage reductions in January 1922. The same year, a South African expeditionary force killed

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<sup>13</sup> Muthal Naidoo <http://www.muthalnaidoo.co.za/indian-south-african-history-enuga-reddy/337-india-and-the-struggle-against-apartheid>

<sup>14</sup> Smuts’ son J.C. Smuts, wrote in his biography of his father *“The warnings of Britain and others [on setting a dangerous precedent in South Africa] went unheeded despite the strong support of Britain and the Dominions (and the conspicuous absence of support from America), we were again defeated [on South West Africa].”*



115 members of the Bondelzwarts community in South West Africa, who resisted the arrest of a popular leader.<sup>15</sup>

By giving independence to South Africa in 1910, Britain contracted out the trouble of maintaining its exploitative interests in South Africa to the Afrikaner community. Ceylon received its independence from Britain after signing defence and external affairs agreements, the former principally with India in view. During the debate on the Motion of Independence (2<sup>nd</sup> December 1947), Dr. N.M. Perera pointed out the meaning of the first clause in the External Affairs agreement: *"The Government of Ceylon declares the readiness of Ceylon to adopt and follow the resolutions of past Imperial Conferences."* Dr. Perera quoted what the British Chancellor of the Exchequer said at the 1932 Imperial Economic Conference in Ottawa following adoption of resolutions on monetary and financial matters: *"His Majesty's Government desire to see wholesale sterling prices rise. The best condition for this would be a rise in gold prices, and the absence of a rise in gold prices inevitably imposes limitations on what can be done for sterling."* In fact gold prices went up after Britain and dominions from 1931 delinked their currencies from the gold standard.

The foregoing gives an idea of how gold mines in South Africa and tea plantations in Ceylon tied up with the sphere of British interests and the sterling area, and how working class solidarity across ethnic lines in South Africa and Ceylon was seen as a threat. The production of primary goods, as gold and tea, whose prices fluctuated wildly, usually employed ethnically distinct and politically isolated work forces, which was crucial in keeping down wages.<sup>16</sup> States tied to capital invested in primary production had a vested interest in persecuting radical influences that cut across ethnic and social barriers. Adding to the alarm of India's call for internationalism at that time, the Ceylon elections in September 1947 returned 20 Left and 7 Indian Tamil MPs out of 95 elected members. The meteoric advance of the Left in a dozen of years and the prospect of solidarity across communal lines alarmed the British and the local elite. By the closeness of Ceylon's arrangements with Britain, we may infer that disenfranchisement of the Indian Tamil population in the wake of Independence was a done deal with Britain, down to the Privy Council's predictable sanction of the Citizenship Act in 1953, using essentially the positive norm of sovereign immunity of nation states, free to enact their own laws. Collusion on Ceylon is further evident in Britain's aid to South Africa in 1946 through attempting to deflect UN censure by going to the International Court of Justice.

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<sup>15</sup> Shula Marks, Smuts, Jan Christiaan, Oxford Dictionary of National Biography

<sup>16</sup> Lull Callinicos, Bound to Strike Back,

<http://www.sahistory.org.za/Bound%20to%20strike%20back>

The growing solidarity across ethnic lines and the unrest of the 1940s were the common context in 1948 for the citizenship laws of Ceylon and for the beginning of Apartheid in South Africa. Smuts who had not shied away from brutal measures to maintain White supremacy was also a proven soldier and scholar. His hesitant compromises with Gandhi suggest reluctance to prolong futile battles. His prescience warned him of the futility of Apartheid. He said in 1942, "*Isolation has gone and segregation has fallen on evil days too*", but he had no answer. Industrialisation in the 1930s had placed Blacks and poor Whites in shared spaces.

Nehru had identified the question of rights of Indians in South Africa as a problem of decolonisation. Everything he and Vijayalakshmi said was applicable to the rights of settled Indian labour in Ceylon. By the British outsourcing their citizenship question to the Ceylonese elite, it was addressed in a far harsher manner than the colonial power would have dared. Nehru was exasperated. The Indian Congress had regarded Ceylon as partners in the anti-colonial struggle and there was obvious reluctance to apply the decolonisation paradigm as applied to white racism, even when the effects were similar.<sup>17</sup>

In three Citizenship Acts dragged over fourteen months, the Government of Ceylon annulled the rights of the settled Indian labour, keeping the intended victims in hope until the final blow. First, the Citizenship Act passed by Parliament on 20<sup>th</sup> August 1948 was presented by the Government as intended to confirm citizenship on all, including former Indian residents domiciled in Ceylon, but contained insurmountable conditions to do with proof of birth in Ceylon of male lineal forebears up to the fourth generation. Second, the Indian and Pakistani Residents Citizenship Act (IPRCA) passed by Parliament on 10<sup>th</sup> December 1948 had a pretense of facilitating citizenship for those left out by the first act, but contained income and literacy conditions, all applied selectively to persons of Indian origin, which disenabled the bulk of them. The Parliamentary Elections Amendment Act (or Franchise Act), the third, passed by Parliament on 18<sup>th</sup> & 25<sup>th</sup> October 1949, feebly linked franchise to citizenship, and stripped away the franchise a poor working class that had exercised it since universal adult franchise was introduced in 1931.

Threatened by working class mobilisation, the ruling UNP sought to secure itself by disenfranchising the labour of Indian origin, whose registration though administratively hampered, their party, the Ceylon Indian Congress

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<sup>17</sup> Interestingly, the Soviet Union vetoed Ceylon's admission to the UN in 1948 because it distrusted Ceylon's independence from Britain. Ceylon was admitted in 1955.



(CIC) controlled in 1947 seven of 95 elected seats in Parliament, and were strong in another two and influenced the decision in several more.<sup>18</sup>

The Indian Tamil community had been mapped out during the 1946 Census using anecdotal criteria (see p.34) and citizenship by descent was conferred automatically, without formality, on supposed indigenous elements (namely Sinhalese, Ceylon Tamils, Moors and Burghers). That is to say the Citizenship Act of 1948 was applicable only to the Indian immigrants who were targeted for exclusion by impossible demands.

The extract below from Abhayaratne and Jayawardena shows that **birth certificates could not have been a legal requirement until well after 1895** and it is unlikely that Prime Minister D.S. Senanayake could have produced the birth (as distinct from baptismal) certificate of his own father (Don Spater, born in 1847, H. A. J. Hulugalle's *Senanayakes of Botale*) as proof of his birth in Ceylon.<sup>19</sup> Neither Senanayake nor S.W.R.D. Bandaranaike could have produced birth certificates of grandfathers. The Indian Tamils were bizarrely required as condition of citizenship to produce the father's, or alternatively paternal grandfather's and great-grandfather's birth certificates. The Act would have been disqualified under Roman Dutch Law as 'manifestly foolish and ridiculous' (Grotius cited below). It was enforced by being administratively discriminatory (i.e. not applied to Senanayake), which British Law apparently allowed as argued by Attorney General Alan Rose.

Speaking on the Citizenship Bill (19<sup>th</sup> & 20<sup>th</sup> August 1948) Dr. Colvin R. de Silva argued that *jus soli* (citizenship by birth) was the appropriate criterion here, rather than some highly convoluted form of *jus sanguinis* (by right of blood) applied selectively to one community. Dr. de Silva deplored the Prime Minister's evasiveness in introducing the Citizenship Bill without explaining its philosophy, purpose, urgency or legal effects.<sup>20</sup> Senanayake while introducing the Bill on 4<sup>th</sup> August 1948 had said evasively, "It is quite a simple Bill... We are not prejudicing the interests of anyone; we are only trying to confer Ceylon citizenship on people in Ceylon

<sup>18</sup> CIC MPs were elected to Nuwara Eliya (S. Thondaman), Talawakelle (C.V. Velupillay), Kotagala (K. Kumaravelu), Nawalapitiya (K. Rajalingam), Maskeliya (G.R. Motha), Alutnuwara (D. Ramanujam) and Badulla (S.M. Subbiah). Haputale had an Indian Tamil majority. Bandarawela elected a Ceylon Tamil (K.V. Nadarajah) with Indian support.

<sup>19</sup> [http://www.slelections.gov.lk/pdf/Results\\_1947%20GENERAL%20ELECTION.PDF](http://www.slelections.gov.lk/pdf/Results_1947%20GENERAL%20ELECTION.PDF)

<sup>20</sup> "Legal recognition of the registration of births and deaths was made in 1847 by enactment of the Registration of the Marriages, Births and Deaths Ordinance No.6 of 1847. Yet Registration was incomplete and haphazard. A series of amendments to the ordinance followed in the attempt to improve registration, culminating in the Births and Deaths Registration Ordinance No.1 of 1895, which forms the basis of the registration system in the country today." – O.E.R. Abhayaratne, C.H.S. Jayawardena, *Fertility Trends in Ceylon*, Cey. Journal of Med. Sci. Dec. 1964

<sup>20</sup> Colvin R. de Silva, *Selected Speeches and Writings*, Wesley Muthiah and Sydney Wanasinghe ed., Young Socialist Publications, 2007, p103 ff.

who are not citizens of another country.” The dagger against the Indian Tamils was only just peeping out. Senanayake knew well that British and Ceylonese economic interests would collapse if the Indian migrants were expelled from the country; he only wished to deny them a say in government by annulling their vote. His ambivalent stances were already expressed in 1926 and 1928, preparing the ground for the 1948 *denouement*.<sup>21</sup> The crux of his speech on 19<sup>th</sup> November 1926 was: “We have admitted the capitalist, we have allowed him to invest his capital in Ceylon, and it is only fair that we should see that he is secure in the matter of labour, and that he is given every facility to make his profits on the capital he has invested.”

Kumari Jayawardena<sup>22</sup> observes that when Ceylon gained independence in February 1948, the constitution then in force did not define citizenship, a singular and intentional omission which was rectified soon after. The British Nationality Act passed in July 1948 covered the needs of those in former colonies until they passed their own citizenship laws. The Indian Constitution defined a citizen as anyone domiciled in India as of 26<sup>th</sup> November 1949. Unlike the British and Indian citizenship laws of the time, which minimally preserved status quo, Ceylon’s was a citizenship act to deprive rather than confer. The only conceivable reason for Ceylon rushing through with a citizenship bill on the heels of the British Act, which recognised *jus soli*, to define citizenship narrowly, was to pre-empt ongoing negotiations with India over Indian Tamils by decitizenising them, and presenting India with a *fait accompli*. This was boorish diplomacy.

Dr. de Silva pointed out that rather than adopt the principle of birth (*jus soli*) or domicile (e.g. India) in a country as criterion for citizenship, **the government chose the racial principle** – people descended from certain people in a certain way – making citizenship a game for genealogical experts who are hired to trace one’s royal ancestry and get it badly wrong. He pointed out that the Government’s claim that the Bill did not affect the civil and voting rights of the Indian Tamils was a piece of

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<sup>21</sup> D.S. Senanayake while admitting in the Legislative Council on 19<sup>th</sup> November 1926, it is true that some of them, including himself, have benefited from Indian labour and ‘we require Indian labour very much’, said they are brought here to ‘crush’ the native population and called for restrictions to immigration. Senanayake tried to give a further twist to this when the Donoughmore Commission recommendations were discussed by the Legislature on 26<sup>th</sup> October 1928, which proposed qualification for voters to be five years’ residence or one year’s residence with property and educational qualifications. He misinterpreted the humanitarian guarantees India sought under Indian law to permit the emigration of Indian labour as protection by the Government of India which, he argued, made them Indian citizens – although India’s obligation ceased after five years. But he concluded by saying, ‘We do not want to differentiate, we do not want to discriminate’, and those who choose to become citizens of Ceylon would be welcomed – H.A.J. Hulugalle, *Don Stephen Senanayake*, Gunasena, 1975, p209 ff.

<sup>22</sup> Kumari Jayawardena, *Ethnic Consciousness in Sri Lanka: Continuity and Change*, in *Sri Lanka: The Ethnic Conflict*, Navrang, New Delhi, 1984



deception (as exemplified by the next two bills). Also deceptive was the Government's use of the term indigenous population euphemistically, when **what it really meant was that 'the Sinhalese race has a vested right to a certain superiority of status in this country'**. He added, **"The moment the Government starts applying a racial principle against one group, its extension to others is only a short and easy step."** Dr. de Silva charged the Government with emulating Dr. Malan – the author of Apartheid in South Africa that very same year – indicating the character of the Bill.

Dr. de Silva warned, "It is precisely in Germany that, in recent history, it has been most flagrantly proved that no state can reduce one section of the people to the position of semi-slaves and helots, and remain immune from the consequences. The poisoning of the atmosphere with anti-Judaism resulted in the strengthening of the reactionary fascist state...If this [racial] principle continues to operate over a period, this country can only be, not a democratic state, but an oligarchic state in which a particular section of the population will oligarchically, though democratically as within that section, rule over the whole of the rest of the Island's population. He added prophetically, **"[The Government's campaign of race mongering] will have taken another step towards that ultimate consummation, namely, the ending both of this government and of the system which it represents and defends."**

The Government's victory of 20<sup>th</sup> August 1948 was Pyrrhic. It began the destruction of the rule of law and racial obscurantism in law and practice. This destruction is no better represented today than by the sorry state of our courts, social justice and precipitate fall in the rankings of our once proud university system. The cruelties of our ethnic war, and the deployment of ethnic war on the pretext of terrorism, have many similarities to Apartheid South Africa's colonial wars and not least the symbols of Buffel armoured cars and Israeli hardware in both wars.

### **3. Racism in South Africa and Lanka**

Prejudices, practices and fears of the other, as in Smuts' reference in 1895 to *'that vast deadweight of immemorial barbarism and animal savagery'* do not quite become racism until they are given legal sanction. Both in Lanka and South Africa, economic factors played a major role in developing racism. In Lanka, for example, Anagarika Dharmapala in 1902 exalted Sinhalese as a 'unique race, inasmuch as they [the Sinhala] have no slave blood in them, and never were conquered by either the pagan Tamils or European vandals', but his diatribes against Indians and Muslims were mainly an expression of trade rivalry in Colombo's Pettah. To that extent the harm was limited.

The greater harm was done when during the depression of the 1930s Dharmapala's slogans of hate were integrated into mainstream politics drawing on Hitler's deadly rise, by giving vigour to catch-cries of putative Aryan Sinhalese being beleaguered by aliens (Kumari Jayawardena, FN.22). In South Africa and Lanka, the chosen people, according to their leaders, faced being 'swamped' by pagan hordes. And so the bogey of the 'Indian Menace' proved serviceable for the rulers in dividing the working class striking for better wages and conditions in this island peopled from time immemorial by Indian immigrants. Internalisation of prejudices in the service of preserving hierarchies demanded by the colonial economy has remained with us, as seen in recent attacks on Muslims identified as enemies by Dharmapala more than hundred years ago.

The same spirit was evident in the 1948 Citizenship Debates. D.S. Senanayake talked of Indian Tamils depriving Kandyans of their lands, which were in fact converted to estates by British and local capital, as he had acknowledged in 1926. In addition, according to him, the Indian Tamils brought with them diseases such as cholera with the effect that they 'spread the disease amongst the villagers, so that all that these immigrants did was that they killed some of the villagers' (de Silva Wijeratne)<sup>23</sup>. His successor and more outspoken son Dudley Senanayake boasted in 1952 that his United National Party had succeeded in 'liquidating the Indian Menace in Ceylon by the simple device of denying the vote to Ramasamy and Meenachchi'<sup>24</sup> (Kumari Jayawardena *op. cit.*) Such a travesty of statesmanship passes as the rule in Lanka; it was far from Senanayake's intention to expel the Indian Tamils willy-nilly, but only to keep them as labour deprived of civil rights. That this was an open invitation to an Indian Menace, the Government understood belatedly in the 1980s after subjecting the Indian Tamils to four rounds of communal violence.

#### 4. 'Naught for Your Comfort'

Trevor Huddleston's grim foreboding after many years in the Black African Township of Sophiatown, led him in 1955 to write the book '*Naught for Your Comfort*', the title drawn from G.K. Chesterton's *Ballad of the White Horse* where the seeker of divine assurance is told instead to expect more despair:

*I tell you naught for your comfort,  
Yea, naught for your desire,  
Save that the sky grows darker yet  
And the sea rises higher.*

<sup>23</sup> Roshan de Silva Wijeratne, Citizenship law, nationalism and the theft of enjoyment: a post-colonial narrative, <http://ro.uow.edu.au/cgi/viewcontent.cgi?article=1234&context=ltc>

<sup>24</sup> Stereotypes of Indian Tamil names used by the elite as symbols of ridicule



'*Naught for your comfort*' was also Rajani's message. When society and politics in the North-East and South had become so insular and depraved, with hate and fratricide the order of the day, one could do no more than try to keep the flame of hope burning – a task undertaken out of a sense of responsibility, at a time of frustration and danger.

Huddleston (later Anglican Archbishop of the Indian Ocean), reflecting on the complacency of the majority to live lifelong '*alongside of an evil all his life and refuse to recognise it, still less to think that it is his duty to do anything about it*', added: "*No advance can be made against prejudice and fear unless these things are seen as irrational and brought out into the fierce light of day.*" Convinced of the inevitability of revolt he said no time should be lost in '*breaking the present government*' and '*that to do this the whole weight of world influence and world opinion should be brought to bear. If this is disloyalty to South Africa, then I am disloyal.*'

With the spotlight of the UN Council for Human Rights being focused on a Sri Lanka covering behind similar self-righteous evasion, the following passage from Huddleston carries a note of urgency: "*There is no room for compromise or fence-sitting over a question such as racial ideology when it so dominates the thought of a whole country. South Africans are very fond of describing their multi-racial society as unique; as a problem which does not confront other nations; as a situation demanding sympathy and understanding from the rest of the world. Equally they are almost pathologically sensitive to criticism from outside, whether it is expressed by a committee of the United Nations or by Canon Collins.*"

Huddleston gives an event, not atypical then in a magistrate's court. Jacob Ledwaba died of a bladder injury after the Police arrested him for not carrying his curfew pass, assaulted him and released him belatedly because a public holiday intervened. Huddleston was involved in collecting affidavits and medical evidence and challenging the Police at the magistrate's court with the help of an eminent QC:

*"The verdict...was that he had died of congenital syphilis. The magistrate added a rider to his verdict to the effect that the police had been shamefully misrepresented in this case and that there was no evidence whatever inculpating them."*

Sri Lanka is today hardly better as seen in the denial of justice for several deaths under torture in police cells, (Asian Human Rights Commission – at least 12 in 2011). Huddleston wrote that while in the higher courts, unlike in the magistrate's courts, South African judges have maintained an exceedingly high standard of impartiality '*the evaluation of offences is undeniably affected by the racial situation and the racial policy of the country. Black and White are not equal before the law, however honest be the judge, because the law itself proclaims their inequality.*'

This standard of impartiality was true in general of the higher courts in Lanka until recently. On 14<sup>th</sup> October 2013, for example, Sri Lanka's Supreme Court, dismissed the fundamental rights suit by the parents of Nimalaruban who died of more than twenty injuries from grievous assault inflicted in the days after a prison disturbance was quelled (Ch.7.6). Chief Justice Mohan Peiris<sup>25</sup> (CJ) refusing to hear the evidence, reportedly claimed personal knowledge of Nimalaruban's involvement in the mutiny and held that terrorism must be dealt with in the strongest possible way and cited examples such as Chechnya. In one fell blow, the CJ justified the execution of prisoners based on security forces officers' 'personal knowledge'; yet in Nimalaruban's case no charge had even been made.

The result marks the fatal erosion of justice once considerations based on class or ethnic interest are admitted. It goes against the historic proclamation of 23<sup>rd</sup> September 1799 made by the Governor Frederick North that laid the ground for the rule of law in modern Lanka (*Legislative Enactments of Ceylon, 1796 – 1879* Vol. I). While affirming that the Roman Dutch Law as applied in the Netherlands (United Provinces) shall continue to be the basis for the law in Ceylon<sup>26</sup>, the Proclamation broke new ground: It abolished the use of torture against prisoners, the admissibility of confessions extracted under torture, evidence under threat of torture or inducement, and *'the practice of inflicting punishment on any person or persons suspected of any crime or crimes', 'breaking on the wheel, mutilation, or other barbarous modes of punishment'*. The Proclamation enjoined that in all criminal cases, the court shall ***'pronounce sentence according to the law and in the evidence given'***.

Through the Prevention of Terrorism Act (PTA) of 1979 we have restored evidence obtained by torture and rendered justice a matter of whim and prejudice. Rather than improve on the legacy of colonial law, we have gone backwards. CJ Peiris only spoke aloud what has been implicit for many years, revealing the law's nakedness. The Sri Lankan ruling class has lost sight of the fact that sovereignty is no proof against such brash judicial contempt for fundamental international laws.<sup>27</sup>

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<sup>25</sup> President Rajapakse appointed Mohan Peiris, a former attorney general and presidential advisor, as chief justice after Parliament impeached Chief Justice Shirani Bandaranayake ignoring rulings by the Supreme Court (1<sup>st</sup> January 2013) and Court of Appeal (7<sup>th</sup> January 2013) that the impeachment proceedings were unconstitutional.

<sup>26</sup> "...the administration of justice and police...shall be henceforth and during His Majesty's pleasure exercised by all courts of judicature, civil and criminal, magistrates and ministerial officers, according to the laws and institutions that subsisted under the ancient government of the United Provinces".

<sup>27</sup> "The fact that torture is prohibited by a peremptory norm of international law (*jus cogens*) has other effects at the inter-state and individual levels. At the inter-state level it serves to internationally deligitimise any legislative, administrative or judicial act authorising torture. It would be senseless to



What took us firmly down this road were the three acts of parliament on exclusion from citizenship from August 1948, and in particular, the Supreme Court's judgment in 1951 which endorsed these. They targeted the poor, mostly illiterate but economically indispensable Hill Country labour of more recent Indian extraction, then 11% of the country's populace. What connects the judiciary of 1951 with today's bench is the fallacy of accepting that desired by the powers that be, as just and good.<sup>28</sup>

In the Privy Council's 1953 judgment on the Citizenship case, this fallacy is expressed in the maxim it cited, "*omnia praesumuntur rite esse acta*" (All things are presumed to be done in due form) and '*the court will not be astute to attribute to any legislature motives or purposes or objects which are beyond its powers*'.

Law rendered the whim of a state, rules out the possibility of international law.

The positivism of the judgments contrasts with the Natural Law approach that comes to us directly from Grotius and the jurisprudence of the Roman Dutch Law. It goes back to Cicero through Thomas Aquinas' "*lex injusta non est lex*" – unjust laws (laws in conflict with natural law) are not laws at all. The right of rebellion against a violent and lawless state was legitimate – Grotius cited above. The Citizenship Acts took away the rights of citizenship and franchise the victims had enjoyed up to then and largely nullified the protection of minorities under the Soulbury Constitution

The Supreme Court took refuge behind the disingenuous premise that the Citizenship and Franchise Acts being not specific to any community, were nondiscriminatory. Many educated Sinhalese continued to believe that the Acts though sloppy, were necessary to meet a reasonable end. It was a precursor to an era when murder would become a necessary tool of politics while the judiciary looked the other way and the police covered up.

The Acts introduced the virus of racism into the courts and administration. On the left, Dr. N.M. Perera in opposing the first two tiers of the Citizenship Acts of August and December 1948 said, in response to the speeches supporting the Bills, "I thought racialism of this type had ended with Houston Chamberlain and Adolph Hitler." Speaking of income

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argue on the one hand, that on the *jus cogens* value of the prohibition against torture, treaties or customary rules providing for torture would be null and void *ab initio*, and then be unmindful of a state, say, taking national measures authorising or condoning torture, or absolving its perpetrators through an amnesty law..." – *Prosecutor vs Furundzija*, Trial Judgment, International Criminal Tribunal for the Former Yugoslavia, 10 Dec.1998.

<sup>28</sup> This positivist approach is reflected in the English legal philosopher John Austin's definition of law (in 1832) as '*rule laid down for the guidance of an intelligent being by an intelligent being having power over him*' – or more plainly 'Might is Right'. Compare with Friedrich Hegel's, '*The State knows what it wills*', published eleven years earlier (1821) in *Philosophy of Right* (see Karl Popper's *Open Society and its Enemies II*).

restrictions for citizenship in the second bill, Perera asked, "If an unemployed so-called Sinhalese man is fit enough to get citizenship rights, why an Indian who has no income should be deprived of those rights?" Dr. Colvin R. de Silva said, "Racialism is a handy weapon of reaction. **This bill is another dig with a racial spade to make a future grave for universal adult franchise.**" de Silva feared with Chelvanayakam that the Bill would in time lead to discrimination against minorities who were then accepted as Ceylonese. Communist Party Leader Pieter Keuneman saw in the bills against working-class Indians, more a question of class. Harry Abeygoonewardena saw in the bills a wider repressive purpose it shared with the Public Security Ordinance, Police Ordinance and Trade Union Ordinance and in this instance an attempt to divide the working people by an appeal to race (FN.22). The Acts gave Ceylon an Apartheid system with regard to Hill Country Tamils without the nuisance of Apartheid laws.

### **5. A Dormant State of War?**

Prior to presenting the Citizenship Bill in Parliament on 4<sup>th</sup> August 1948, Prime Minister D.S. Senanayake had written to his Indian counterpart Jawaharlal Nehru on 22<sup>nd</sup> June, "*The present proposal of the Government of Ceylon extends to Indian residents in the Island full rights and privileges of Ceylon Citizenship.*" But the actual bill was a travesty of this understanding. The catch was in the interpretation of residents. As the next bill made evident in application, the bulk of the Indian Tamil labour, being illiterate, were regarded brute beasts unfit to make a decision on where they belonged. Irrespective of their not knowing any other home or country, they were excluded. Logically, the bills entailed humiliating exclusion of those born and bred here to travail and sweat. The rights taken away from the Hill Country Tamils of Lanka are unequivocally guaranteed under international law. For the most part India failed to see that since Independence, the relationship between her and Sri Lanka was a dormant state of war owing to the abrogation of the rights of Lanka's minorities. The Sri Lankan ruling class's antipathy towards India has little to do with any history of invasions from that quarter (which in fact went both ways), but lies rather with the vested interests of capitalist exclusion under British rule.

India had banned migration of her labour to Ceylon from August 1939 and in Indian law her interest in the welfare of those domiciled in Ceylon ceased after five years. By independence in 1948, Indian Tamils in Ceylon were legally no longer India's concern, but for Ceylon's aggressive posturing: "They are yours you take them back." This position completely disregarded Ceylon's treaty obligations under international law.



Prime Minister Senanayake, speaking on the second citizenship bill, the Indian and Pakistani Residents Citizenship Act (IPRCA) on 9<sup>th</sup> December 1948, warned India: *"We do not expect India to play the role of trying to establish rights where they have no rights, or privileges where they have no privileges or try to deprive other countries of their rights"*. India was brought in for no fault of her own. On the illusory strength of defence and external affairs agreements with Britain, this was Senanayake's response to India's view of the citizenship rights of migrants as a problem of decolonisation and its call for the UN to go beyond state sovereignty.

Agreements between the governments of Ceylon and India since 1847, as First Secretary Mr. Wodeman told the State Council in 1941<sup>29</sup>, repeatedly confirmed and reaffirmed the position in Lord Salisbury's dispatch of 1875: ***"Indians who had completed their terms of indenture [lasting five years] should be in all respects free men... with personal privileges no whit inferior to those of any other class of Her Majesty's subjects resident in the Colony."*** To mitigate protests from Sinhalese against giving Plantation Tamils the vote on equal terms at the institution of universal adult franchise in 1931, the colonial government placed some hurdles to their registration but did nothing to derogate from their ultimate right to vote as equals.

Lord McNair in his *Law of Treaties* (McN) gives a definition of a treaty as a *'written agreement by which two or more States or international organisations create or intend to create a relation between themselves operating within the sphere of international law.'* Agreements between the two governments on Plantation Tamils, having practical effect for over a century, are binding: *"Here we are on solid ground and are dealing with a judicial practice worthy to be called a rule, namely that, when there is a doubt as to the meaning of a provision or an expression contained in a treaty, the relevant conduct of the contracting parties after the conclusion of the treaty (sometimes called 'practical construction') has a high probative value as to the intention of the parties at the time of its conclusion. This is both good sense and good law (McN, Ch.24)."*

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<sup>29</sup> First Secretary Mr. Wodeman to State Council, 1941: "I think I have said enough to make it clear to any impartial student of the history of this question that it was only after the Government of India has been given the assurance that Indians in Ceylon enjoyed the same political rights as other classes of His Majesty's subjects that they approved the notification of 1923 permitting emigration to Ceylon." S. Nadesan told the Senate on 15th September 1948 that the Commissioner of Labour made in his report of 1927 the specific point that Indians enjoyed in Ceylon all political and legal rights enjoyed by the other races, which was in turn printed in the form of pamphlets and distributed in India, for the purpose of attracting immigrants to Ceylon on Governmental authority. This was followed by legislation (e.g. Ordinance No.27 of 1927) to firm up some of the guarantees and fix minimum wages.

Nor can governments of Ceylon (Lanka) claim that these agreements are not binding because they were imposed by a colonial ruler. As will be seen below, the voting rights of the Plantation Tamils were accepted by two Lankan legislatures by a majority of two-thirds in November 1945 and December 1947. The latter acceptance formed a contract on the basis of which independence was granted on 4<sup>th</sup> February 1948. On 20<sup>th</sup> August 1948 Parliament passed the Citizenship Act ostensibly to change our status from British subjects to Ceylon citizens, but the Plantation Tamils were excluded and rendered stateless, as a prelude to disenfranchising them the following year.<sup>30</sup> Their British subjecthood was left an awkward anomaly.

The Citizenship Act was the first coup, calamitous for the Independence (Soulbury) Constitution and the balance of representation it envisaged. It was a confidence trick unworthy of a government. A contract twice made solemnly by two-thirds majorities was taken away by simple majorities.

The Citizenship Act passed 53 for and 35 against; and it would have faced defeat had not eleven Tamil or Muslim members and five appointed members (four Englishmen and a Burgher), voted for it. The price was virtually thirty pieces of silver. Among elected members, it was 48 for and 35 against. It would not have passed without the support of five Tamils (including the Tamil nationalist C. Suntheralingam, who later resigned his portfolio), and six Muslim MPs (see Ch.11.8). The IPRCA was passed on 10<sup>th</sup> December 1948, 52 for and 32 against, eight Tamils voting for. The Franchise Act was passed on 18<sup>th</sup> October 1949, 49 for and 30 against. Thus these fourteen minority MPs dug the political grave for all the minorities, and the nation itself. The country was never again the same. While eight Tamils voted for the last two bills, about twenty Sinhalese fervently opposed all three bills.<sup>31</sup>

To an appeal by K.G. Nair on 8<sup>th</sup> March 1951 challenging the Franchise Act (No.48 of 1949), Judge N. Sivagnanasunderam of the Kegalle District Court ruled on 2<sup>nd</sup> July 1951 that its antecedent, the Citizenship Act, was in no true sense legislation to create the status of citizenship, but was, with the Franchise Act, part of a legislative plan to reduce the electoral power of the Indian community; the Act was thus *ultra vires* as offending against Article 29 (2) of the Constitution: “[No law shall] make persons of any community or religion liable to disabilities or restrictions to which

<sup>30</sup> Yet, one need only remember the extreme care of the Nazis, who insisted that all Jews of non-German nationality “should be deprived of their citizenship either prior to, or at the latest, on the day of deportation” (Arendt p.280 *op. cit.*)

<sup>31</sup> H.D. Abeygoonewardane, W. Dahanayake, Dr. Colvin R. de Silva, P.H.W. de Silva, Chomondeley Goonewardene, Mrs. Kusumasiri Gunawardena, D.F. Hettiarachchi, I.M.R.A. Iriyagolla, J.C.T. Kotawalala, P. Kumarasiri, M.H. Peiris, R.S. Pelpola, Wilmot A. Perera, Dr. N.M. Perera, L. Rajapaksa, Mrs. Florence Senanayake, H. Sri Nissanka K.C., T.B. Subasinghe, W.P.A. Wickremasinghe, Hansard 18.Oct.1949 and F.N.22.



persons of other communities or religions are not made liable". The State challenged the judgment in the Supreme Court and had it nullified.

In detailed expositions in the Senate in 1948 and 1949, S. Nadesan<sup>32</sup> was moved to point out the ill the three citizenship bills boded for Indo-Ceylon relations by showing scant respect for treaty obligations: "...no Government can talk like that to another Government, and also talk of membership of the United Nations Organisation after behaving like that."

## **6. Demise of the Rule of Law and Consensus Politics – Early Antecedents**

The country took its first step toward the demise of the rule of law in 1951, when the Supreme Court on 28<sup>th</sup> September 1951 upheld the Citizenship Act and the disenfranchisement of the labouring estate population of Indian origin. Earlier, Judge N. Sivagnanasunderam of the Kegalle District Court had upheld the plea, argued by S. Nadesan, that the Acts were *ultra vires* of the Constitution and therefore void. Nadesan pleaded that the Franchise Act – and the Citizenship Act on which it was based – violated Section 29 (2) of the Soulbury Constitution, which prohibited legislation that discriminated against a community.<sup>33</sup> A judgment Nadesan used to support his argument was by the US Supreme Court in 1915, against legislation by the State of Oklahoma to keep Blacks off its electoral rolls – similar in spirit to Ceylon's.

The Citizenship Act made eligibility for citizenship of one born before 15<sup>th</sup> November 1948, whose father was not a citizen, conditional upon his ability to produce birth certificates of either the father, or grandfather and great-grandfather as proof of birth in Ceylon. A section of the poor was selectively required to produce old paper records they had hardly needed before. The authorities called for these only from persons identified as Indian Tamil, and excluded them willy-nilly from electoral rolls.<sup>34</sup>

Appearing for the Government of Ceylon, Attorney General Sir Alan Rose contested the judgment in the Supreme Court through a device called a *writ of certiorari*, which placed the defendants, led by S.J.V. Chelvanayakam KC and S. Nadesan, in an unfairly weak position. Rose

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<sup>32</sup> S. Nadesan represented Nair (Kodakanpillai) in the District Court (8<sup>th</sup> March 1951) and in the Supreme Court with S.J.V. Chelvanayakam KC as leader (16<sup>th</sup> July 1951).

<sup>33</sup> "[No law shall] make persons of any community or religion liable to disabilities or restrictions to which persons of other communities or religions are not made liable."

<sup>34</sup> The 1946 Census gives us some relevant information. 780,600 were classified as Indian Tamils and 35,600 as Indian Moors, giving a total of about 816,200 Indian Tamils. 376,715 persons were classified as foreign born – about 350,000 of Indian origin. It gives about 466,000 Ceylon born persons of Indian origin mostly from the estate sector. Out of the estate population of 230,258 born in India, 197,000 had been resident in Ceylon for more than 10 years. If ten years of residence had been used as the requirement for the vote, there would have been at least 500 000 eligible persons of Indian origin. (Patrick Peebles, *Plantation Tamils of Ceylon*, Continuum, 2001, p.223)

argued that the District Court's judgment was not warranted by the evidence placed before it and that the language of the Citizenship and Franchise Acts did not offend the prohibition in Section 29 (2).<sup>35</sup> In making a crucial point of contention that "*In Ceylon, as in England, an administratively discriminatory Act is not an infringement of the Constitution*", Rose revealed that **the case was wrongly being appraised under precedents in English law and the prevailing fashion of legal positivism, rather than under Roman Dutch Law and the natural law of Grotius**. Rose's contention would certainly be invalid in the emerging *jus cogens* on discrimination, as seen in the 2003 judgment of *Cancado Trindade et al* in the Inter-American Court for Human Rights.<sup>36</sup>

The Bench, presided over by Sir Edward Jayatileke CJ, with M.F.S. Pulle J and V.L. St. C. Swan J ruled that no new evidence that was not placed before the District Court was admissible under a *writ of certiorari*. Thus affidavits brought by Indian Tamil leaders Peri Sunderam, S. Thondaman and S. M. Subbiah, which purported to show that the law was applied in a discriminatory manner, were ruled out. Judge Sivagnanasunderam – a respondent in the case who, as returning officer dealing with electoral registration in Kegalle, knew this abuse for a fact in making his judgment – could apparently not be summoned as a witness.

In the United States, an amendment in 1910 to the Oklahoma Constitution imposed a literacy test for the vote on persons not lineally related to those who had the vote before '1<sup>st</sup> January 1866'. This was done to place a barrier against the vote of freed black slaves and their descendants; slavery had been formally abolished throughout the United States in December 1865. In response to the Oklahoma judgment of the US Supreme Court brought up by Nadesan in the District Court, Justices of the Supreme Court of Ceylon argued, with strained logic, that the US Supreme Court's decision rejecting the Oklahoma Amendment turned on discerning discrimination within the language of the Amendment – that 'the decision rested on ascertaining the true intention of the statute hidden, as it were, behind the words "January 1<sup>st</sup>, 1866"'. Rose appears to have been cautious about pressing this line of argument. Rather than look for primary reasons in questions of justice – in this instance Amendments 14 and 15 of the US Constitution, by which anyone born or naturalised in the US was a citizen

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<sup>35</sup> [http://www.lawnet.lk/docs/case\\_law/nlr/common/html/NLR53V25.htm](http://www.lawnet.lk/docs/case_law/nlr/common/html/NLR53V25.htm)

<sup>36</sup> "International human rights law prohibits not only deliberately discriminatory policies and practices, but also policies and practices with a discriminatory impact on certain categories of persons, even though a discriminatory intention cannot be proved." – **Juridical Condition and Rights of the Undocumented Migrants**, Advisory Opinion OC-18/03, September 17, 2003, Inter-Am. Ct. for Human Rights.



entitled to the vote – our Supreme Court made justice an arcane word game of the learned.

The Oklahoma Act was void because the US Constitution affirmed the Blacks' right to vote, and whether the Act discriminated implicitly or explicitly was not an issue. Likewise the Ceylon Act: The Ceylon Supreme Court simply shut off evidence of discrimination. Ceylon's Justices overlooked the salient fact that the US Constitution was guided by Natural Law ('all men are created equal, that they are endowed by their Creator with certain unalienable Rights') as also the UN Human Rights Charter. The former conferred citizenship as a birth right on those born within the jurisdiction of the state (*jus soli*).<sup>37</sup> The Ceylon judgment was an unfortunate reversal of the natural law right we enjoyed formerly as British subjects as a consequence of the 1608 judgment in *Calvin's case*, argued by Francis Bacon as James I's Solicitor General, with Attorney General Henry Hobart.<sup>38</sup> Though it is a pattern seen in other countries besides Lanka, jurisprudence that contracts rather than enlarges rights is deeply unjust.

The Justices of Ceylon circumscribed the case narrowly to the *writ of certiorari*, so that more pertinent considerations like international law and contractual agreements between the Governments of Ceylon and India could not enter into it. The Court simply refused to hear Chelvanayakam's plea that there was more to a statute than words on paper, "*...the Court has [also] to consider political facts – such as political history, political rights, [and] political disputes – in arriving at the reason for the inclusion of section 29 in the Constitution... Section 29 was a limitation of the legislative powers of the Legislature of Ceylon. **The Constitution has to be looked at as a whole to see the scope of section 29. It is necessary to consider the context in which section 29 was framed.** The section was meant to protect the interests of minority communities.*"

The Queen's Privy Council on 11<sup>th</sup> May 1953 upheld the Supreme Court's judgment, contending that the Indian and Pakistani Residents Citizenship Act (the second of three) meant that Indian Tamils were not arbitrarily excluded from citizenship.<sup>39</sup> By perversion of a device in English Law, justice was thwarted by a semantic game where the common sense notion of justice was lost in an arcane game of meanings of word combinations.

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<sup>37</sup> Polly J. Price, Natural Law and Birth right Citizenship in Calvin's Case (1608), Yale Journal of Law & the Humanities, Vol.9 Issue 1, 2013

<sup>38</sup> "Everyone born within the dominions of the King of England, whether here or in his colonies or dependencies, being under the protection of – therefore, according to our common law, owes allegiance to – the King and is subject to all the duties and entitled to enjoy all the rights and liberties of an Englishman" – Judgment in Calvin's case as reported by the Chief Justice of Common Pleas, Sir Edward Coke.

<sup>39</sup> Kodakanpillai v Mudanayake (1953) 54 NLR 433 (PC)



The victims, frequently illiterate, and who knew no other country, were too poor for the sophistry of procedure, which was calculated to exclude. Of persons born in this Fair Isle they were singled out for the humiliation which enforcement entailed. A healthy society needs to make laws simpler and more accessible. We have to live with positive laws, which are inherently biased towards the powers that be and render the cost of litigation prohibitive. Something as patently unjust as the Citizenship Laws had to go all the way to the Privy Council to meet with preordained failure.

Our past criticisms of colonial rule are mere rhetoric in the face current reality: It is much worse than the initial licence to impunity inherent in the Prevention of Terrorism Act and Emergency Regulations. 'Equality before the law' makes the state sovereign as the dispenser of justice. 'Equality in law' is the relevant aspiration, which demands justice should be down to earth and provide for expeditious challenge of patently wanton or stupid actions by those in authority.

In the Senate, S. Nadesan drew attention to a stark *irrationality* in the Citizenship Act: A person born in Ceylon on or after the appointed date of 15<sup>th</sup> November 1948 was not entitled to Ceylon citizenship even if his sibling born ten months earlier, became a citizen in view of his father (or grandfather etc.) being born in Ceylon. The jurisprudence of Grotius, the leading exponent of Roman Dutch Law, decreed that a law is void when it is '*clearly wrong or even a manifestly foolish and ridiculous law*'.<sup>40</sup> The irrational leads to the brutal. The state and citizenry are equal in law and to this end Grotius held that the state is subject to international law. We often forget that Roman Dutch Law, and not English Law, is the foundation of justice in Lanka.<sup>41</sup>

**End of Consensus Politics:** The franchise of Indian Tamils conditional upon five years' residence was endorsed twice by the country's elected representatives. The British government's White Paper of 30<sup>th</sup> October 1945, containing the Soulbury proposals that incorporated the Ceylon State Council's Free Lanka Bill, both endorsing existing franchise rights of Plantation Tamils conditional upon five years of domicile, was presented to the State Council by D.S. Senanayake and accepted by a majority of 94% on 9<sup>th</sup> November 1945, 51 for, to 3 against (two Indian Tamils and a Communist). The White Paper led to the Ceylon Independence Order in Council and the Ceylon Elections Order in Council of 1946.

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<sup>40</sup> *The Idea of Natural Rights: Studies on Natural Rights, Natural Law, and Church Law 1150 - 1625* (Emory University Studies in Law and Religion), by Brian Tierney, 1997.

<sup>41</sup> "*the administration of justice and police....shall be henceforth and during His Majesty's pleasure exercised by all courts of judicature, civil and criminal, magistrates and ministerial officers, according to the laws and institutions that subsisted under the ancient government of the United Provinces...*" – Governor Lord Frederick North's Proclamation, 23<sup>rd</sup> September 1799, Legislative Enactments of Ceylon, 1796 – 1879 Vol. I.

The new Parliament, elected in September 1947, endorsed the arrangements in the 1946 Orders in Council, along with new defence and foreign policy pacts with Britain, on 3<sup>rd</sup> December 1947, when it passed the Motion of Independence – 59 for, to 11 against. The Constitution had seen some changes, but retained Section 29, dealing with minority protection and the Ceylon Elections Order in Council (1946). The endorsement led to the two British Houses enacting the Ceylon Independence Order in Council of 19<sup>th</sup> December 1947. The same leadership under D.S. Senanayake, which piloted the enactments, of 1945 and 1947, committed a betrayal by advancing the Citizenship Bill of 1948.

Passed by Parliament on 20<sup>th</sup> August 1948, the Citizenship Act took away rights twice bestowed on the strength of virtual consensus, by a simple majority. It destroyed the possibility of a national consensus.

**The Question of British Connivance in our Debacle:** An interesting question, beginning with the failure to define citizenship in the Soulbury Constitution is the extent of collusion between the leaders of Ceylon, the British establishment<sup>42</sup> and those who drafted the British Nationality Bill during the same period that independence for Ceylon was being discussed. The British Nationality Act<sup>43</sup> passed a few days before the Ceylon Bill was introduced on 4<sup>th</sup> August 1948, gave the people of Ceylon the status of Citizenship of Independent Commonwealth Countries (CICC) having all the privileges of British citizens, once Ceylon citizenship was confirmed on them. Until the Ceylon Act we were under the transitional category of British Subjects without Citizenship (BSWC). The Plantation labour were British subjects in the latter category, but once decitizenised by the Act, lost their status as British subjects as well, unless Britain chose otherwise or they were accepted as citizens by another Commonwealth country. Their status was further confused by the Government remonstrating without any basis that they were Indian citizens, while Britain was silent. It also made it convenient for British estate owners, who continued to profit by the labour they had imported and then reduced to serfdom with the aid of local 'independent' collaborators. Meanwhile, Britain was spared any responsibility for those it transplanted for its economic benefit. It is remarkable that while the British Act recognised *jus soli*, the Ceylon Act which followed deliberately omitted it.

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<sup>42</sup> The Government which had been less than transparent in its approach panicked that a junior judge (first judgment in the Kegalle District Court) could make it a laughing stock. Sir Ivor Jennings, whom the British government sent to Ceylon in 1942 to build up its university, had casually remarked to Prime Minister D.S. Senanayake that the '*judge's reasoning had been unsound*'. A. J. Wilson found in Jennings' archives Senanayake's letter dated 5<sup>th</sup> July 1951, three days after the judgment: '*You mentioned to me casually that you would be in a position to meet the arguments*'. Wilson adds that Jennings complied (Biography of S.J.V. Chelvanayakam).

<sup>43</sup> Randall Hansen, Politics of Citizenship in the 1940s and the British Nationality Act, Twentieth Century British History, Vol.10 No.1, 1999



The result, certified by the highest courts in Ceylon and Britain, which left the affected population stateless and denied their civil rights, was a complete anomaly under the Universal Declaration of Human Rights adopted about the same time. Any ambivalent claim the Tamil victims had to British protection, which, poor as they were, was useless to them. After all, the Privy Council had accepted poverty and illiteracy as valid reasons to deny them Ceylon citizenship. Hannah Arendt<sup>44</sup> traces the modern provenance of statelessness to the mass displacements in Europe engendered by the First World War and observes that *'there was hardly a country left on the [European] Continent that did not pass between the two wars some new legislation which, even if it did not use this right [to exclusion] extensively, was always phrased to allow for getting rid of a great number of its inhabitants at any opportune moment'*.

**Arendt on Statelessness:** Arendt traces two notions of the state: (a) as upholding equality before the law of all residents in its territory, and (b) as upholding the power of the 'nation', i.e. the 'sovereignty' of the majority. In the second notion, minorities lose their rights in the territories where they live, and can even become stateless. Both notions had their origins in the French Revolution that had combined the declaration of the Rights of Man with national sovereignty. Tension between the two notions was exacerbated by the Post World War I settlement in Europe through carving up new states based on the Free Self-determination of Nations, which led to conflicts and huge displacement of peoples, particularly Jews, Armenians and Russians, unwanted in the territories to which they moved. On the consequent rise of stateless people, Arendt observes, *'the transformation of the state from an instrument of the law into an instrument of the nation had been completed, national interest had priority over the law long before Hitler could pronounce "right is what is good for the German people"'*.

While some minorities became stateless and lost their rights, others fought to regain their rights by establishing their own nation-states based on the same trinity of state-nation-territory – thus leading to a reproduction of the problem (as in the case of Zionism).<sup>45</sup>

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<sup>44</sup> Ch.9 in *Origins of Totalitarianism*, "The Decline of the Nation-State and the End of the Rights of Man"

<sup>45</sup> Like virtually all other events in our century, the solution of the Jewish question [by settlement in a colonised and then conquered territory] merely produced a new category of refugees, the Arabs [namely Palestinians] and thereby increasing the stateless and rightless by another 700,000 to 800,000 people (ibid Arendt p290). An unpublished note of a scholar adds: Israel's 1948 war against the Palestinians results in one of the worst ongoing and widespread dispossession of the postwar period, affecting four generations of Palestinians, rendered quasi-legal by Western complicity. It is this group of people that the U.N. Convention on Refugees of 1951 specifically excluded, and which necessitated a separate 1954 Convention Relating to the Status of Stateless Peoples. This is the document that defines a "stateless" person as one "who is not considered as a national by any State



Arendt concludes, "For the nation-state cannot exist once its principle of equality before the law has broken down. Without this legal equality which originally was destined to replace the older laws and orders of feudal society, the nation dissolves into an anarchic mass of over and underprivileged individuals, Laws that are not equal for all revert to rights and privileges, something contradictory to the very nature of nation-states."

## 7. After the Citizenship Acts

Nearly all Indian Tamils applied for citizenship under the Indian and Pakistani Residents Citizenship Act (IPCA), the second of the citizenship acts of 10<sup>th</sup> December 1948. By 1963, only 11 percent of them had obtained 'citizenship by registration' under this Act. Crucially, at a time when the Government was colonising the North-East with Sinhalese, Indian Tamil citizens (citizens by registration) were excluded from land grants under the Land Development Ordinance and this ensured they were confined to the estates. The distinction between types of citizenship was removed in 1979 when the need was past. The Nehru-Kotelawala agreement concluded in 1954 fell apart on questions of interpretation. Fifty four thousand one hundred and ninety seven (54,197) persons obtained Indian citizenship under this agreement, but not all left (W.T. Jayasinghe, *The Indo-Ceylon Problem*, Stamford Lake, Colombo; p. 413).

The Sirimavo-Shastri Pact and its successor, as repeatedly emphasised by India, envisaged 'repatriation' on a purely voluntary basis: India agreed to accept 600,000 stateless persons in return for Ceylon citizenship for 375,000. Voluntariness was never earnestly intended when the people concerned had been so badly treated and denied their rights guaranteed under international law. Both governments opened registers for applicants for their citizenship on 1<sup>st</sup> April 1968 for a period of two years. Only 400,000 applied for Indian citizenship, nearly all of whom had previously applied for Ceylon citizenship under the IPCA. Although India declined to reopen its register after the two years, it later accepted 106,000 more applications. The further demand for Indian citizenship must be seen in the context of starvation and violence faced by the community in the 1970s.

Although the 15 years given for the first Pact ended on 30<sup>th</sup> October 1979, India continued processing applicants. The communal violence of 1977 was followed by more in August 1981 after an attack on a police station in the North. In the violence instigated by government politicians, 17 Tamils were killed, mainly in the southwest, causing panic among Indian Tamils, many of whom fled into jungles and to the North-East. By this time an increasing number of Ceylon Tamils too were fleeing to India by sea.

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under the operation of its law," attempts to establish their legal identity and rights, and identifies the "problem of statelessness."

In March 1982, after a period of uncertainty about the Pact, the Indian government informed Lanka that the 'repatriation agreements' of 1964 and 1974 had lapsed as the fifteen years for the first and two for the second had expired. 'Voluntariness' was by then a grotesque fiction. But Sri Lanka held that India had 'reneged' on the agreements (Jayasinghe *ibid.* pp.450 ff.). By this time 420,000 of the 506,000 applicants for Indian citizenship had been accepted. Processing was stopped.

Local confusion between 'repatriation' and deportation is inherent in the crude logic of *The Sun* editorial of 15<sup>th</sup> September 1983, titled '*The Heart Test*', barely six weeks after the devastating communal violence. Nirupama Rao, who was Secretary to the Indian High Commission, responded (*Sun* 17<sup>th</sup> Oct.1983): "*The problem of stateless persons of Indian origin in Sri Lanka cannot be considered in isolation in the present context. Neither can it be automatically assumed that the solution to the present problem will be for the Government of India to take 'back' these people 'where they belong'. These persons and their families have lived in Sri Lanka for generations; many of them have been born in this country. The crisis of confidence that affects the stateless individual equally affects Sri Lankan citizens of Indian origin.*" It hinted at India's new position.

Unfortunately, Lanka's politics, elite opinion and diplomacy are so much immersed in the obscurantism of mythology that they completely fail to appreciate other opinions and how the rest of the world thinks. With Ceylon Tamils reacting in a like insular fashion that dispensed with the principles of democracy and human rights, the second tier for the enactment of a grievous tragedy was in place.

A final opportunity to avert the worst came with the Annexure C proposals to resolve the minority issue thrashed out in New Delhi in November 1983 to which President Jayewardene assented, but soon afterwards had illusions of dealing with the matter through support from the US and its Israeli proxy (see Hoole, *Arrogance of Power*). When it came to playing crude games, India showed that she was no novice.

## **8. Blanketing Slow Genocide by Census**

The postwar years 1946 to 1953 were ones where the Indian Tamils largely had parliamentary representation and their trade unions were strong. Their average natural increase between the censuses<sup>46</sup> of these years was 3.2 percent, same as for the Kandyan Sinhalese they lived among. Subsequent censuses show a sharp drop in the natural increase of Indian Tamils against the rest of the country and the 1971 Census gave a natural increase for the community as 1.55 percent (2.45 for Sri Lanka) while the

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<sup>46</sup> The census dates were 19.Mar.1946, 20 Mar.1953, 8 Jul.1963, 9 Oct.1971 and 17. Mar.1981.



actual census figures imply 1.07<sup>47</sup>. The 1981 Census showed a drop in the Indian Tamil population to 818,700, from 1,174,600 in 1971, which after accounting for 307,900 deported to India (see End Note), gives a negative natural increase – minus 0.5 percent p.a. against a national average of + 1.68.<sup>48</sup>

The 1981 Census report argued that the low count of 818,770 for Indian Tamils owed to 200,000 other Indian Tamils having declared them Ceylon Tamil (see FN.55). In support of the argument the census writer cited 311,225 recorded births and 142,172 deaths among Indian Tamils between the census years, which give respectively the birth rate and natural increase as 3.23 and 1.78 percent p.a., defying the historical trend of decline in a decade in which ordinary Indian Tamils faced near famine conditions.

This was a time when Indian Tamils were found rummaging in city dustbins for food and many drifted to the North-East for a livelihood. Dr. Brian Senewiratne who was at Kandy Hospital stated that half of all the patients admitted from the estates had 'severe protein malnutrition' and '**several patients admitted to my ward were in advanced stages of starvation**' (*The Health of Plantation Workers*, Bull. No.4, Kandy, 1975). Behind the sharp decrease in the number of Indian Tamils is a story of famine, starvation and premature death.

However, data on deportations to India from W.T. Jayasinghe's *The Indo-Ceylon Problem* enables us to calculate **the average birth rates for Indian Tamils as 2.2 percent from 1965 – 1976 and 2.06 percent from 1976 – 1984** (see End Note). The birth rate of 2.67 percent for Indian Tamils given in the 1971 Census thus implies an average rate of **1.54 percent** for the years 1972 to 1976. The same conditions that depress birth rates also increase death rates. Thus the number of Indian Tamils registered as Ceylon Tamil in 1981 lacks evidence of being statistically significant.

The effects of disruption and displacement adversely affect birth rates and natural increase. In Mullaitivu District, for example, average birth rates declined from about 2.5 percent before the 2004 tsunami, to about 1.3, post tsunami. The year 2008 was one of heavy displacement in the North as military operations intensified. The number of births in the Northern

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<sup>47</sup> Indian Tamil population in 1963 was 1,123,000 and that enumerated on census day 1971 was 1,174,600, which corrected for 46,460 deported to India and their natural increase, gives 1,221,554 (figures of deportations from M. Vamadevan's, '*Sri Lankan Repatriates in Tamil Nadu*', Zen Publishers, Madras, 1989). We ignore Indian Tamils who were already citizens of India in 1963, resulting possibly in an error of 2 percent.

<sup>48</sup> To a linear approximation we use the formula  $P + nTP = Q + E + nTE/2$ , where P is the population of the initial census, Q that of the second census T years later, n the rate of natural increase and E the number deported during the T years at an approximately uniform rate. In the case above P = 1,123,000, E = 307,900 (from Vamadevan op. cit.). Q = 1,174,600 and T = 9.43 years.



Province after keeping a steady average of about 20,000 a year for a decade, dropped sharply to 12,000 in 2008.<sup>49</sup>

We give below the projected percentages in the national population of the original Indian Tamil population (compensated for deportations). Those who went to India after the 1953 Census and before the operation of the 1964 Pact were from the 54,197 who obtained Indian citizenship under the 1954 Pact. Stateless persons had no travel documents. The second row gives the projections of the present population after taking away 400,000 persons in the 1963 Census.<sup>50</sup> The column for 1981-1, is based on the natural increase calculated from the census count of 818,700 and 307,900 deportations between the censuses of 1971 and 1981 (Vamadevan *op. cit.* FN.47) using the formula in FN.48. 1981-2 is calculated from the natural increase of 169,053 and 312,000 deportees given in the 1981 Census.<sup>51</sup>

Year	1946	1953	1963	1971	1981-1	1981-2
Original Indian Tamils (%)	11.7	11.4 <sup>52</sup>	10.6	9.6	7.8	9.56
Present Population (%)			6.83	6.19	5.05	6.16

The column for 1981-1 adheres far better to the historical trend than 1981-2. A linear projection from the 1963 and 1971 figures suggests 8.45 for 1981 ignoring the trying conditions in the 1970s.<sup>53</sup> The 9.56 from the 1981 census data suggests rather a high population growth commensurate with other communities.

The foregoing carries ample testimony to the fact that the denial of political rights combined with systemic deprivation is a sure way towards slow genocide through structural violence. A country needs a population policy, but not one that in effect targets particular minorities. Yet the Sinhalese, Ceylon Tamil and Muslim elite were largely blind to this. In Sinhalese demonology the Indian Tamils especially were presented as quislings and fifth columnists.<sup>54</sup> This coupled

<sup>49</sup> Northern Provincial Council Statistical Information, 2010

<sup>50</sup> Assuming a mean death rate of 1.5 percent p.a. for Indian Tamils, which is close to the 1.39 suggested by the 1981 Census, the 337,066 of the 1964 population who reached India mainly between 1969 and 1984 would suggest an original population in 1964 of about 400,000.

<sup>51</sup> In calculating the natural increase between the 1971 and 1981 censuses to the first order, the original population is corrected to  $1,174,600 - 312,000 \times \frac{1}{2} = P - E/2 = 1,018,600$  (FN.48).

<sup>52</sup> The 1953 figure was obtained by deducting 50,000 from the 1953 Indian Tamil population of 974,100 to account for those given Indian citizenship under the 1954 pact.

<sup>53</sup>  $9.6 - (10.6 - 9.6) \times (9.45/8.25) = 8.45$

<sup>54</sup> Retired Archaeological Commissioner, Dr. C.E. Godakumbura, on declaring Koneswaram Temple, Trincomalee, a Hindu sacred area: "[It] can easily give shelter in advance to quislings, collaborationists and fifth columnists, who will welcome the invading enemy and assist them against the Sinhalese" (*The Sun*, 18 Sept.1968). He speculated on a possible boom of Indian tourists/pilgrims

with exaggerated beliefs, backed by official estimates, of Indian illicit immigrants going underground were the subject of scare stories that contributed to the severity of communal violence in 1977, 1981 and 1983.<sup>55</sup>

Historically, government practice has been to keep the Indian Tamils strictly separate. Enumerators for the 1946 census were instructed 'that stock and not birthplace determined race and that Tamils who admitted that they or their recent progenitors were comparatively new arrivals in the Island from the "coast" in India were to be counted as Indian Tamils (Introduction to the 1946 Census)'. The 1964 Sirimavo-Shastri Pact to deport a large number of Indian Tamils which continued in operation until March 1982 and several circumstances made it hard for Indian Tamils to pass as Ceylon Tamils.<sup>56</sup>

The facts that we could be certain of, indicate that in the larger story of the Indian Tamils, the Indo-Ceylon talks and the Sirimavo-Shastri Pact of 1964 are distractions. The marginalisation of the community was proceeding apace irrespective of any talks – simply by the inhuman manner in which it was treated. The Pact helped to obscure and camouflage official guilt and the shameful plight of the community.

A few facts serve to illustrate how far the marginalisation has gone. One of the long standing minority grievances was that recruitment to the public sector was overwhelmingly of Sinhalese.<sup>57</sup> President Premadasa issued a circular in the early 1990s instructing ethnic ratios to be observed in recruitment to the public services.<sup>58</sup> That was the time three Indian Tamils got into the Administrative Service. After the change of government Ratnasiri Wickremanayake who was prime minister under President

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to Trincomalee, like Russian tourists to Czechoslovakia earlier that year, to prepare the ground for the invasion. Prime Minister Dudley Senanayake refused the request for the sacred area on grounds of 'national security'. Similar sentiments were expressed in the Citizenship debates (see Kumari Jayawardena, Roshan de Silva Wijeratne op. cit.).

<sup>55</sup> W.T. Jayasinghe (*The Indo-Ceylon Problem*, p.339) discloses that in 1964, an estimated 200,000 Indian illicit immigrants were hiding mainly in urban areas. In fact the 1963 Census shows 84 percent of the Indian Tamils were part of the estate population. Only 179,168 belonged to the non-estate population. Even if we take all of them to be illicit immigrants, we cannot account for 200,000 such persons.

<sup>56</sup> The separation of Indian Tamils was strictly observed in the 1963 Census. The ethnicity of a person was recorded in the birth certificate, which was transmitted to national identity cards issued in the 1970s. Indian Tamils had the identity card number followed by the letter X rather than V. Importantly, the distinction between citizens by descent and registration was removed only in 1979. It may be noted that 7.8 percent (64,000) of those enumerated as Indian Tamils in 1981 were in the Northern Province, who now mostly go as Ceylon Tamils.

<sup>57</sup> In 1980 Sinhalese formed 85 percent of the public sector, with the figure increasing, Tamils 11 percent, nearly all Ceylon Tamils and others (including Muslims) 4 percent. Against a national average unemployment of 14.8 percent in 1979, the Low Country registered the highest proportion of 18.5 percent (FN.22)

<sup>58</sup> According to the 1981 Census, the Sinhalese were 74 percent of the population, Ceylon Tamils 12.6, Muslims 7.4, Indian Tamils 5.6 and others 0.4.

Kumaratunge withdrew the circular and no Indian Tamils have got in since. In all a little over half a dozen became secretaries and professors. On the ethnic ratio one would expect annually about 850 university entrants from this community. But the actual number is about 150 and mainly for Arts.

Positive discrimination is universally well understood. In 1970 the Sinhalese elite misused it under the name of 'standardisation' of university admissions, purely on ethnic grounds rather than as a measure of correcting deprivation.<sup>59</sup> Hardly anyone is prepared to spare a thought for the Indian Tamils. **Once discrimination is institutionalised over many decades, it is hard for the weak to fight back.**

Many Indian Tamils are today declaring themselves Ceylon Tamils as the label Indian makes them appear alien. It poses a dilemma for their leaders, some of whom see keeping their identity as the only hope of securing positive discrimination, of which, even if it comes, there is little hope of its going far enough to compensate for the effects of more than a century of oppression. Other leaders feel that the distinction has become meaningless and the Tamils should form a single political entity to maximise representation. The dilemma is an old one – the gross regional inequalities among the Tamils themselves and the lack of conviction among the elite, both on secularism and the sacrifices that need to be made to address the inequalities.

The story of the Indian Tamils tells us how the rights and dignity of a community can be derogated while the law pretends to be equitable. It takes us back to the Citizenship Acts as the thin end of the wedge leading to the degradation of life in this country and progressive disintegration of the State. The deliberate or unconscious tampering with official records to conceal the effects of government policy on a minority is a dangerous trend that eventually renders the entire state machinery devoid of credibility.

## **9. What Have We Done to Ourselves?**

Looking back, we ponder in disbelief at what we brought on ourselves. Surely, it has much to do with human rights culture in our law and public life being still born. It remains very much under the shadow of the abuse of legality to disenfranchise the Indian labour as suited British and local ruling class interests in 1948. Its gravity hits us hard when we marvel at how the ordinary rights on an entire community were dissolved by two narrow court rulings that were oblivious to the centuries old traditions of basic rights. The Supreme Court merely ruled on whether the District Court's conclusions were justified by the evidence placed before it. The

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<sup>59</sup> When a system purporting to be positive discrimination was re-introduced in 1978, a Ministry of Education official visited the University of Jaffna to sell it to the academics. Prof. V. Tharmaratnam looked at it and asked with disarming bluntness whether it was meant to boost the number of Sinhalese entrants. Taken off guard, the official agreed.



Privy Council looked at whether the Supreme Court reasoned correctly. But there was the whole weight of international norms and contractual obligations that were not brought to bear. The latter was implicit in the UN resolution on Indian settlers in South Africa.

We then have the relevant right enshrined in Article 15 of the Universal Declaration of Human Rights: *Everyone has the right to a nationality*. The Declaration was passed by the UN with a 98% majority on 10<sup>th</sup> December 1948 – the same day as the second of the three Citizenship Bills. As quite often happens in *jus cogens* norms, the right is implied rather than fully spelt out. Surely, it finds objectionable taking away the citizenship and voting rights of a people who have enjoyed them for a considerable length of time. To hide the fact that we are a rogue state, we kept expostulating without any legal or moral basis that the Estate Tamils were Indian citizens.

Then there is the compromise suggestion of the question to be placed by the UN before the International Court of Justice on the South African Question: “Whether or not South Africa has neglected to observe any international obligations in her treatment of Asiatics?” Our leaders were never called upon to answer this question because of the shield provided by Britain and we have remained stunted with our intellects and consciences shackled by our subservience to the worst colonial norms. We are characteristically frivolous about our commitments to the rest of the world. Our Foreign Minister acceded to the Optional Protocol of the International Covenant on Civil and Political Rights in 1997. Then in the Singarasa case<sup>60</sup>, concerning an appeal under the same Protocol, Chief Justice Sarath Silva infamously ruled in 2006, ‘rights under the Covenant are not rights under the law of Sri Lanka’.

The Legal Status of Eastern Greenland case in 1933 before the Permanent Court of International Justice shows that commitments made by our accredited emissaries are legally binding.<sup>61</sup> When the rights of whole peoples have been trampled under for our comfort, we have remained inert. That is why we suffered so much bloodshed and have not seen the end of it.

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<sup>60</sup> See Singarasa case, UTHR (J) Special Report No.23, 2006; Nigel Rodley, *The Singarasa case: Quis Custodiet?*, Israel Law Review Vol.41, 2008: The Supreme Court held that an individual’s right to petition the Human Rights Committee under Lanka’s accession to the Optional Protocol of the International Covenant of Civil and Political Rights violated the Constitution

<sup>61</sup> The Court ruled that the declaration made by the Norwegian Minister for Foreign Affairs Nils Claus Ihlen to the Danish Ambassador ‘that the Norwegian Government would not make any difficulties in the settlement of the question’ of the recognition of Danish sovereignty over Eastern Greenland, was legally binding on Norway. The statement was minuted by Ihlen and not disputed by the Danish government.

## 10. Conclusion: Re-reading Lankan History through the case of the Up-country Tamils and the Principles of Natural Law

This chapter has deliberately plumbed the state's treatment of Indian Tamils, both with a view toward uncovering a shared, yet forgotten history with South Africa in the development of state racism, as well as with a view toward seeing Lankan history from the standpoint of a people who were disenfranchised by state-led Sinhalese nationalism, and Tamil nationalism alike. The treatment of the Hill-country Tamils is not simply a forgotten chapter in Sri Lankan history; rather their ill-treatment by the state set the racial parameters that would affect all minority peoples in Lanka. Reconsidering this painful episode in Sri Lankan history through the lens of natural law as well as *jus cogens* jurisprudence, we can reach a different understanding of Sri Lanka's war years, and postwar future.

*Jus cogens* norms void treaties that are in conflict with such norms, but to the extent that they are rights, they act as negative rights, such as the right to be free from torture. Thus it does not provide a basis for human rights regarded as supra-national and supra-personal, as Natural Law does; whence O'Connell says, "Currently it appears that judges and scholars simply consult their own consciences when identifying *jus cogens* norms".<sup>62</sup> In so far as judicial determination contributes to the development of *jus cogens*, they are indirectly derived from Natural Law.

The International Court of Justice's ruling on 3<sup>rd</sup> February 2012 in Germany vs. Italy, accepting Germany's stand by a majority of 11 to 4 is a reflection on where matters stand. The ICJ upheld the principle of sovereign equality of states to exempt Germany from reparations for the war crime of forced labour committed on Italian soil during World War II. Previously, the Italian Supreme Court, supported by Greece, had upheld the demand for reparations.

In his dissenting judgment, Cancado Trindade, the Brazilian judge who earlier made his name in the Inter-American Court for Human Rights, made clear what he owed to the Natural Law tradition:

"The rule of law (*État de Droit*) implies restrictions imposed upon the power of the State by the Law, as no State stands above it; the rule of law seeks to preserve and guarantee certain fundamental values, in the line of natural law thinking. Whenever those values are forgotten, in the mounting of a State apparatus of oppression leading to systematic and grave violations of human rights and of international humanitarian law, Law reacts...to assert its primacy over brute force, to seek to regulate human relations according to the precepts of the *recta ratio* (of natural

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<sup>62</sup> Mary Ellen O'Connell, *Jus Cogens: International Law's Higher Ethical Norms*, in *The Role of Ethics in International Law*, Donald Earl Childress, Ed., Cambridge University Press, 2012

law), and to mitigate human suffering: Hence the imperative of having justice done, and of providing reparation to the victims...*Jus cogens* stands above the prerogative or privilege of State immunity, with all the consequences that ensue there from, thus avoiding denial of justice and impunity."

Trinidad's remains a minority though influential position in international law and runs counter to those of several powerful governments. In 1998 the Spanish Judge Baltasar Garzon issued a warrant for the extradition of the former Chilean Dictator Pinochet from Britain to stand trial in Spain for crimes against humanity. The British High Court ruled his arrest illegal. The Law Lords, after much vacillation decided that the Spanish request for extradition could be considered. One Lord cited a 1978 Chilean amnesty law in Pinochet's favour. The case of *Al Adsani vs. Kuwait* seeking redress for torture by the latter in the UK courts was thrown out citing Kuwait's sovereign immunity from process in the UK. The appeal *Al Adsani vs. United Kingdom* in the European Court of Human Rights in 2002 was also thrown out on grounds of Kuwait's sovereign immunity.

The demand for universal jurisdiction over gross violations of human rights is strongest in countries (e.g. Latin America and Spain) having a strong natural law tradition. Historically, the attack on natural law in favour of positive law has come from the powerful nations of the West (supported by sundry delinquents). The Roman natural law right of *jus soli* (citizenship by birth), was instituted in territories under British jurisdiction consequent to the judgment in Calvin's case of 1608 (FN.37). It was taken away by the British Nationality Act of 1981. The fact that Britain is now set to deny free medical attention for destitute illegal immigrants and their children as a means of pressure to drive them out of Britain, is symbolic of the state of the country, and of ill-starred attempts to deal with migrants running away from repression, systemic poverty and environmental degradation within the fictitious framework of sovereign equality of states. This leads to sovereign immunity that has been a shield against the misdoings of the powerful. Natural law is the only hope of the wretched of the earth.

#### **11. End Note: Birth Rate of Indian Tamils: 1964 Nov. – 1984 Oct.**

We observed that the fate of the Indian Tamil community, particularly during the hardships of the 1970s, has been obscured by misleading official statistical records, displacement and deportation to India. Figures in the 1981 census give the community a birth rate of 0.032 p.a. and death rate of 0.0146. The latter is still twice that for other communities.

Some additional data from W.T. Jayasinghe's *The Indo-Ceylon Problem* helps us to perform an independent check on the figures in the 1981



census. These figures concern deportations under the Sirimavo-Shastri Pact.

We have from his p.442: By the end of 1976 190,802 persons born before November 1964 and 46,588 of their offspring born after had left for India.

We have from his p.451: By October 1984 337,066 persons born before November 1964 and 123,838 of their offspring born after had left for India.

The counts were made at the time of exit. The following figures for deportation are from p.193 of M. Vamadevan's book *Sri Lankan Repatriates in Tamil Nadu* (FN.47).

1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976
3150	5030	1180	5760	9490	23130	32670	40970	44900	24390	45750

1977	1978	1979	1980	1981	1982	1983	1984
39768	29385	23765	18831	26081	23120	32526	25002

**Limitations:** We assume that the deportees formed a representative cross section of Indian Tamil society. Folk memories of deportations hold that it was an untidy process and far from voluntary as stipulated in the agreement. People were rounded up when they reported for 'parade' at the estates. The women and children were easy to corner. Many of those who evaded deportation after registration were young men. Some jumped off the train to Thalaimannar. This suggests that the proportion of children among deportees may have been slightly higher than in their society.

Since we are working to first order, it is fortunate that we are dealing with two segments of 12 years and 8 years. The first segment (1964 – 1976) is as given above. In the second (1977 – 1984), we have 224,478 persons: 146,264 pre Nov. 1964 and 77,248 offspring born later.

For a given interval from time  $t_1$  to  $t_2$ , we work with a reference time  $t_0 \in (t_1, t_2)$ . Let  $C$  be the post Oct. 1964 population, and  $A$ , the pre-Nov.1964 population.  $C_0 = C(t_0)$ ,  $P$  the total population of the community and  $P_0 = P(t_0)$ . We regard  $P(t)$  as the population of the stateless Indian Tamil community changing according to conditions prevailing in Lanka. We take the relevant population born post 1964 as determined by the birth rate.

Let  $b$ , be the birth rate;  $d$ , the death rate and  $n = b - d$ , the rate of natural increase.

We have  $P = P_0 + n(t - t_0)P_0$  and  $C = C_0 + b(t - t_0)P_0$

Let  $V_C$  be the rate of deportation of the post Oct.1964 offspring. We have, for  $V$  the rate of deportation,

$$V_C = V \frac{C}{P} = V \frac{C_0}{P_0} - V \frac{C_0}{P_0} n(t - t_0) + Vb(t - t_0) \text{ to the first order ..... (1)}$$

Let  $E$  be the total deportations from  $t_1$  to  $t_2$ ,  $E = \int_{t_1}^{t_2} V dt$  and  $E_C$  the number of offspring deported.

$$E_C = \int_{t_1}^{t_2} V_C dt = \frac{C_0}{P_0} \int_{t_1}^{t_2} V dt - n \frac{C_0}{P_0} \int_{t_1}^{t_2} V (t - t_0) dt + b \int_{t_1}^{t_2} V (t - t_0) dt$$

..... (2)

Suppose we choose  $t_0$  such that  $\int_{t_1}^{t_2} V (t - t_0) dt = 0$ ,

$$\text{Then } t_0 = \frac{\int_{t_1}^{t_2} V t dt}{\int_{t_1}^{t_2} V dt} = \frac{I}{E}, \text{ where } I = \int_{t_1}^{t_2} V t dt$$

Then  $E_C = \frac{C_0}{P_0} E$  from (2),  $E_A = E - E_C$  and  $\frac{E_C}{E} = \frac{C_0}{P_0}$

$$\underline{1964 - 1976}: \frac{E_C}{E} = \frac{46,588}{236,423} = 1.96, t_1 = 0, t_2 = 12.17, E = 236,423$$

$\int_{t_1}^{t_2} V t dt = \sum V_i t_i$ ,  $t_i$  is the time at the centre of the interval and  $V_i$ , the number of deportees during the time

$$= 2,092,146$$

$$t_0 = \frac{2,092,146}{123,423} = 8.849, \frac{E_C}{E} = \frac{C_0}{P_0} = bt_0 = 0.196 \text{ to the first order}$$

$$b = \frac{0.196}{8.849} = 0.022$$

$$\underline{1977 - 1984}: \frac{E_C}{E} = \frac{77,248}{224,478} = 0.3441, t_1' = 0, t_2' = 8, E = 224,478$$

$$\int_{t_1'}^{t_2'} V t dt = 832,744$$

$$t_0' = \frac{832,744}{224,478} = 3.71, \frac{E_C}{E} = 0.3441 = \frac{C_0'}{P_0'}, C_0' = C(t_0'), P = P(t_0') = P_0', C_0' = P_0' t_0' + P_0 (t_2 - t_1) b$$

In the case 1964 - 1976,  $t_0 = 8.849$  takes us into 1973, and we know that the average natural increase during the 1970s was near zero and possibly negative and  $t_0'$  lies in 1979. We may thus take  $P_0 = P_0'$  whence

$$\frac{C_0'}{P_0'} = 0.3441 = b(t_2 - t_1) + b't_0' = 0.0221 = 2.17 + 3.71b'$$

$b'$  = average birth rate for 1976 – 1984

$$3.71b' = 0.3441 \text{ birth rate } f$$

and  $b' = 0.0206$

Thus the birth rates 0.022 for 1964 – 1976 and 0.0206 for 1977 – 1984 that we calculated are much lower than the 0.032 implied by the 1981 census.

The 1971 census gave a birth rate of 0.0267 for Indian Tamils and a death rate of 0.0112. If the rate of natural increase of 0.0107 for 1963 – 1971 we calculated on the basis of census figures is correct, the birth rate of 0.0267, suggests a death rate of 0.016.

For any society, conditions that lower the birth rate also in general raise the death rate; whence the negative growth rate for Indian Tamils indicated by the 1981 census should not be taken lightly.

*Note: by working in two segments centred on suitably chosen intermediate values  $t_0$ , we have limited the error arising from first order approximations.*



## Chapter 1

### Winds of Change in the Latter 1980s

*Infinite passion and the pain  
Of finite hearts that yearn*

- Robert Browning

#### 1.1 Introduction

No one who was murdered for his or her convictions is laid to rest, until the causes and agencies involved are laid bare. This is an obligation we owe, particularly to a colleague who shared our aspirations for the people and, on account of this, took tremendous personal risks. This is the culmination of a quest begun 24 years ago, to record and explain as completely as feasible the circumstances of a loss that in retrospect was so momentous especially for Rajani's community – the loss of a medical practitioner, a teacher, mother, wife and above all one actively committed to the community's welfare, to the bereaved and traumatised, especially women. It was the loss of a thinker who was trying to evolve both conceptual means and grassroots institutions to lift up a community rendered inert by terror.

Rajani's views on society, culture and institutions were Marx-inspired. She also acknowledged her debt to the writings of Kumari Jayawardena, Reggie Siriwardene and not least her husband Dayapala Thiranagama for her induction into Southern rural radical left politics. But her originality lay not in her reading of Lankan history or the ethnic conundrum. It came from being a committed insider, which gave her deep insights into her own society and the growth of the militancy. She did not look at the Lankan crisis with the detachment of an observer probing something external. For instance, when Indian officers tried to take cover by blaming Tamil militant youth for what the people had suffered, it was normal for people to defensively plead innocence by distancing themselves from the militants. But Rajani took the officers head on for their inexcusable lapses, adding forthrightly: *"We as a community must take responsibility for our catastrophe. The militants are part of our history, and a part of our community. I cannot artificially distance myself from the militants and condemn them"*. She felt a strong call to take extreme risks demanded by her convictions because especially the young men and women risking their lives for a mistaken cause had brought the community to a state of paralysis, and were likely to respect only those who themselves took risks.

Rajani's latter days coincided with the ebb of revolutionary Left politics, whose legitimisation of 'killing for the progress of the revolution' had been used as license for blood baths by many revolutionaries and by movements

like the LTTE that in their early stages wore a veneer of Marxism to justify their actions. While far from rejecting the revolutionary tradition, Rajani's experience prompted her to take the intellectual leap of firmly rejecting killing for political reasons.

(An extract from Rajani's writings compiled from *The Broken Palmyra* is given as an End Note, with some minor editing for reasons of clarity.)

## **1.2 Rajani and the Rise and Fall of the Left**

A most powerful message to come from Helene Klodowsky's film, *No More Tears Sister*, about Rajani's life and work, dealt with her intellectual development, which answered the call of her heart. Dayapala's testimony affirms that in the latter months of her life she firmly stood against taking life for political ends, even to kill those whose politics physically threatened others. It was a radical departure from the Marxist revolutionary tradition she had long espoused. Tokens of her development can be found in her response to events during her three final years in Jaffna.

Rajani's generation came to maturity in the 1970s. A large number of the sensitive young of her time came to believe that revolutionary violence based on Marxist ideas and organisation was the way to liberation in Third World Societies under the neo-colonial yoke. They were inspired especially by the examples of Ho Chi Minh in Vietnam, Castro and Che Guevara in Latin America, the PLO, ANC and the Sandinista.

The new Jayewardene government's complicity in the communal violence against Lanka's Tamil citizens in 1977 set the stage for Tamil militant groups to enter the world's arena as liberation movements having fraternal links with other liberation struggles. To complete the irony, the Sri Lankan government gravitated towards Apartheid South Africa and Israel.

By this time history had also taught some clear lessons: that the notion of revolutionary violence is subject to enormous abuse and perversion so as to render its use fatal for the initial objectives of liberation. The area of greatest controversy remains that of killings and executions extraneous to actual military combat. The classic scenario is that of a few wise men claiming precedence for their ideology and deciding that 'enemies of the people' or 'enemies of the revolution' should be done away with. The same argument can and has been used during the 20<sup>th</sup> Century by numerous actors claiming ideological precedence for the social order they advocated, whether of the Left or Right, Fascist or Nationalist, Capitalist or Socialist.

During the latter half of the 20<sup>th</sup> Century, while influential western media demonised leftwing revolutionaries with considerable success, the actual record of mass murder stands overwhelmingly on the side of western powers and regimes beholden to them. By the end of the century, their victory was not merely one of power relations, but more significantly

ideological. Even when Left intellectuals were uncomfortable with the mores of the American Right, the fight had mostly gone out of them. It became fashionable to argue for the precedence of brute power over justice.

These changes in global power relations and intellectual fashions had their repercussions on the conflicts in Lanka. Rajani's assassination came at a time that was symbolic. The fall of the Berlin Wall and the dismantling of the Communist Bloc were seven weeks away. Soon the Soviet forces were to pull out of Afghanistan, signalling a pyrrhic victory for the US and Britain in the proxy war they fought by fuelling Islamic extremism worldwide. The fact that at this time President Premadasa chose to get the Indian Army out of Sri Lanka by arming and appeasing the LTTE, with the tacit support of western powers, fitted the general pattern of things. In the South of Lanka, the JVP rebellion was spluttering to a close with its key leaders hunted down and executed.

To many among the elites everywhere, the New Order of 1990 appeared to hold out the promise of peace and stability under western tutelage. In Lanka the LTTE had been assigned its place and given a bonanza that included unchecked control of the North-Eastern population. That it would return to war was unthinkable. The times were characterised by a failure of intellect and imagination; by complacent presumption that the nameless multitudes had no higher longings such as justice and dignity, and could be managed by a show of brute power and a few crumbs. The continuing attempt to whitewash the denial of basic rights to Palestinians stands as the most eloquent testimony to the folly of the new order and its managers.

Inspired by socialist and feminist ideas, Rajani, like many impressionable Tamil youth of her time and age, was drawn into the militant struggle. Initially she just provided medical help to the LTTE upon her sister Nirmala's request. After Nirmala's arrest by the state under the PTA and upon Rajani's departure for study in Britain, Rajani inevitably became involved in protests against increasing security forces' atrocities against civilians and in campaigns to release Nirmala. It was thus that she became involved with the LTTE. As a doctoral student in the early 1980s, Rajani with her spontaneous enthusiasm for the ideals of liberation helped to align the LTTE with famous liberation groups of the day such as the ANC, PLO and EPLF of Eritrea. While this benefited the LTTE's image enormously, the LTTE itself continued to stamp out any criticism and the incipient demand for democracy within, not hesitating to destroy or kill persons to this end. At best, those disillusioned were allowed to leave and hibernate in obscurity with their lips sealed. Within months of being in the inner circle of the LTTE in London, she became disillusioned with its callousness.



With her keen sense of social justice, Rajani had espoused left causes with a passion from her student days. Her medical studies in Colombo, her work with the Student Christian Movement, her medical practice in rural areas and marriage to Dayapala widened her horizons to embrace liberation struggles around the world, the helpless in varied nooks of oppression and the left movement in Lanka.

To Rajani, politics had always been about justice and hope for the people and not about power. As a medical student, she had independently become a Marxist, having regularly attended classes at the home of the Marxist leader N. Shanmugathasan – the point of contact that opened the door to her future marriage to Dayapala. When she joined the LTTE under the influence of her elder sister and brother-in-law who were also Marxists, it appeared at least potentially to represent the goals that mattered to her. A belief in revolutionary violence was implicit, to the extent that its use was deemed socially justifiable. Dayapala had then opposed her getting involved with the LTTE. But what she saw later was a parody of the goals of liberation and the hopelessly tragic lot of the people. The world of leftwing idealism was collapsing around her, largely through self-inflicted wounds. Somewhere the people had gone out of its calculations. The new ideas and mores coming out of its ruins exalted power and wealth. New structures of global power envisaged adopting pliable elites around the world to control states with or without the aid of formal democracy.

Rajani's sister Nirmala left the LTTE at the end of 1984 along with many others including the Mannar leader Rajes. The LTTE was inhibited from harming Nirmala because they had organised a press conference in Madras and made a huge publicity binge of Nirmala's jailbreak from Batticaloa. But Mahattaya, who was then widely acknowledged as the LTTE's deputy leader, had come to her flat in Adayar, Madras, to abduct Rajes who had left the LTTE and was taking refuge there. Nirmala and Nithyanandan's sisters kept a stubborn guard over the door and dared Mahattaya to take him out of the house. He had to leave empty-handed.

Rajani had some suspicions about the LTTE, but it was only when Rajes arrived in London in early 1985 and told her all about his experiences that her earlier thoughts were confirmed and she knew that she had to sever her links with this organisation. When Rajani questioned the LTTE hierarchy in London, they dealt with her concerns summarily. Rajani realised they were hiding things from her and left the organisation.

Nirmala observes: *"Many Marxists support the idea of an armed struggle, and in an unthinking way, in contravention of our Marxist beliefs, both I and Rajani jumped into the nationalist bandwagon, I in Jaffna and Rajani later in London, having initially been attracted by the idea of an*

*armed struggle that we believed could successfully challenge the state, but sadly ignoring other more serious political concerns."*

Here was a movement that revelled in the rhetoric of socialism and liberation, but in reality used the enthusiasm and dedication of numerous youths to spread its totalitarian web over Tamil society. What they saw within drove many of these young to hate the Leader with the same vigour once lavished on revering him. Some were killed or sent to their death.

Upon leaving the LTTE she had served, Rajani's conscience, unlike for many others, would not accept comfortable obscurity rejecting her former pledges. She felt she owed it to the people to go home and challenge it.

### **1.3 Return to Lanka**

Rajani returned to Lanka at the end of 1986 with her doctorate in anatomy. This period turned out to be a very difficult one.

There was no doubt in the minds of Tamils that the State was deceitful, violent and nasty. The Tamil response became authoritarian and a perversion of human values, to do with the least demanding and rhetorically nationalist route it took to oppose the ominous and often risible chauvinist ideology of the State (e.g. the national flag controversy<sup>63</sup>). The grand promises of Tamil leaders and high expectations, followed by humiliation in 1972 and worse in 1977 and 1983, led the leaders, out of thoughtless inertia, to brand anyone who questioned their actions as traitors. The most serious consequence of this was the alienation of Muslims who were unable to accept Tamil nationalist prescriptions of what was good for them. They became in effect, "traitors". How the Government manipulated Tamil ideology became evident in April 1985, when it sent busloads of Minister M.H. Mohamed's thugs to attack Tamils in Karaitivu, giving the Tamils to believe that the attack came from the neighbouring Muslim village of Sammanthurai. The Tamils fell for it, resulting in counter attacks on Muslims by Tamil militant groups (see *Arrogance of Power*). Despite their long and intimate contact with Muslims and appeals for their vote, the Tamil nationalist parties had not left any structure in place to defuse local misunderstandings and conflicts. A.L.A. Majeed, then MP for

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<sup>63</sup> The 'national' flag showing a sword-bearing lion edging out the Tamils and Muslims, represented by coloured strips, is symbolic of where post-independence leaders were driving the country. The fantasies of nationalist ideologies are frequently tragi-comic. To quote VCR de Silva (*The Island* 20 Jan.2000): "*The royal family of [the Middle Ages] was heavily interconnected and marriage alliances with other Kshatriya dynasties from South India as the Pandya and Kalinga royal dynasties were prevalent. The fish symbol [was] used by Parakramabahu I (AD 1153 – 1186) and not the double fish symbol of the Pandians...Therefore it appears that the fish symbol was the royal emblem of the Kshatriya kings of Sri Lanka spanning well over a millennium. Contrary to popular belief, the lion symbol does not have such a status in our culture. The lion symbol is frequently found on stone slabs at the foot of stairs for wiping one's feet.*"

Mutur and a close friend of A. Thangathurai MP, was among the few who made an attempt to check the violence between Muslims and Tamils.

The nature of Indian aid to Tamil militant groups, mainly weapons training, encouraged them to vent prejudices against Muslims with new found armed arrogance. Even groups with a left political orientation became negligent about educating their cadres. H.N. Fernando a left trade unionist who was exiled in Jaffna during the mid-1980s when asked by a friend who visited Jaffna what the Tamils were doing, replied with characteristic wit, "*They are building several armies, like the Sri Lankan Army.*"

From mid-1986 the LTTE launched a violent and brutal suppression of other militant groups. The precipitate drop in Tamil militant strength gave the initiative over to the government forces. After hopelessly weakening the Tamil struggle militarily, the LTTE was forced to take cover behind an uncompromising hard line stance: it had unleashed punitive violence on its rival groups for allegedly betraying the cause of a separate state of Tamil Eelam. Unable to negotiate a compromise with the Government, the LTTE unleashed massacres on Sinhalese civilians to which the Government responded with indiscriminate bombing and shelling of Jaffna. Extensive recruitment of women and children could not save the LTTE from ignominy – a prospect averted by the Indian intervention in June 1987.

Again unable to live with a settlement short of a separate state and unable to share power with other groups, the LTTE resorted to provocations, massacres of unarmed rivals and Sinhalese civilians, precipitating war with India. All through these events the cost to the civilians was heavy, especially as the LTTE systematically fired at the Indian Army while hiding among civilian refugees.

Meanwhile, the political and human rights climate in Sri Lanka became diabolically messy. Terming the Indo-Lanka Accord a betrayal, the JVP launched a bloody bid for power against the Jayewardene government. In a bid to monopolise the left political space, the JVP directed the brunt of its violence on other Southern left parties. With a presidential election due at the end of 1988, the country witnessed a love fest of bizarre alliances accompanied by bloodied last minute jilting: the only operative rule being 'love blindly thy proximate enemy's seeming enemy'. In the violent and murky election, Premadasa emerged the winner – the candidate preferred by the JVP and LTTE for disparate reasons. The South failed to come to terms with this historic ignominy born of the legacy of Sinhalese chauvinism. The conditions for a repetition remain intact.



The North-East situation became uglier. India tried to stabilise matters pushing the Lankan government to establish a North-East Provincial Council (NEPC) as provided in the Indo-Lanka Accord. The LTTE killed to wreck any prospect of stability, while the Indian Army and its allies reacted harshly against persons suspected of aiding the LTTE. President Premadasa, though outwardly committed to the NEPC, undermined it covertly by arming and aiding the LTTE to attack the Indians.

Rajani's husband Dayapala was himself a fugitive at this time. He and a handful of others set up an underground guerrilla movement committed to supporting the Tamil struggle and instigating a left revolt in the South. Then things went awry and several of their cadres were apprehended by the State, causing Dayapala and others to go underground. Rajani, who by then had left the LTTE and held strongly that there should be no killing for political reasons, was critical of Dayapala and his comrades' armed campaign against the State. But at the same time, she maintained close contact, visiting him in the underground and supporting him financially.

As a university don with political clout in the left camp, Dayapala came from the left enclaves of the South from which the JVP (Janatha Vimukthi Peramuna) leadership too emerged. But he differed from the JVP radically. The JVP tried to steal the sectarian thunder of mainstream Sinhalese narrow nationalism by mixing it incoherently with the socialism of the worldwide fraternity of workers, which Marx envisaged. Thus, the JVP, which made marked inroads into the universities in the late 1960s, shared with mainstream Sinhalese nationalist parties their refusal to address grievances of ethnic minorities. Dayapala then worked for the progressive student movement, which was sensitive to minority concerns and took exception to one of JVP's five political classes titled 'Indian Expansionism', which posed a grave threat to the Hill Country Tamil community.

During the second JVP rebellion in 1987, Dayapala and the rest of his group became JVP targets for their militant aims and their support for the Tamil struggle. The government had arrest warrants under the PTA for those who went underground. For Dayapala, there was the spurious charge under the PTA of plotting with the EPRLF leader Padmanabha to overthrow the duly elected government of Sri Lanka.

The democratic but fragmented left in the South known for its trade union activism and protest against globalisation measures by the Jayewardene government, was crushed by state repression, and some of its leaders were cynically blamed and jailed for the July 1983 communal violence. By closing the doors to the opposition with repressive laws, violence and vote fixing, in the early 1980s, the UNP government paved the way for a virulent Left group in the form of the JVP.

The same UNP government that derided and sported with the democratic left parties, calling them terrorists, was by the end of 1986 desperate to negotiate with the LTTE. In their embitterment, many of the democratic left, especially younger members, though strongly against the JVP and opposed to its fascist tendencies, romanticised the LTTE from a distance and dreamed of making common cause with them. They failed to see the common threads in the success of the LTTE and JVP. The JVP's murderous drive against ostensible socialist allies made it their main *bête noir*. The JVP's violent opposition to the left alliance drove many of them to make common cause with the State's security forces.

Similarly in the North-East, the EPRLF was among the few militant groups that had initially tried to uphold democratic and egalitarian traditions of the region fostered by student activism in the 1920s and 1930s. Embittered by LTTE terror, it was driven to make common cause with the Indian Army.

Both Rajani and Dr. Sritharan, who taught Mathematics, were involved in left politics during their university days, and the latter especially had many contacts among left party activists at the grassroots whose experience of society was very different from what one would get from middle class circles or the University. In discussions among colleagues, Rajani and Sritharan struck an optimistic note by pointing to the way our thinking was limited by mainstream parliamentary politics, through which flawed governments drove the different communities to think of one another as adversaries rather than as partners in mutual upliftment. We felt that we should link up with the smaller groups of left activists in the South, who had for many years been working among the Sinhalese people to counter official communalism. Both Rajani and Sritharan strongly felt that if there were to be hope, the Tamils would have to get through to the ordinary Sinhalese and Muslim people.

In later years, Sritharan addressed Sinhalese groups at meetings arranged by left contacts. It was not always easy. Soon after the Indo-Lanka Accord, in 1987, a group from the South that had been sympathetic on the Tamil issue visited Jaffna. Among them was Sunil Ratnapriya from the left NSSP, who as president of the Government Medical Officers Association had worked tirelessly to protect Jaffna Hospital during the round of hostilities preceding the Accord. Ratnapriya was part of Rajani's left activist circle in the University of Colombo in the mid-1970s, and upon his transfer to the University of Peradeniya became a leading member of the Social Study Circle. Among the Circle's members were Raja Wijetunge, Gamini Samaranayake, Mahinda Deshapriya and Dayan Jayatilke. Its Tamil members were Viswanandadevan, Krishnamoorthy and Sritharan. Several of them made their mark in the country's life. As an engineer, Viswanandadevan threw himself into left activism in the North and then



formed the left political group, the NLFT. He went missing during a sea-crossing to India in 1985.<sup>64</sup>

The JVP from late 1986, notably its murder of left student leader Daya Pathirana, had trained its weapons on the Sinhalese left. Ratnapriya suggested to Sritharan during the meeting in Jaffna in August 1987 that since the LTTE was doing something opposing the Government, we should get together and work with them. Sritharan responded sharply, *"What would you feel if I say that the JVP is doing something opposing the Government and we must get together and work with them? It is not their doing something that matters, but what precisely they are doing and the social consequences of that."* They parted as friends.

A problem with several of the left groups is that they had opposed the State for many years without much outward result. The State treated them with disdain. Without looking at what was becoming of Tamil society, the LTTE's phenomenal success in a brief span of time seemed an object lesson to them. For the NSSP, linking up with the LTTE was a romantic aspiration, despite its repeatedly contemptuous treatment of potentially friendly visitors from the South. The LTTE's murder of NSSP's parliamentary candidate Mr. Annamalai in Jaffna, in January 1989, made little impact on the NSSP's thinking, until it snubbed its leader Vasudeva Nanayakkara's written plea, handed over in person, to refrain from resorting to war in April 1995. The atrocious behaviour of the Government forces made it easier for people to turn a blind eye to the LTTE's atrocities. From 1990 onwards several attempts were advanced to secure peace by empowering the LTTE by allowing them to have virtual control of the North-East, which in effect included sanction to kill political opponents. Sritharan frequently told them, *"You spent many years defending the Tamils against Sinhalese hegemony, now by being blind to what Tamils and Tamil dissent would suffer under LTTE control, you may be betraying the very people you set out to defend."* Some understood us, while others to justify themselves lumped us together with the Sri Lankan government and army.

Until things started falling apart in September 1987 leading to the LTTE's war with India, Rajani's activism had been low-key. To get about Jaffna in

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<sup>64</sup> The NLFT made its imprint as a left political group rather than as a militant group. It differed from the major groups in rejecting Indian patronage as a costly liability. It earned the ire of the major groups by becoming the first port of call for many who left those groups over political disagreements. Among the leading LTTE dissidents who joined the NLFT was Iyer. Santhathiar who had disagreements with PLOTE talked to the NLFT. He told them that he appreciated their policies and analysis, but he was too much of a heavyweight in Tamil politics for the group to bear. He wished them well. He was later killed by PLOTE. The LTTE was a suspect over Viswanandadevan's disappearance. After much painful inquiry, the weight of opinion among his friends is that his boat was shot up by the Sri Lankan Navy. There were no survivors.



the desolation of 1987, trying to build a people's movement, and articulate their needs and experience amidst several wary armed actors, was akin to going for a hike in the Arctic in summer clothing. But once she, her colleagues and others of a similar mind started taking initiatives at different levels, there was spontaneous support and dedication from a diverse group of individuals. From then on she was very active on the ground, meeting a wide variety of people, listening to their experiences of being caught between the Indian Army and the LTTE. But listening was not enough for her; she had to do something about it, however dangerous it might be. Further, it was not enough to expose the Indian Army's callousness; the LTTE too had to be taken head on.

Soon after the Indo-Lanka Accord in 1987, a left activist Ratnam brought to us Tharmarajah, a postal worker from Kilinochchi District, who had been an EPRLF leader, detained and tortured badly by the LTTE, but released after the Accord. He was regarded in his area as a good man who had the good of the society at heart and had behaved in an enlightened manner, not seeking anyone's harm. He badly needed medical care. His experience did not suggest the LTTE was a disciplined group as was presented to the middle classes. One LTTE cadre who was given the job of minding him had expressed his disgust and told him of an incident where a girl waiting for a bus was raped by four LTTE cadres, killed and buried.

Tharmarajah was treated by Dr. Daya Somasundaram and he later rejoined the postal service. He had no intention of rejoining the EPRLF. One day, a friend of his who had helped him in the past was killed by the LTTE. The same night Tharmarajah fled his village and re-joined the EPRLF elsewhere. After re-joining he learnt that some LTTE supporters in his village were on a hit-list; he sent a message asking them to flee to Colombo. This was because he felt that these supporters were essentially sincere men as well as good men. Just before he went back to the EPRLF, he told a friend that he had little sympathy for what the EPRLF stood for then under the Indian Army. He added that he would keep his independence and teach the LTTE a lesson. According to reports received Tharmarajah was a local EPRLF leader in Kilinochchi, who had shown qualities of enlightened leadership – by then relatively rare in the EPRLF – which had won him considerable popular esteem. On 26<sup>th</sup> July 1989, he had gone to inspect a sentry point near his camp. He was killed by a single bullet fired from the Sri Lankan army camp opposite. This was the time the Premadasa government had come to a secret understanding with the LTTE and was helping the LTTE to hunt its enemies (UTHR(J) Reports 1 & 3).

Tharmarajah's story, that of a good man who had much to give, carried no interest for the upper reaches of Tamil society, for newspapers or conference rooms. The stories of many dedicated youths like him from the humbler reaches of Tamil society, speaks tragically of what is wrong with

Tamil nationalism, its self-destructive mindset, which destroyed so many committed youth for no apparent reason, and eventually turned the people, men, women and children of the poor, into martyrs.

Once Rajani became actively involved in the flux of events, things that were veiled to a casual observer stood naked before her. The problems and confidences of her students gave her a stark insight into how the LTTE had evolved after it crushed its rivals in 1986. It had driven itself into a corner where negotiation was anathema. In April 1987 it snubbed the Government's unilateral ceasefire and overtures to hold talks, massacred Sinhalese and brought the State's indiscriminate wrath on the residents of Jaffna. The Jaffna Hospital had been repeatedly struck by army cannon from barely a distance of half a mile. With a military offensive about to begin, the Government ordered the hospital authorities to close the institution. The doctors too thought it best to close. The LTTE wanted the Hospital to stay put. Such a cynical demand would not have been possible when there was a plurality of militant groups.

Eventually, the humanitarian initiative of the Government Medical Officers' Association, the wide publicity aroused and diplomatic pressure from the Indian High Commission enabled Jaffna Hospital to stay open.

The role of the Indian High Commission misled the hospital authorities into believing that having been confronted with the issue, the Indians during their subsequent offensive would be careful to ensure that the hospital came to no harm. But the worst came true when the leading column of the Indian Army approached the hospital five months later in October 1987. A few LTTE cadres fired small arms at it from a front balcony in the hospital and escaped through the back. Indian soldiers in no mood to ascertain the reality took no chances and killed 70 patients and staff.

Appalled by the callousness of the Indian and Sri Lankan governments and the LTTE's determination to attract world sympathy by maximising civilian casualties as a means to plug its gaping political bankruptcy, Rajani, with three other colleagues, wrote a frank account of the predicament of the civilians in the book, *The Broken Palmyra*.

#### **1.4 New Dilemmas**

In 1987 we found ourselves amidst aerial bombing, shelling, massacres and the perennial movement of the displaced, which seemed the only language in which the Government seemed able to speak to the Tamil people. In the meantime, the LTTE had assumed a position of dominance by massacring members of other groups and terrorising the community. Its massacres of Sinhalese civilians too catered to the innate chauvinism of the middle class who had been deeply hurt by government-directed communal violence,



and helped it to gain passive support and to build up its overseas network. But on the ground the situation was becoming hopeless and rotten.

Rajani's own personal history of left politics and her involvement and disillusionment with the LTTE lay heavily on her. The questions she asked herself grew in intensity during her last three years in Jaffna. She tried earnestly to convince her students and everyone else that we were all human, each with a complex network of feelings, relationships and obligations; and anything that tried to turn us into ideologically programmed machines was a lie and a denial of humanity. This demands from us a duty to be tolerant and understanding of others, and an obligation of loyalty in whatever communal setting we are placed, as members of a student body and a university.

With members of the LTTE, while demonstrating her commitment to them as a teacher, she told them plainly that to spy on fellow students and endanger the lives of those around them was treachery of the worst kind. LTTE-er Kittu's fiancée Cynthia met Rajani before she recommenced her medical course and Rajani continually reassured her. Upon being told that the LTTE affiliated student Dharmendra had been detained by the Indian Army, she went promptly to demand his release, but in the meantime he had been released. Even though she was bitterly opposed to the Tigers, she held that they should not be detained and tortured for their beliefs. In *The Broken Palmyra*, writing in early 1988, she delivered a stinging critique of the LTTE: that its authoritarianism was founded on terror, which would sap the people's spirit causing immense destruction in its wake, leaving them open to crude forms of domination. She sketched her programme of work, which was to build democratic structures answering to the needs of those who suffered most, towards strengthening them to have a voice in their future, and assert themselves against those who ruled them by the gun.

It is now over 25 years from the time Rajani was killed and much water has flowed under the bridge, but the quest Rajani gave her life for, remains unfulfilled. Many things remain the same despite the years. This book is partly an update on this unfinished quest. From the standpoint of the UTHR(J), all violations had to be exposed along with the violators; these violations are by parties that were ostensibly strong, but were pitifully weak, nervous and fearful, in spite of their capacity for immense harm. And importantly their political underpinnings and pretensions; especially of Tamil and Sinhalese nationalisms, have to be laid bare (see Appendix 1).

When we reflect on the unfinished Tamil struggle – the ideology of the State it was up against, and on both sides, the ideological licence to violence with impunity, the contentious historical interpretations in which justification was sought, the increasing importance of the international scene, the expatriate influence for both good and bad, the debates on outright separation and accommodation within a single entity, and the



price each option entailed – we are inevitably reminded of the troubled history of another island, Ireland.

### 1.5 Irish Home Rule, Hopkins, Yeats and the Weight of Ideology

Despite much sectarian bloodshed, Irish history was not always dark as regards ideas. The end of the 18<sup>th</sup> Century was a period dominated by revolutions in America and France, when intelligent young men coming of age knew that the status quo was unworkable and reformist ideas were common currency. Ideas they eventually shared in common were obscured for a time by the violence of the sides they were pushed into by force of circumstance, as for example Castlereagh and the rebel fellow Irishman, Wolfe Tone – both identified Catholic emancipation as pivotal; Castlereagh following vehement early opposition saw it as inevitable after Wolfe Tone's death, though lesser men disagreed for decades.<sup>65</sup> Under the influence of Thomas Paine's *Rights of Man*, which sold widely in Ireland in the 1790s, Wolfe Tone, an Anglican, became leader of the United Irishmen, which stood for a secular, democratic republic of Ireland, independent of Britain, devoid of romantic conceptions of nation. A premature rebellion in 1798 was brutally crushed. Tone upon being denied a soldier's death by firing squad after capture, took his own life. Lord Castlereagh remarked that he would never be forgiven for his role in putting down the rebellion.

That age of revolution left its mark on us too. It is surely more than a coincidence that in 1799, Lord Frederick North, as Governor of Ceylon, made a proclamation in those disturbed times, which was reformist in temper. It abolished torture as a means of determining criminal culpability and made trial by evidence the only basis for conviction. The proclamation laid the foundation for a secular state in Ceylon through granting religious tolerance and freedom of worship. North himself belonged to the Greek Orthodox Church, on account of which he may have faced restrictions in civil liberties, along with Catholics and Presbyterians, had he chosen Ireland for retirement.

As Chief Secretary for Ireland Castlereagh had hoped to cool passions in Ireland through Catholic emancipation, which was vetoed by King George III who held that his coronation oath demanded the *status quo*. Castlereagh's clemency again asserted itself after the defeat of Napoleon at Waterloo (1815) when he was foreign secretary. He opposed punishing France: "*It is not our business to collect trophies, but to try to bring the world back to peaceful habits.*" Napoleon in turn regarded Castlereagh a lunatic, calling his peace the kind of peace he (Napoleon) would have made

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<sup>65</sup> Lord Melbourne in the early 1830s: "Everybody but the fools was in favour of Roman Catholic Emancipation, but it has turned out that the fools were right": Quoted by Elie Kedourie to justify restricting the franchise of indigenous peoples in colonial situations, as in South Africa, Algeria and Palestine (TLS 21 Apr.1978).

if he had been beaten. Collecting trophies became the preoccupation of Sri Lanka's victors. But then, Napoleon's glory was short-lived.

The Irish had faced centuries of continuous oppression. Their land was deforested to build English fleets. While they were denied political rights as Roman Catholics, tens of thousands of their men, women and children were sent as slaves to the West Indies beginning with Cromwell's conquest of Ireland in the 17<sup>th</sup> Century. They suffered drastic reductions in population owing to famine and emigration, especially in the wake of the potato blight of the 1840s. The illustrated edition of Charles Dickens's *Pickwick Papers* of the 1830s shows a family of barefoot Irish beggars running with outstretched palms after the coach bearing the genial Mr. Pickwick.

Gerard Manley Hopkins, an English Jesuit, classics scholar and a leading innovative poet of the 19<sup>th</sup> Century, taught at University College, Dublin, from 1884. He remarked, "*What is Ireland but an open or secret war of fierce enmities?*" The same could be said of the Tamils of Lanka. Despite putting away his Protestant baggage, Hopkins was a Disraelian Tory in politics, who subscribed to a British Empire based on Justice, Law and Freedom. He was harsh with Prime Minister Gladstone who backed Irish Home Rule and called him a 'Mischief-Maker' and 'Traitor'.

Yet as a priest who served in poor working-class areas in Manchester, Liverpool and Glasgow, Hopkins was also inspired by Cardinal Manning, who was very sensitive to issues of justice. In a letter to his lifelong friend, the poet Robert Bridges, Hopkins called himself '*in a manner a Communist*'. He was conscious of Britain's loss of the moral authority that comes from adherence to the rule of law in deed and spirit. He remarked prophetically, "*Home Rule or separation is near. Let them come! Anything is better than the attempt to rule over a people who own no principle of civil obedience at all. I should be glad to see Ireland happy even though it involves the fall of England, if that could come without shame and guilt. But Ireland will not be happy: a people without a principle of allegiance cannot be.*" Hopkins saw the importance of finding a way out of the centuries-old violence and distrust, despite misgivings about the Irish.

Hopkins's perception of the Irish is not dissimilar to the 14<sup>th</sup> Century AD characterisation of the Jews by Ibn Khaldun, the Arab Tunisian historian of the decline of the Islamic Civilisation:

"[Injury has been done] to every nation which has been dominated by others and treated harshly. The same thing can be seen clearly in all those persons who are subject to the will of others and who do not enjoy the full control of their lives. Consider for instance the Jews, whose characters owing to such treatment have degenerated so that they are renowned, in every age and climate for their wickedness and slyness."



As becomes a great historian, Khaldun's portrayal, like Hopkins's, was not without sympathy for the subject. The alienation of Jews and Christians was no doubt characteristic of the Islamic Civilisation in decline, rather than in its heyday of self-confidence. Khaldun was clear that oppression was the cause of character flaws. He may not have been surprised that a people thus treated would give birth to a state that became the biggest menace to world peace in the 20<sup>th</sup> Century. While, one is rightly horrified at the violence of the LTTE that was formed in the womb of Tamil society in Lanka; it must also be remembered that it was a reflection of the malignant potential of a minority flagrantly denied protection of the rule of law.

The removal of Ireland from Great Britain came unexpectedly 22 years after Hopkins died. The implementation of the Irish Home Rule Act finally passed by the British Parliament in 1914 was delayed by the outbreak of World War I. The Republicans led by Patrick Pearse – who wanted complete detachment from Britain – staged the Easter 1916 uprising, where the takeover of Dublin Post Office by a relatively small number of armed men panicked Britain into harsh repressive measures, particularly the staccato executions of surrendered rebels. Continuing executions and, two years later in 1918, the government bill which opened the door to conscription in Ireland for World War I, where tens of thousands of Irishmen had already perished, turned the tide of Irish opinion in favour of separatism. The South African leader Jan Smuts who was in the Imperial War Cabinet dissuaded the British government from imposing conscription in Ireland before the introduction of Home Rule, but the damage was done.

The root of the problem was misgovernment by the British ruling class. Liberal Prime Minister Asquith showed indecisiveness in stopping the creation of the armed Protestant Ulster Volunteers with Conservative Party support, to resist Home Rule if Parliament tried to enforce what it had passed into law. (Jawaharlal Nehru, in his reflections on world history, was struck by the irony of the Conservatives, the party of law and order, fomenting Protestant insurrection in Ireland.) The Government then had no moral authority to stop the creation of the predominantly Catholic Irish Volunteers, who though not formidably armed, became a rebel military formation that aided the Easter Uprising. Tolerance of Protestant Volunteers must be seen as part of the dilemma that faced Irish Chief Secretary Augustine Birrel, who having intelligence of an incident to be staged by Catholic militants over Easter, delayed precautionary arrests.

There was nothing inevitable about the separation of Ireland. The Irish stage was since 1838 dominated by Daniel O'Connell, who forced a crisis in the British Parliament by being elected with a popular mandate. But as a Catholic, he was prevented from taking his seat. Anticipating mass protests



in Ireland, the British government pressed the King to concede Catholic emancipation. O'Connell's principle of non-violence is reflected in a typical statement attributed to him, "*The freedom of Ireland is not worth the shedding of one drop of human blood*".

O'Connell's political vision was advanced by the Home Rule movement and the Irish Parliamentary Party, using exclusively constitutional means. It secured urgent land reforms to the benefit of hard-pressed Irish tenant farmers and succeeded, as a coalition partner of the Liberal Party, in passing the Home Rule Act.

Pearse, the leader of the 1916 Easter uprising, came from a different tradition, the romantic movement of Irish literary revival. Nursing centuries-long oppression, it had a long line of tragic heroes to draw inspiration from, and this movement believed in the cleansing effects of bloodshed. At a graveside address Pearse said what rings a strange irony for us, "*Life springs from death and from the graves of patriotic men and women spring living nations...The fools, the fools, the fools, they have left us our Fenian dead and while Ireland holds these graves, Ireland unfree shall never be at peace.*" It casts a grim shadow over the Sri Lankan state's destruction and politicisation of Tiger graves.

The Easter Uprising as a military challenge was a foolish affair led by a handful of romantic middle-class dreamers and could hardly have lasted a few days. It would have been shrugged off, but for the executions in its wake. That was what Pearse and the dreamers wanted, whence life may spring from death. They were sincere and had not expected to come out alive. The poet W.B. Yeats, who had observed them, understood their cast of mind and wrote with a hint of sympathy in his '*Easter 1916*':

*All changed, changed utterly:  
A terrible beauty is born.*

Knowing the corrupting influence of violence prolonged, Yeats reflected:

*Too long a sacrifice  
Can make a stone of the heart  
O when may it suffice?*

*Was it needless death after all?  
For England may keep faith  
For all that is done and said*

England may grant Home Rule as promised despite all the doubts that made the situation so volatile. There were further doubts that the Conservative dominated British Army would disarm the Protestant Ulster rebels. The prospect of conscription was the last straw, and Britain's commitment to the rule of law was in grave doubt.

Making matters worse was the unfortunate choice of Sir Robert Chalmers, a Pali scholar who translated Buddhist literature, as Under-Secretary for Ireland. He served in this post during the May 1916 executions. The previous year he had been recalled from his position of Governor of Ceylon, after martial law excesses in dealing with the Sinhalese-Muslim riots. The localised communal violence in isolated pockets was, as in Ireland, treated as a political conspiracy against imperial sovereignty. Orders were issued to inexperienced volunteers to shoot suspected rioters on sight, and as later in Ireland, death sentences by military courts were carried out without allowing the accused any legal defence. Of particular note was the execution of Captain Henry Pedris of the Town Guard, on an unsupported allegation that he fired at a Muslim mob.

The two major stakes driven into the heart of the British Empire were her own two supreme acts of lawlessness. One was her dealing with the 1916 Dublin Uprising and the second, in 1919, the Amritsar Massacre in India, where Imperial troops under General Edward Dyer opened fire at a peaceful protest of civilians deeming it a major threat to the Empire, and killed hundreds. Mohandas Gandhi, who was working constitutionally for Home Rule within the Empire, demanded complete independence.

As Hopkins realised three decades earlier, the English had lost the moral authority to administer an Empire based on justice, freedom and the rule of law. But he also had deep reservations about how the Irish would handle their own affairs. Pearse was an idealist who created that 'terrible beauty'. Yeats knew that the idealist phase of a violent struggle would not last long and that the movement had fallen into disorder – his *'Leaders of the Mob'*. In normal life, clever individuals parade their ambitions and prejudices as great principles of pitch and moment. Where violence has become the norm in settling disputes, the worst could be anticipated.

The Irish armed struggle came to an end after a pact with Britain, granting Southern Ireland Dominion status. The Republicans saw in this constitutional process, a betrayal. Eamon De Valera, a leading Republican, made speeches in Republican areas on Irishmen having to spill Irish blood.

Both sides of the Irish Civil War (1922-1923) practised the worst the British did, including executions to an even greater degree, leading to greater loss of life within a year of civil war than during the two-year insurrection against Britain. The Free State government deployed units as the 'Active Service Unit' and 'The Squad'; the latter was earlier used against the British in paramilitary type assassinations. One might echo Hopkins's question, "*Will an independent Ireland ever be happy?*" Every state born in violence is scarred by its birth pangs unless decisive steps are taken to sweep away the ideologies of hate and revenge that have had their day. One might similarly ask if Pakistan (born to a large extent of Hindu folly and

resistance to accommodation of Muslim fears that costs India dearly) or an independent Tamil Eelam in Lanka; would ever be happy.

### 1.6 The Price of Dissidence

Dissent was never easy. Among those in Ireland who kept their sanity was John Dillon (1851-1927), a Dublin surgeon turned Member of Parliament. He followed in the tradition of Daniel O'Connell's non-violent agitation to create a united Ireland of Presbyterians, Anglicans and Catholics and to bring about a unity of purpose between the Irish, English, Scottish and Welsh. He was among those who dedicated themselves to pull Ireland out of the circle of revenge and violence. His protest in Parliament on 11<sup>th</sup> May 1916 against the executions undoubtedly played a large role in stopping them at sixteen, sparing scores on death row. He said:

*"You are letting loose a river of blood, and, make no mistake about it, between two races who, after three hundred years of hatred and of strife, we had nearly succeeded in bringing together...It is the first rebellion that ever took place in Ireland where you had a majority on your side. It is the fruit of our life work. We have risked our lives a hundred times to bring about this result. We are held up to odium as traitors... and now you are washing out our whole life work in a sea of blood...I am proud of these [rebels]. They were foolish; they were misled...I say I am proud of their courage, and, if you were not so dense and so stupid, as some of you English people are, you could have had these men fighting for you, and they are men worth having...How can we, in the face of these facts, accept the statement of the Prime Minister that according to the best of his knowledge no men are being secretly shot in Ireland? The fact of the matter is that what is poisoning the mind of Ireland, and rapidly poisoning it, is the secrecy of these trials and the continuance of these executions..."*

Dillon was reputedly a hard liner on the side of the peasants in his land reform work. As leader of the Irish Parliamentary Party (IPP) in 1918, some hold that he could have secured Home Rule had he been more flexible on Ulster. The same year IPP suffered a major rout after the British government voted a bill to extend conscription to Ireland, which the IPP opposed. He lost his seat to De Valera, whom he probably saved by stopping the executions. The electoral rout of the impregnable IPP two years after Easter 1916 gives an insight into how revolutions are made and the need for extreme caution in attributing to them popular support.

**Appendix 5** has a fuller extract from Dillon's speech. It gives us insight into the influence ethnic immigrants were beginning to wield in the politics of their original home. Had Rajani been alive today, she would have said something along Dillon's lines to the Sinhalese elite.



Although Dillon was earlier in his career identified among those who sought complete severance from Britain, he was determined to work as far as possible within a constitutional framework. One might point to his contemporary Petr Berngardovich Struve in Russia, who started as a Communist, but after 1905 moved to a centrist position and opposed Lenin during the 1917 revolution. Struve blamed the situation on the educated class' unprincipled attitude to the law, estrangement from life and fear of taking responsibility, which he held was a result of years under the autocracy. He indicted the educated for their failure to realise that **beyond the government which they opposed, there was another entity, the State, which they should support**; for the destruction of the State, however degenerate, plunges us into anarchy. Where possible the transfer of power by constitutional means, spares us bloodshed.

We have been comfortable with particular revolutions and have dubbed them progressive, simply because they came in the wake of severe oppression, whose relief claimed was questionable. The leaders of the French Revolution did little to hide the carnage – two million dead, more than the number killed in the World-War-I when the country was thrice the size in 1789 (Rene Sedillot). The Russian and Chinese revolutions left behind greater mind boggling casualties from murder, anarchy and sheer want, whose praise over many decades was a testament to our gullibility.

### **1.7 End Note: An Extract from Rajani's Writings**

#### **From the Broken Palmyra: 25 Years and back to the Beginning**

The rising colonial middle classes of the Sinhalese and the Tamil communities were integrated into servicing the colonial economy and administration. Therefore, though anti-colonial nationalism was espoused by the middle classes, the thrust was limited. The middle class had no strong economic base to rely on, except the colonial economy; nor did it have indigenous economic roots to compete with the colonial power. Thus the anti-colonialism of this class and its anger against domination were only emotional. Its link with the nation and the people took the form of cultural and religious identity. This class's assertion as representatives of the masses was articulated in enthusiasm for the emotional content of culture and past history. Its real economic contradictions, on the Sinhalese side, lay in competition with the Tamil middle class and Indian trading class for colonial spillovers. The contradictions between the rising Sinhalese middle class and its Tamil counterpart besides the Indian trading class, gave Sinhalese nationalism the seeds of its anti-Indian and anti-Tamil fervour.

Sinhalese chauvinism played on the cultural connection between the Tamils of Sri Lanka and the Tamils of South India and created fears of Tamils conniving with India to submerge the Sinhalese nation and destroy

its language and religion. As a means of capturing power through parliament, the Sinhalese chauvinists mythologised their role in preserving the Buddhist religion, the Sinhalese race and language, and with this ideology they were able to appeal to a broad base across class, caste and region.

Thus, again, we seem to arrive at a historical dead end. The bourgeoisie, of whatever race or faction, cannot hold power without an effective alliance with the petit bourgeoisie. The petit bourgeoisie, although overtly seeming to be progressive in their resistance to domination and neo-colonialism, given the nature of their class base, have always compromised or taken a path of adventurous self-destruction. While the bourgeoisie brought about various degrees of neocolonialist penetration, thereby bleeding the people, the petit bourgeois ideology of narrow nationalism drawing on a brutal culture of violence cripples the people's moral strength and weakens organised resistance against oppression. Furthermore, the political tunnel vision of the petit bourgeoisie is leading the country into abortive episodes that seem to pave the way for more domination, deprivation, and tragedy.

This rising threat to livelihood in the state structure, insecurity in the South and the feeling of being pushed around and treated as second class citizens, frustrated and angered the Tamil middle class. Yet, being economically dependent, they could not be free. Whence, they continued to accommodate while suppressing their bitterness and anger. While the political parties of this class harnessed the anger to consolidate power, it also reflected this paradox of conflict between their emotions and economic reality.

The failure of the Tamil national leadership to get anything from the Sinhalese ruling class through parliament was in contradiction with the rhetoric of anger and the slogans of valour they were feeding the electorate. As a consequence of this, a sense of frustration and bitterness was created among the people. And as brutal Sinhalese mob violence was the reply to non-violence, Tamil nationalism no longer confined itself to a class but reached out to all sectors of the people across class, caste, and regional barriers. Sinhalese chauvinist oppression became the objective common denominator. Anger and frustration at this ignominy and threat to life brought a binding emotion and a feeling of togetherness in the community. The youth who were most affected by the discriminatory policies demanded a more autonomous life and voiced the anger of the people.

Sri Lanka was to be continually confounded by the paradox that existed between its ideology and the economy. Though the economic programme was capitalist, its political existence depended on a reactionary ideology that was anti-Tamil and vehemently anti-India. Thus the populist forces in south Sri Lanka shouted "sell-out" when the Indo-Lanka Accord was



signed. This stage need not have arisen had the rulers sought a rational solution and explained to the electorate the impending Indian domination if the national crisis was not neutralised. For neutralisation it had to produce a programme for decentralisation and give certain powers to the Tamils in the North and East and ensure the territorial integrity of the Tamil homelands without total division of the country. It could have allayed the fears of the Sinhalese majority and accommodated Tamil aspirations to work towards a rational bourgeois solution. Their obduracy had given India a potent role, apparently albeit a peaceful one, to play. This enabled it to gain a foothold in Sri Lanka without being seen to be aggressive.

At the present juncture of enormous tragedy and dislocation, the intelligentsia should be the catalyst energising the benumbed [Tamil] community, but is unable to do so. In many instances they have side stepped confrontational issues with the rulers (as they have done with the militant groups) and have resigned themselves to passivity. This is the result of their history. As in the past, their conceptual and moral shallowness has made them submit to the authoritarianism of the LTTE and to gloss over the LTTE's brutality. A handful of them have even produced acceptable theories to explain many of its atrocities. Some have attempted to isolate and victimise its critics.

However the character of this articulate intellectual segment is largely opportunistic. Their activities, intellectual contributions and public life reflect their stand of preferring to do what is convenient to what needs to be done. Their position is underpinned by authoritarianism and brutality, which underlay their leadership. Their unprincipled conduct reflected merely a desire to create niches for them within which they could survive with the trappings of respectability and nominal power. At the same time they ensured for themselves exoneration from the burden of these reactionary policies by deliberately and non-committally hanging on at the periphery of these tendencies. What is the unacknowledged basis of this segment's position? Why is it that their aspirations do not fit into the classical definitions of organic or traditional intellectuals? This segment is a product of the colonial middle class, whose intellectual pretensions stemmed from education only in the service of materialist aspirations.

They were besides unable to sunder obligations of patronage to the ruling class in Colombo. Thus vacillation and rootlessness led many of them to this weak two-timing position. The term "lumpen intellectuals" describes them well. As the articulate sections of the community fail the people, what is the alternative? Can the organised political voices provide the way?



The LTTE's political line, its obstinacy and shortsightedness left us without any substantive achievement. Even at present, their moves pave the way for total subjugation to Indian domination.

Would the so-called moderates, the TULF [i.e. TNA or FP], be an answer? India would certainly try to bring them into the mainstream. But they were the fathers of bigoted racist politics in the community. While they raised emotional anti-Sinhalese hysteria among Tamils, they were involved in tea party politics with the Sinhalese ruling class. At least the militant groups had a certain authenticity among the people, whereas the moderates lost it.

Democratisation of the communities should take place to articulate power at the grassroots (in the broader interest of the community). This is crucial because, as [particularly] in the Tamil nation, there has never been a healthy, full-blown articulation of the people's interests. While the LTTE's vision of people's struggles was one of heroes and subjects, other movements like the EPRLF and EROS who were critical of the LTTE and spoke of the need to mobilise the people, had themselves no concrete concept nor programme relevant to our realities. Structures for people's participation were mechanically conceived and relegated to manifestos. Though individuals in these movements strove to work towards a vision, the lack of a coherent organisational programme and the estrangement of theory from practice resulted in empty slogans. That is why, when internal violence and inter-group brutality broke out, there was little visible protest. However, certain instances, such as the TELO's internal violence and the LTTE's inhumanity, brought people together in angry protest in some localities. This owed to cohesion at village and community levels.

Thus, revived democratic institutions would voice the people's needs in devolution (and in specific issues such as colonisation). These would also act as a monitor for the implementation of the limited decentralised power. It would enable such institutions to organise against misdoings and atrocities by the forces they need to deal with.

The ideology under which such structures are revived must be anti-racist. Narrow anti-Sinhalese politics should be uprooted. They should reach out to anti-racist groups and individuals in the South – southern forces that will advocate steady devolution of power to Tamils and stand up against human rights violations. Only this can ensure an unlinking of the cause of Tamil rights from Indian patronage and India's role as protector and arbiter.

## Chapter 2

### A Parlous Quest to Live in Truth

*We have been silent witnesses of evil deeds. Many storms have gone over our heads. We have learnt the art of deception and equivocal speech. Experience has made us suspicious of others and prevented us from being open, and frank. Bitter conflicts have made us weary and even cynical. Are we still serviceable? It is not genius that we shall need, not the cynic, not the misanthropist, nor the adroit tactician, but honest straightforward men. Will our spiritual reserves prove adequate and our candour with ourselves remorseless enough to enable us to find our way back again to simplicity and straightforwardness?*

- Dietrich Bonhoeffer, After Ten Years, Letters and Papers from Prison, 1943 - 45

#### 2.1 The University and the LTTE

To comprehend the significance of Rajani's assassination, one has to understand the importance of the university community in its potential to foster dissent and discussion and its importance for the LTTE where it could create hegemonic spaces ensuring loyalty to itself and allegiance to its brand of nationalist policies.

While Rajani had returned from England after obtaining her PhD in 1986, she first came to the LTTE's attention as a potential threat in May 1987. At that time, the Sri Lankan government had a set of political proposals on the table; they had declared a unilateral ceasefire during the Traditional New Year of 13<sup>th</sup> April 1987 and invited the LTTE for talks. The LTTE responded by massacring over 200 ordinary Sinhalese in Kituluttuwa and Pettah Bus Stand and the government in turn attacked civilians in Jaffna indiscriminately using air power and cannon. About 13<sup>th</sup> May 1987, a number of us, including Rajani and N. Saravanapavanandan, Professor of Forensic Medicine, felt that if the LTTE had any sense of responsibility toward the people, it must respond to the proposals. We held a meeting in the University to draft an appeal to the LTTE. The LTTE was tipped off.

That night LTTE deputy leader Mahattaya visited one of us, asked questions and said that the move was totally unacceptable to them. He indicated before he left that he would call on Rajani, but thought better of it as we learnt the following day. Having been a frequent visitor to her sister Nirmala's house in the early 1980s, he knew Rajani and her mother Mrs. Mahila Rajasingam very well. Rajani had also then treated LTTE injured at considerable risk. Mahattaya knew that he would get short shrift from Rajani or her mother. The LTTE itself was engaged in its own agenda *vis-a-vis* the Sri Lankan state and subsequently the Indian forces (see Chapter 1), who had arrived to enforce the Indo-Lanka Accord. At no time was the LTTE willing to countenance any independent civilian involvement in political action or campaigns.

Subsequently Rajani played a leading role in reopening the University after the devastating war of October 1987. She worked shoulder to shoulder with lab assistants and employees to get the university open and ready for teaching. For Rajani and others close to her the University would be the voice of the people standing up to all armed actors, who would rather have the University serve their ends. This effort to regain a functioning university was in fact supported by the Indian Army as they wanted to show that they were restoring normalcy. From the beginning, however, we in the university community made it clear that we had a will of our own.

Brigadier Manjit Singh of the Rajput Rifles was then in charge of the University. Near the Railway Station in Jaffna Town, Manjit Singh had called out the residents for a cup of tea and had warned them that should one shot be fired from their area he would flatten the place. Rajani firmly told officers of the Indian Army where we stood, using expressions such as 'the terror of the LTTE and terror of the Indian Army'. Like most others she did not dissemble that only the LTTE was to blame. Rajani evoked respect as someone who was straight. A rare officer at the University was Major Bhatt of the Sikh Regiment, a graduate from Lucknow. They had been sent with scant idea of what they were meant to accomplish.

It was a treacherous environment where the LTTE provoked them repeatedly, not to get the Indian Army out but to invite maximum reprisals against civilians, and too often the Indians took the bait. Unlike most officers, Bhatt did not talk down to others as though he knew all about his job. He was anxious to learn and never was a voice raised in talking with him. It was new for us to see officers of the major and captain ranks leading foot patrols, as we frequently saw Bhatt doing.

Major Bhatt and Colonel Chatterjee, who too frequently came to the University, were part of the force that took Jaffna Town. One wonders if these officers thought back on aspects of their operations that left deep scars on the people. It is likely that their intelligence was very poor and ordinary soldiers were sent into Jaffna Hospital in the tragically mistaken belief that it was an LTTE fortress, a belief the LTTE encouraged by having a handful of cadres firing at them and scooting off. Chatterjee was friendly but a little suspicious of us. He said in the course of a conversation that his brother was a surgeon. Sritharan responded jokingly, "*You are both in the killing business aren't you?*" Chatterjee laughed, the joke was well taken. Chatterjee proudly recited to us Tagore's '*Where the mind is without fear...Into that heaven of freedom, my Father, let my country awake*'

Sritharan was very restless during that period. During night curfews he paced up and down, his lightning sharp intellect trying to pierce the fog of hopelessness and figure out initiatives the community could take and their possible consequences. By day he rode about on his bicycle at considerable



risk with a cane basket hung on a handle, as though looking for food, but trying to find out what was really going on. It was his idea that he and I should go to the town commandant's office and ask for permission to inspect the University, an action that expedited its reopening.

On one occasion late in the evening there was a tense encounter at the Science Faculty with Brigadier Manjit Singh, when Dr. Sritharan charged Indian soldiers of wilfully damaging several computers. Manjit Singh made legalistic denials. Both voices rose to a crescendo. The lateness of the hour with Manjit's bodyguard of half a dozen Sikh soldiers looking on inscrutably added to the tension in the atmosphere. Thankfully it ended and the interlocutors parted company. It had a funny sequel. Some days later Sritharan passed Manjit Singh's vehicle on the road near the Nallur Education Office. Manjit Singh was not in it. The vehicle reversed fast and braked near a startled Sritharan. Manjit's bodyguard grinned and gave Sritharan a friendly wave. They were pleased that someone told their boss off.

On occasions Manjit Singh called at the Medical Faculty in those early days after the Indian Army moved in, while Rajani was almost alone with a few labourers trying to get the place in order. Manjit chatted to her and at times tried to mitigate her harsh criticism by telling her that these complaints were not limited to Jaffna. He added that when he went home to the Punjab, his relatives were upset by the Army's behaviour. He had told the relatives that it was the same wherever the Army conducted routine exercises in rural areas. When complaints about rape mounted in one area, they quickly moved the soldiers to another.

Some of us at the University, especially Sritharan and Rajani, felt that if we were to have some normality and a functioning civil life, we should demand that the Indian Army observe certain norms in dealing with the civilians and institute some accountability; the damage the LTTE was doing could also be minimised. We sent a letter in early 1988 and received an invitation to the Jaffna Kacheri. The Rev. Dr. Guy Rajendram was the most senior among us. Only Rajani came from the Medical Faculty and was the only woman in the group. The Indians took the meeting seriously even if it was only to tell their point of view. Their team was led by Major General Sardeshpande, the officer commanding the Jaffna Peninsula.

Rajani who was in a white sari expressed very powerfully the plight of the civilians, her dismay at the way the Indian Army took Jaffna Hospital and at the plight of the women, many of whom were killed or raped by the Indian Army. Neither did she mince her words about what she thought about the LTTE. Sardeshpande, whom we later learnt had several misgivings about the Indian intervention, did his best at public relations and spoke about the psychology of the soldier under stress. Rajani

responded strongly that psychology could not be an excuse for harming defenceless civilians, adding that our women are not objects for soldiers to relieve their stress. Many years later Sardeshpande, who had by then retired, told a friend of ours in Delhi that he had been highly impressed by Rajani. She was among the exceptional civilians in Jaffna to make it clear to the Indian Army, the LTTE and other actors that the ordinary people had an independent voice and their dignity to defend and uphold. Her loss underscores what we miss today.

The notion of an independent voice was anathema to the LTTE. They tried repeatedly to provoke a clash with the Indian Army and to close down the University. On 1<sup>st</sup> February 1989, Indian soldiers, in pursuit of an LTTE man who ran through the University, opened fire injuring some students. A demonstration at the main entrance by students the following morning moved towards the army camp at Parameswara Junction, despite stern threats issued by Major Nautyal, the officer-in-charge at Tinnevely, whose experience included having fought the Naxalites in Andhra. Two students died in the firing by the Army. Rajani was a notable exception to the Medical Faculty's attitude that they were in a different world from the rest of the University. She quickly cycled over from the Medical Faculty and she and Sritharan were at the lead in taking the injured students to hospital.

Within a short time the Town Commandant, Brigadier R.I.S. Kahlon, arrived at the University. Behind his tough exterior he was obviously upset. Significantly, he repeatedly asked why we waited so long and failed to contact him at the outset when trouble was imminent. Rajani and Sritharan protested vehemently that the Army opened fire at a peaceful, unarmed demonstration. While field officers might have felt differently, a normally functioning university was important for the military administration.

Active staff members like Rajani extracted promises from officers, such as Kahlon, to not harass unarmed persons for their political views. Thus the University was able to challenge the Indian Army over arrests of students and demand their release. The Indian Army had been known to harass and threaten individual staff members, too. But this was challenged and in general limits were observed. The UTHR(J)'s documentation of violations by all parties was in the same spirit of standing up for the community.

In another attempt to close the University, the LTTE on 14<sup>th</sup> April 1989 suddenly brought into the campus about 500 very young armed recruits to attack Parameswara camp. An explosive laden car that was to wreck the camp exploded prematurely when the kamikaze driver braked far ahead of the camp to avoid a motorcyclist. The children scattered in all directions. These tensions, with Rajani's appeals and constant efforts by staff and student representatives to check the LTTE's efforts to undermine the University, became part of life.



The Town Commandant periodically warned that the LTTE was storing arms in the University and if the University would not check it, they would have to.

Piecing together Rajani's subsequent murder revealed to us the large network of political advisors, intelligence operatives and student spies that the LTTE maintained within the University, particularly the Medical Faculty.

## **2.2 The Medical Faculty as Intelligence Hub for the University**

In May 1987 Jaffna was being bombed heavily in preparation for the Sri Lankan Army's assault on Jaffna, which came on 26<sup>th</sup> May in the Vadamarachy sector. It was widely anticipated that the Army would break out of Jaffna Fort, in which event the Jaffna Hospital would be at the centre of fighting. On the 13<sup>th</sup> of May, a group of academics and religious leaders met in the Mathematics Department of the University, proposing to appeal to the LTTE to call a ceasefire and discuss a political settlement with the Government on the basis of the latter's December 19<sup>th</sup> proposals. The LTTE which till then had remained contemptuously silent on government overtures, as though in reply massacred Sinhalese civilians in Kituluttuwa and the Pettah. These provided the Government with propaganda cover for its own massive killings of Tamil civilians.

Gamini Navaratne, editor of the Jaffna-based *Saturday Review*, had briefly attended the meeting in the Mathematics Department, where Rajani was present with her colleague Prof. Saravanapavanandan. One of two well-known LTTE spies in the Science Faculty summoned the Medical Students Union President, who rushed to the Science Faculty and was instrumental in the arrest of Gamini Navaratne. The LTTE had formed the impression that the meeting was not humanitarian in intent; instead, they thought it was a propaganda exercise against them. The event blew over after an investigation by Mahattaya. This was followed by another crisis.

With an army offensive in prospect, the Jaffna Hospital authorities made plans to move the hospital to a safer location. The LTTE got the Medical Students Union, through its president Constantine, to demonstrate and demand by letter that the hospital authorities stay put. The doctors were angry that the LTTE was using the hospital as a pawn, which could easily result in deaths of staff and patients and be a propaganda coup for the LTTE – a danger averted then, which came to pass five months later after the LTTE started its war on the Indian Army (see *The Broken Palmyra*).

The foregoing illustrates the LTTE's success in having created an intelligence hub within the Medical Faculty. Several medical students supporting the LTTE had distanced themselves in protest after it massacred cadres of a fellow militant group, the TELO, in 1986. Nevertheless, the LTTE's monopoly and terror helped it to strengthen its hold. Once the Indian Army took control, those in the Medical Faculty who



were earlier in the forefront supporting the LTTE had to keep a low profile. But the LTTE still controlled the Medical Students Union with a stooge as president and further advanced their uses of the Faculty. By this time, the best-known LTTE students in the Faculty were Sooriyakumar and Dharmendra. Sooriyakumar's younger brother was a North Lanka Medical College (NLMC – see below) student and his elder brother, Newton, rose to the second or third rank of seniority in the LTTE intelligence wing. These circumstances are part of the reason why the area was an LTTE preserve, where no one else could move without being noticed.

Although the controversy about private medical colleges came to be mixed up in lethal power play, the differences between the LTTE and JVP on the matter point to the different social classes whose support each considered crucial. The NLMC was a misadventure tied up with Rajani's fate.

### **2.3 The NLMC Fiasco: Compromised Faculty and Isolation of Rajani**

The North Lanka (Private) Medical College (NLMC) was started by private investors, including mainly faculty staff teaching paramedical courses with no opportunity for private practice, following the precedent of the North Colombo Medical College (NCMC). The NCMC was started by investors with considerable capital backed by substantial medical expertise in the early 1980s, taking advantage of new legislation opening the way to private universities. Its beneficiaries were children of the local elite, including university dons whose children were given opportunities to obtain medical degrees bypassing the tough competition for state-funded universities. Up to that point the NLMC was unobjectionable.

Alarm bells started ringing when the Senate of the University of Colombo in a controversial vote allowed NCMC students to sit for the same examinations as medical students of the university and earn degrees of the University of Colombo. Protests by Colombo medical students became increasingly acrimonious and lethal once the JVP too capitalised on the issue and killed Vice Chancellor Prof. Stanley Wijesundara in 1989.

The NLMC was established in Jaffna in the mid-1980s following the NCMC precedent, and the plan was to give University of Jaffna degrees to the students. Partly owing to the disturbed conditions after July 1983, worsening the exodus of doctors, the NLMC did not have anything like the professional expertise or financial commitment that the NCMC had. The improvements done to Moolai Cooperative Hospital – that was to function as the teaching hospital – were widely regarded as inadequate. The venture had the support of several teachers of paramedical subjects at the University of Jaffna led by the professors of biochemistry and physiology. The proposal to award University of Jaffna medical degrees to NLMC students was however turned down by a senate committee, which found

the admission requirements below the national minimum. This was when Rajani was away doing her PhD.

Having paid large sums of money, the NLMC students were left in the lurch as teaching virtually ground to a halt. There were two desperate parties – the students themselves and the organisers of the venture. In a climate of civil war where gun culture provided a short cut to getting things done, even a crisis among the elite was bound to take unpredictable turns. In university circles it was said that the directors of the NLMC were prevented at gunpoint from closing up and going away. The next move in the matter came in early 1989 when Rajani was back.

In late 1987, after the Indian Army offensive, Rajani had worked hard to reopen the Medical Faculty with the vision that the University would become the centre of revival for a society torn apart, torn asunder by social strife and violence. She strongly disagreed with her faculty colleagues who kept it closed for six months as a means of drawing attention to the shortage of staff. She wanted them to do a job, earn respect and persuade Tamil doctors living abroad to help them by doing short tours of teaching.

In 1989 the Government moved to break the deadlock at the NCMC by taking it over and attaching it to the University of Kelaniya to become part of the national system. The NLMC issue had been muffled owing to the chaos of war in late 1987, the slow recovery and the closure of the Medical Faculty until the third quarter of 1988. The Professor of Biochemistry, one of the prime movers of the NLMC became the new dean. He was one of the key figures advocating the closure of the Medical Faculty for six months, after the Indian Army's takeover earlier in the year, demanding additional staff and facilities. But having become dean, and despite having got no additional staff or relief, he proposed to admit additional batches of students to make up for lost time, besides spreading out the staff to the NLMC. Following the precedent of attaching NCMC to Kelaniya, the NLMC's backers wanted it attached to the Eastern University, although NLMC was a mere shell of a medical college compared to NCMC.

Rajani was the only member of the medical staff who openly objected to the incorporation on the grounds that even the Jaffna Medical Faculty was grossly understaffed and for the few available teachers to do a second job at the NLMC would adversely affect standards. Rajani moreover pointed out that Anatomy was the most substantive pre-clinical subject and being the sole qualified anatomist at the Department (one among perhaps four qualified anatomy teachers in the whole country at the time) she could not physically handle three batches simultaneously. The Dean repudiated her with vehemence at faculty and senate meetings. Many agreed with her but chose not to confront authority.



The medical students in the University of Jaffna were fervently opposed to the incorporation of the NLMC. About July 1989 when Rajani was in England, the students locked up the Dean to prevent him from attending an NLMC function. The faculty members closed the faculty for three weeks until the students came crawling back with letters of apology. When Rajani returned from England, her faculty colleagues justified the closure to her on the grounds that the students were breaking the rules. Rajani asked them whether they followed the rules requiring them to get permission from the University before lecturing at the NLMC. She was upset with her colleagues for imposing their authority over the students by humiliating them, using sheer power rather than reason that should be the common currency in an academic institution.

Besides, the ethics of the NLMC was mired in a serious conflict of interest. The students who worked hard and made it into the state-funded university system would be in competition not with products of an independent university, but with those of a commercial establishment purporting to be a private university, but using the same teachers from the state-funded system and paying them twice what they received from their principal affiliation, the University of Jaffna.<sup>66</sup>

NLMC students, including several involved with the LTTE, called regularly at the Medical Faculty for discussions with staff members who supported the NLMC. According to the student we shall refer to as L whom the LTTE installed as president of the Medical Students' Union (more of him later), the Dean had importuned him to sign a letter purportedly from the Union to the parliamentary select committee, certifying that the Jaffna medical students supported the incorporation of the NLMC into the Eastern University. He added that certain LTTE persons concerned in the matter had said at the Medical Faculty that whoever opposed the incorporation of the NLMC into Eastern University would be "dealt with".

Hardly any members of the Faculty were LTTE supporters in any but a wishy-washy sense; many were just nationalists of the TULF mould. Like the students admitted to the NLMC, they too were desperate and were willing to pull any string that came to hand whether in the North or the South. They were desperate and angry. One instance gives an idea of how it possibly compromised the University. The course of events suggest that the Indian Army had their own informants in the University and knew what was going on inside and used it to arm-twist members of the university community. It is likely that the Indian Army knew that the LTTE dealt with

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<sup>66</sup> The NLMC would have stood a better chance of securing registration had not the LTTE begun a new round of war in 1990. Left in the lurch, the students registered by the NLMC were, by a special resolution of the Jaffna University Senate, admitted to the Medical Faculty of the University of Jaffna, notwithstanding opposition by the students. This shows how this highly questionable affair was backed by enormous political forces, such as the major Tamil nationalist parliamentary TULF.



a section of the medical dons, even if they did not know it was about the NLMC. The incident described below illustrates this point well.

During July 1989, Neethirajah, a second-year medical student, was assaulted by an Indian officer when he tried to intervene on behalf of another student. He reported this to the Dean of Medicine who was briefly Acting Vice Chancellor. The Dean promptly and confidently complained by letter to General Kalkut, GOC Indian Forces in Sri Lanka. This was contrary to the usual practice of contacting the local commander Colonel Sashikumar, who was very particular about maintaining a clean record. The letter to Kalkut was redirected to Sashikumar.

For about two nights Major Nautyal from Tinnevely Junction, with another officer, visited the Dean and had apparently searched his place. Major Nautyal in due course called on the Vice Chancellor, Prof. Thurairajah, who had returned, and told him that the Dean had several live bullets at home, which was a serious offence. Nautyal added that he was prepared to overlook the offence if the Vice Chancellor would withdraw the complaint about the assault. Prof. Thurairajah asked the Dean of Medicine about this, and out of concern for his safety, advised him to go abroad for some time. The Dean admitted to having the bullets and was not interested in going abroad. Thurairajah could get no more clarification from him about what had really happened, and reluctantly withdrew the complaint.

In this affair, the Faculty became compromised partly on account of the intrigues concerning the NLMC in which it had the LTTE's support. On this count, too, Rajani became isolated. LTTE cadres took advantage of this situation and hid arms on the premises and even slept there. In this murky situation, the Indian Army too had its sources of information and Rajani despaired of what might happen if they decided to act.

The significance of the NLMC affair to Rajani's killing is that her principled stand on issues and her interest in the welfare of the University and the larger community had thoroughly isolated her within the Faculty, as would be seen in the sequel on how indifferently the Faculty reacted to her murder. The LTTE knew of her isolation and it helped them enormously to dampen the effect of her loss. Had they thought that the Faculty would firmly stand up and condemn the killing and highlight the irreparable loss, it would have acted as a strong deterrent to killing Rajani. Yet the Faculty, which was closed for six months the previous year to protest the lack of staff, carried on almost as though her loss was of meagre significance. Her loss as a teacher of Anatomy who could also train others to succeed her cannot be overestimated. To this day, the medical faculty has found no adequate replacement for her.

## 2.4 Power of the Powerless: The Broken Palmyra and the formation of the UTHR (J)

On how ideology diminishes a people, Vaclav Havel's wrote in his essay *Power of the Powerless* in 1978 after the suppression of the Prague Spring: *"Ideology is a specious way of relating to the world. It offers human beings the illusion of an identity, of dignity, and of morality while making it easier for them to part with them. As the repository of something supra-personal and objective, it enables people to deceive their conscience and conceal their true position and their inglorious modus vivendi, both from the world and from themselves. It is a very pragmatic but, at the same time, an apparently dignified way of legitimizing what is above, below, and on either side. It is directed toward people and toward God. It is a veil behind which human beings can hide their own fallen existence, their trivialisation, and their adaptation to the status quo."*

From the LTTE's standpoint, Rajani, apart from her wide-ranging activism and challenge to everything that was pretentious, was dangerously influential with the medical students. Whatever the reason, a noticeably higher proportion of medical students were involved directly in the LTTE compared with those in other faculties. Rajani went to the heart of the matter, challenged their politics and by word and example, urged medical students to question their isolation from the rest of the student body and their elitism based on education for status –whose intellectual content was as narrow as its demands were intense. It is for this reason that universities elsewhere encourage or insist on greater exposure for medical students through taking courses in other faculties as well.

Rajani challenged the authoritarian order in the Medical Faculty, with its noticeable similarities to the LTTE, by mixing freely with students and encouraging their participation with the wider university community. As someone who had challenged the social boundaries of a smug and complacent Jaffna Tamil society in her marriage to Dayapala, Rajani was instrumental in trying to encourage critical thinking about elitism, social phobias and narrow social conservatism. However, her influence on students and leadership within the university made the LTTE intensely uncomfortable. The LTTE had paid close attention to controlling the University. It was important to have university dons singing praises of its brave new world. Rajani challenged this.

After reopening the University following damage and closure during the Indian Army operation, the University went back to its humdrum existence. Meanwhile, sections like the University Science Teachers' Association (USTA Jaffna) under the presidency of The Rev. Dr. Guy Rajendram continued to be active in wider issues. The change came with the formation of the University Teachers for Human Rights, an initiative of



the Federation of University Teachers' Associations, mainly as a response to the JVP insurgency in the South. The USTA Jaffna supported the idea and we formed the UTHR (Jaffna) as a branch of the national UTHR.

The next opportunity for change came when Prof. A. Thurairajah of the Open University, who was Co-Chairman of the national UTHR, was appointed Vice Chancellor of the University of Jaffna in September 1988. This was a boon to academics who wanted the University to be more democratic and active in the wider community. With Prof. Thurairajah's backing, additional structures were formed to deal with problems everyone was facing owing to the unsettled conditions – particularly the LTTE trying repeatedly to steer the University on a collision course with the Indian Army. These structures included the Staff, Students and Employees' Consultative Committee. There were also informal initiatives such as the remarkable document *Laying Aside Illusions*, signed by 50 academics in November 1988 (<http://www.uthr.org/BP/volume2/Appendixiv.htm>).

Young active staff members and students became unusually visible in the University. Understandably, it made some older academics unhappy and nervous (as we were to learn). The academic community in Lanka had come a long way from its halcyon days of the 1930s to 1960s when it appeared to stand for intellectual freedom and open discourse. The fact that its complacency had not been shaken by the passage of the Citizenship Bills of 1948-1949 which virtually made serfs of the Hill Country Tamil plantation labour, was a disturbing sign portending its impending surrender to ethnic chauvinism and the brutality dictated by class interest during the JVP-led Sinhalese youth uprisings of 1971 and 1987.

The mid-1980s shocked many who grew up believing in the essential decency of middle class Lankan society and middle class Jaffna society. In the South we saw intellectuals and scholars, with several creditable exceptions, lending their services in writing 'scholarly' discourses to buttress or uphold a government policy calculated to destroy the Tamils as a political and cultural entity. In Jaffna, 1986 was a watershed. The academic community was paralysed when the LTTE slaughtered members of the TELO in the streets of Jaffna.

In November 1986 the university student Arunagirinathan Vijitharan, from Batticaloa, was abducted by the LTTE and killed apparently for the reason that in boyish fashion he had poked fun at a medical student, the girlfriend of LTTE leader Kittu. The student protest at the University drew in the schools and a large segment of ordinary people who had grave reservations about the direction that the LTTE was taking. The academics largely stayed on the fence. A few were openly contemptuous of the students. Some senior academics came in as honest brokers between the students and the LTTE and persuaded the students to call off their protest on verbal



assurances from the LTTE for the safety of their leaders and a promise that they would look for Vijitharan. Once the students called off their protest and the LTTE began hunting the student leaders (one of whom it later killed), the academics became silent. It must be placed on record that the then Vice Chancellor, Prof. Vithiananthan, conducted himself with dignity and with genuine concern for the students.

Vimaleswaran was then the student leader who led the protest when the leaders undertook a fast. A rural youth from Pooneryn, Vimaleswaran was politically astute, having been a member of the PLOTE; he left the group in the wake of its internal killings. Leading members of churches and of the elite who came to make peace thought they scored a coup when they persuaded LTTE's Jaffna leader Kittu to put in an appearance and talk to the student leaders. They were impatient when Vimaleswaran was adamant on continuing the protest in spite of Kittu's smile. Vimaleswaran's words remained an indictment of the kind of elite arrogance that held time and again that the LTTE's opponents had rebuffed the graciousness of the LTTE that genuinely wanted peace.

Vimaleswaran said that Kittu's conciliatory gestures had no meaning when the reality behind the scenes was that student protesters were being hounded and harassed by the LTTE. After the protest, with few means at his disposal, Vimaleswaran became a helpless fugitive. In 1988, he tried to eke out a living for his family giving tuitions. On 18<sup>th</sup> July the LTTE shot him dead after a class on Sattanathar Kovil Rd., Nallur (UTHR(J) Rep.1).

Rajani then had just returned from England to a society characterised by fear, cynicism, mutual distrust and moral decay under the LTTE's authoritarian regime. Vaclav Havel's collection of essays, *Living in Truth*, published about this time, made a tremendous impact on Rajani and the circle around her, and influenced her actions. In that book were ideas to wean society away from deadening conformity.

Havel's essay, "*The Power of the Powerless*", which inspired the Middle East's recent 'Velvet revolutions', examines the momentous consequences of speaking the truth. Havel begins with the example of a greengrocer who displays political slogans that he does not believe in but realises that he must act as if he does in order to ensure his own survival. Havel takes the point at which the green grocer may one day revolt against this complicity:

*"Let us now imagine that one day something in our greengrocer snaps and he stops putting up the slogans merely to ingratiate himself...And he even finds the strength in himself to express solidarity with those whom his conscience commands him to support. In this revolt the greengrocer steps out of living within the lie...He discovers once more his suppressed identity and dignity. He gives his freedom a concrete significance. His revolt is an attempt to live within the truth..."*

*"The system, through its alienating presence in people, will punish him for his rebellion. It must do so because the logic of its automatism and self-defence dictate it. The greengrocer has not committed a simple individual offence isolated in its own uniqueness, but something incomparably more serious...He has upset the power structure by tearing apart what holds it together. He has demonstrated that living a lie is living a lie. He has broken through the exalted facade of the system and exposed the real, base foundations of power. He has said that the emperor is naked."*

Where Rajani drew most from Havel was in the need to create small institutions at local level to provide a firm foundation and mutual support for people to live in truth:

*"But Havel proposed more than mere civil disobedience. He also argued in favour of what we would now call civil society, urging the inhabitants of totalitarian states to found small institutions — musical groups, sporting groups, literary groups — that would develop the "independent life of society" and prevent their members from being totally controlled from above. This, too, was widely practiced, in Prague's famous underground philosophy seminars, in the illegal printing presses all across the communist world, in Poland's independent "Flying University," and, most successfully, in Poland's independent trade unions." (Anne Applebaum, Washington Post, 19 Dec. 2011.)*

Rajani played a leading role in several important local initiatives, apart from the writing of *The Broken Palmyra* and the work of the UTHR (Jaffna). These included the founding of *Poorani Illam*, a home for abused and destitute women, several structures and initiatives at the University, including the Staff, Students and Employees Consultative Committee, and her mobilizing of the non-academic staff to reopen the Medical Faculty after the war in 1987. She was part of a women's drama group to bring out the situation of women living under multiple oppressions which produced *Aduppadi Arattai (Musings by the kitchen hearth)* staged at the University's Kailasapathy Auditorium. Further, she played an active role in initiating a system organised within the teachers' unions to go to the relevant army camp immediately and challenge the arrest or harassment of any university person. This ended after she was killed and the LTTE asserted control.

After her murder there were scores of arrests, incidents of torture, assault and disappearance, especially of university students, first by the LTTE and then by the Sri Lankan forces. In its inability to articulate civic responsibility as a body, the University largely ended up accepting the *status quo* laid down by the powers that be — one that was brutal and demeaning. Any challenge carried a high price.



Our situation was in many ways different from that in Communist Czechoslovakia. Instant death was the far more likely punishment than arrest. This is where the University came in. The threshold for violence against priests and university dons was significantly higher, if they dared to dissent. Experience showed that students were very vulnerable. It was against this background that some of us, with Rajani, decided that the only weapon in our hands was to speak the truth about what was going on around us. When the Indo-Lanka Accord was signed in July 1987, there seemed a fighting chance that we could return to normal academic life. But the manner in which the LTTE provoked war with the Indian Army and the brutal manner in which the latter vented its anger, warned us to prepare for a long haul. The reports of the UTHR (Jaffna) followed our first initiative of writing *The Broken Palmyra*, often under candle light, during late 1987.

The UTHR (Jaffna) acted with considerable autonomy. The reports once compiled were shown to Prof. Thurairajah, who readily consented, before release. Prof. Thurairajah was under much pressure. While his course of promoting a more democratic university ethos had a support base within the University and could negotiate the rocks, there was no problem. As we discuss later, Rajani's murder ended this period and signalled the reassertion and punitive vengeance of the old establishment.

The controversy that UTHR (J) reports would excite became clear after the publication of our second report in March 1989 on the developing situation after the parliamentary elections and issues confronting the Tamils. To compile this report, UTHR(J) had obtained help from Mr. Selvendra, Chairman of the Valvettithurai Citizens' Committee (VVT CC), to meet victims of violence from that area and, in particular, the victims of an incident at Udupiddy. Mr. Selvendra had a liberal education and was a professional, and we sent him our first two reports through an engineer whom we will call Anandan, also of VVT origin. Anandan was two years the writer's senior at university and was helpful to us with information. It was our hope that the reports would be treated in the spirit in which they were written. We were critical of all violations and their perpetrators, along with the LTTE's child recruitment, but tried our utmost to be impartial with facts.

About a month later Prof. Thurairajah sent for one of us and gave without a word the copy of Report No.2 we had sent Mr. Selvendra. The report had copious comments penned on it, especially on our criticism of the LTTE recruiting children and using them in lethal tasks. A particular bone of contention was on our reporting of the incident in Udupiddy (4.6 of <http://www.uthr.org/Reports/Report2/Report2.htm>). On February 16<sup>th</sup> 1989, an Indian Army convoy transporting ballot boxes from the parliamentary election stopped just outside Udupiddy. Then some excited



Sikh soldiers rushed into the family home of Rev. Tharmakulasingam of the Church of South India and in the sequel, when an order was barked out, two soldiers turned and opened fire killing two of Tharmakulasingam's sisters, one of whom was to give birth the next day.

We then had no explanation for why the convoy had stopped. We learnt from a university lady from the locality that the LTTE had been in the area, and withdrew after firing a token shot to demonstrate their opposition to the elections. The people of the area had at that time moved out sensing trouble. Subsequent to the shooting of the two ladies, Rev. Tharmakulasingam observed a Sikh soldier seated on the ground, weeping aloud. We pointed out that this was not the only incident when a Sikh soldier was found weeping after such a tragedy, perhaps recalling disturbed conditions in their own villages back home in Punjab, which too was caught up in a bitter insurgency. Including this detail was far from mitigating the criminal behaviour of an army tasked with upholding the law. We will deal with an epilogue to this incident in Ch.10. However, Selvendra apparently felt that we had distorted the story by introducing a fictitious LTTE presence.<sup>67</sup>

We heard no more until Anandan paid the writer a visit and related Selvendra's objections. Anandan, who was always affable and somewhat naive, unexpectedly changed tone and said severely of our reports, "*If you want to write this kind of thing, you have to do it from [the protection of] an army camp.*" He stiffened involuntarily and added that the kind of work the UTHR(J) was doing '*would not be allowed*! The menace in these words became plain in the months and years to come. Anandan was simply repeating words of the LTTE-supporting elite among his contacts. The words were also an indication of how the UTHR(J) would be assailed by LTTE-supporters in the future. Contrary to our uncritical hopes, once

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<sup>67</sup> Meeting us after more than twenty years, Tharmakulasingam told us the sequel. When at the suggestion of an officer he took his three-and-a-half-year-old nephew to the Indian Army medical post to be dressed, he sought out the army commander for the area, Col. Sharma. The latter after discussion with a superior, had a letter typed. He thrust money into the reverend's hand and asked him to sign the letter, which exonerated the Indian Army and blamed the LTTE for the murder. Two weeks after the murders, the reverend was returning from a confirmation service in Atchuvely, when he was followed by two Sikh soldiers on a motorcycle. When he reached home, the soldiers too stopped and asked him to remove his cassock and made as though to shoot him. This spot was visible from the Udupiddy army camp. An elderly Sikh officer came running from the Udupiddy camp shouting '*Stop, stop!*' The reverend's life was spared. A few days later an army patrol came by his house. The reverend noticed among them the Sikh soldier who had killed his sisters. The patrol stopped and this man gave his gun to one of the other soldiers and came up to the reverend. He bent down, touched Rev. Tharmakulasingam's feet and said in English, "*I am sorry, I was helpless.*" He evidently meant that he obeyed an order. The reverend reflected that a Tamil unit of the Indian Army that was also present in Udupiddy was sympathetic and helpful when he went for medication for the injured child and encouraged him to pursue justice.

bitten by the bug of extreme nationalism, the maxim “facts are sacred” has little resonance even among those with a good liberal education.

It was April 1989 and the LTTE was about to embark on talks with the Premadasa government. Anandan further said, *“The LTTE is entering talks just to get the Indian Army out. Once that happens there would be a long and final battle for Eelam.”* The import of that statement seemed to be lost on him: the imposition of yet another war on a battered population.

Anandan was at pains to say that the VVT elite, like those in the VVT Citizens Committee, were distinct from the LTTE although they supported its aspirations. He explained that the LTTE had recently given public offence by abducting a goldsmith for ransom while he was worshipping at the major *Sellasannathy* temple festival. The Citizens Committee urged the LTTE to release him, but they kept him until they got the last gold ingot demanded. He said the LTTE had a mind of its own and no one could influence it. Their relationship to the LTTE, one gathers, resembled that of devotees to a harsh and capricious tutelary deity, whose will was not theirs to question. The visit was a sincerely meant friendly warning.

Anandan earlier objected to our coverage in Report No.1 of the murder on 21<sup>st</sup> October 1988 of Mr. Sivanandasundaram, an elder from Vadamaratchy who led the Tamil Makkal Manram, of whom our report stated, *“His organisation is known to have taken the stand that the LTTE were the legitimate heirs of the Tamil National cause, and the other groups were even termed ‘traitors’.”* While returning from a meeting commemorating a dead LTTE cadre in Ariyalai, his bus was stopped in Vallai Moor and he was taken out by three gunmen and shot dead, as the Indian Army provided cover for the killers. Anandan found our reference disrespectful of the man.

This was a case at the heart of our work. As a man, the deceased and his family were socially close to some of us. The problem was how normally amiable people changed and became totally unable to see the other side, once bitten by the bug of LTTE ideology. They became obsessed by blind hatred – the universal hallmark of gentleman chauvinists. Many LTTE-supporting elite saw in Sivanadasundaram – who was spouting venom against other militant groups – a great man. They could not see that they made the old man a hero after encouraging him to make intemperate speeches, which they had better sense not to deliver themselves.

We clearly condemned these killings as a perpetuation of blind intolerance by both sides. The killer in this instance was a member of the EPRLF from Valvettithurai (later EPDP), who was badly mauled and narrowly survived the Welikade prison massacre of July 1983. Such a man must have felt deeply offended when, after what he had been through, others who retired from hum drum government service, and had taken no comparable risks,



should call him a traitor. From the start the UTHR(J) pleaded that our common stakes were too high for us to drown ourselves in such intolerance.

Anandan's visit was the first sign that we were entering tempestuous waters. One cannot say exactly when the LTTE became alerted to our reports. We had released nearly 70 copies of Report No. 2, and had no real control over who saw them, made copies or came to know of them. Even Major Nautyal, in Tinnevely, sent word asking for a copy. Sritharan decided that we would give no copies to those involved in human rights violations. The reports would have further alarmed the LTTE about Rajani's activism among the students and the wider community. Meanwhile, gambling on the assurances and weapons given by the Sri Lankan government, the LTTE ratcheted up the harshness of its actions, deliberately provoking a blood sacrifice in Prabhakaran's birth place. It was Prabhakaran's protégé Pottu Amman who was in charge of the area.

## **2.5 A Deadly Sequel in VVT**

Indeed, as he revealed, Anandan was in the know of the LTTE's long-term intentions. The LTTE did indeed go for peace talks only to remove the Indian Army, and as he predicted, went to war with the Premadasa government in 1990. Neither the Government nor the LTTE quite knew where they were headed except for wanting the Indian Army out for disparate reasons. They were all out of their depth.

In mid-1989, the LTTE regularly provoked the Indian Army in all other parts of Vadammaratchy inviting regular reprisals against civilians. The Vadammaratchy residents were angry that Valvettithurai, the home town of Prabhakaran, was alone allowed to enjoy several months of peace. LTTE cadres from other areas too must have felt it. Just past the middle of 1989, the story got about in Jaffna that the Premadasa government had given the LTTE a consignment of weapons towards their common objective of getting the Indian Army out. This was a cue for another fiendish turn of events. From the end of July 1989, the LTTE launched treacherous attacks on the Indian Army stationed at Mannar and Adampan Hospitals anticipating reprisals on the hospitals and their environs.

In both these instances the Indian Army showed creditable restraint. In Adampan, on the night of 31<sup>st</sup> July a large group of the LTTE came into the jungle behind the hospital and fired missiles at the Madras Regiment on the other side of the hospital near Giant's Tank. The officer in charge immediately contacted the doctor at the hospital and asked all of them to vacate as they were going to retaliate. Thus civilians escaped harm. On 9<sup>th</sup> August, the Indian Army lost several men at Mannar Hospital. The attackers, who came by boat from Vankalai stole in to the hospital by night and fired from an upstairs window of the OPD building, overlooking



Indian troops sleeping in a tent below. Other Indian troops who arrived calmed the people and preserved the dignity of their dead.

A week earlier, on 2<sup>nd</sup> August, three days after the attack on Adampan Hospital, the LTTE hid behind a wall in Valvettithurai and reportedly fired their new RPGs gifted by the Sri Lankan government, and killed six soldiers of an Indian patrol. The Indian Army reacted in anger killing about 40 civilians. This self-defeating action for the Indian Army came just when India responded to the Sri Lankan government's demand that the Indian Army pullout, by raising concern for the Tamils' future in that eventuality.

By attacking the Indian patrol, the LTTE killed two birds with one stone. It made the India look foolish, and mitigated the charge of favouritism toward Valvettithurai. In a grotesque reversal of the tide of the Tamil militant struggle, during the Indian Army's reprisals in Valvettithurai (UTHR(J) Report No.3), many people sought refuge at the local Sri Lankan army camp; and the VVT CC prepared documents and affidavits with details of the dead and sent them to President Premadasa, who in turn sent his deputy defence minister Ranjan Wijeratne to commiserate with the people of Valvettithurai over the Indian Army's killings, even as the twosome presided over mass killings in the South to suppress the JVP.

It was much later that we learnt of the sleazy side of the affair. The VVT CC had, acting on behalf of the LTTE, forged a gentlemen's agreement with the Indian Army to the effect that the two sides would not exchange fire in VVT. During those months in 1989, both sides passed each other along parallel lanes or alleys showing no signs of alarm. By breaking the truce with its calculated attack on the Indian soldiers and killing them, the LTTE successfully provoked the Indian Army; it reacted with anger and force against the people of Valvettithurai.

The VVT CC of course knew well the danger in collaborating with the LTTE, knowing its methods and unreliability. The game of on-off war and peace for transient gains, forced the indignity of refuge with the Sri Lankan army on the Valvettithurai people – just when it was killing thousands of Sinhalese and would return to killing Tamils in less than a year.

It was utterly meaningless, even as the VVT CC followed the LTTE's prescription for useful human rights activism. Who would have dreamt that the LTTE would in ten months provoke the Government by killing hundreds of surrendered policemen, the way it did Indian soldiers in VVT; that soon afterwards Deputy Defence Minister Wijeratne who commiserated in VVT would preside over killing thousands of Tamil civilians in the East in enforcing the President's boast of putting down the LTTE as they did the JVP, or that the LTTE would kill its allies of convenience: Ranjan Wijeratne in 18 months and Premadasa in four years?

Had we been more alert, we would have realised that the rashness in the LTTE had reached a point where they saw any restraint as inimical to their interests. The Indians had blundered in their arrogance and the Sri Lankan government was contemptuous of the Tamils. The constellation of forces that had given Tamil dissent some room to manoeuvre by taking modest risks had broken down. If the LTTE went this far in harming the people of VVT in a desperate game of power, what chance did those like Rajani have against their compulsive desire to achieve totalitarian control? Intuitively or otherwise Rajani felt it, but tried not to alarm the rest of us.

A few years later in the mid-1990s Anandan left Jaffna with his wife and two sons. He reportedly complained about the LTTE to a friend, "*Ini ivangalodai aada mudiyathu*" (We cannot dance to their tune anymore). Selvendra later became the manager of *Eelanadu*, Jaffna's oldest Tamil daily. In January 1988, the LTTE had closed the paper by bombing its press when its editor N. Sabaratnam, former Youth Congress activist and emeritus principal of Jaffna Hindu College, called for the implementation of the Indo-Lanka Accord and asked the LTTE not to ride the clay horse of negotiations with the Government of Sri Lanka (about which there were then early rumours). Sabaratnam's position in society saved his life. Sabaratnam himself was very critical of narrow nationalism and had attended the funeral of Jaffna Mayor Alfred Duraipappah who was killed by the LTTE in 1975. While the killing was greeted by cheers from nationalists, Sabaratnam had noted the mass turnout of ordinary people who came as mourners. When the LTTE took Jaffna in 1990, they gained control of *Eelanadu* and placed it in the hands of Selvendra.

We were not deterred by the adverse reaction of the LTTE to our reports and decided that for us to cow down amounted to an admission of utter hopelessness for the community. It would have further reinforced society's cynicism about university dons as persons who would gladly join fair weather undertakings and vanish at the first signs of inclemency. It would also have been trivialising of the responsibility we had undertaken, in which others close to us had been willing to take greater risks so that we could bring out the truth. By this time, a number of people had read the pre-publication issue of our first collective effort – *The Broken Palmyra*.

## **2.6 Prepublication Issue of The Broken Palmyra**

### ***The Broken Palmyra and the Indian Army***

The pre-publication edition of *The Broken Palmyra* was released in May 1989 and Rajani went to England during the vacation in June for a research stint. Having been tipped off about the book, Major Nautyal raided Rajani's house on 27<sup>th</sup> July and obtained a copy. The next day he sent word to Sritharan demanding another copy. He told us that the Indian Army had appointed two teams to review the book. Sritharan and I

delivered a copy saying that they should return it. On Sunday 30<sup>th</sup> July, Major S.K. Singh, deputy commander of Kondavil division, and Major Nautyal called at my mother's residence. Singh said that the facts in the book were correct and he appreciated the analysis, but added that the authors had been unfair by the soldiers whose difficulties and anxieties they had not appreciated. He suggested that we might say something about it when the book is published. I said that the book would stand or fall by whether or not the readers find it truthful. There was no hint of the slightest threat during the visit.

Nevertheless harassment and searches of those who stayed in Rajani's house continued. One day Nautyal literally ordered us to hand over all copies of the book we had. Based on subsequent testimony, we have good reason to believe that Indian officers were collecting these as souvenirs. Sritharan and I went to Nautyal's camp to hand over a letter of protest about the order and the harassment. Nautyal read the letter in silence and telephoned S.K. Singh. Singh wanted us brought to the main camp at Kondavil, where we were taken by truck.

Major S.K. Singh was again very cordial. He said apologetically that there was no intention of harassment and added that some militant groups close to them were suspicious of Rajani and Sritharan, who in particular were outspoken. He added that his commander Colonel Sashikumar had gone to them with a copy of *The Broken Palmyra* and 'pleaded' with them not to cause Rajani or Sritharan any harm. The last point was corroborated by the EPRLF many years later.

Colonel Sashikumar of the Gurkha Regiment, a Keralite, had dealt with the University from 1988. He tried to maintain a clean record in his own way, especially with the University. When a university don's house was raided in November 1988, probably on a tip off about a book in compilation<sup>68</sup>, the Vice Chancellor made a complaint to Brigadier Kahlon, and in turn General Dhilon who was at Jaffna Fort, called the vice chancellor's office and wanted the don to call on the local commander Colonel Sashikumar. As was then the practice this don was taken to the Tinnevely camp by fellow members of the staff, including Rev. Dr. Guy Rajendram.

The conversation was frank and in a way friendly. The purpose of the meeting from the Indian Army's point of view was to be better informed about the ground and to build cordial relations with the don whose home was raided. All materials removed from the don's home were filed and

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<sup>68</sup> Acting on rumours that had reached the Indian Army's ears, a party under a Captain Raghav of the Gurkha Regiment raided the home of the don in November 1988 for a manuscript that was eventually published as the *Broken Palmyra*, which the party failed to find. The manuscript had been typed and copied months earlier.



returned, including photographs of civilians killed by the Indian Army in 1987 (which the writer had obtained from a university colleague, Arasu).

When confronted with the fact of the dirty war, which took the form of getting rid of LTTE supporters, Sashikumar responded obliquely by giving his perception of Jaffna society. He said that in his Kondavil military division, he found that several hundreds had been killed when the LTTE eliminated the TELO in 1986. He perceived that the people had come to terms with it passively in return for order. Likewise he said that the society would come to terms with getting rid of LTTE supporters too.

We may note here the care Colonel Sashikumar took in dealing with the University. The Indian Army did not lose sleep over any humbler civilians killed, but were very sensitive to bad publicity arising from incidents involving the elite. It is evident in the bureaucratic manner in which the Indian Army dealt with complaints. There would be queries and calls for reports down the line. The Indian Army knew that the Medical Faculty, the university students' centre and canteens were being used and arms were being stored in the premises, but never once raided the place. They watched closely and kept their fingers crossed. In the course of the Indian pullout, Sashikumar ignored a warning from an LTTE sentry and drove into Ariyalai East to rescue a group of the ENDLF who were surrounded by the LTTE. Colonel Sashikumar was killed about 20<sup>th</sup> January 1990.

While the Indian Army had no intention of physically harming any of us, being an intelligence man however, S.K. Singh could not get out of his head the suspicion that someone paid big money for the writing of *The Broken Palmyra*, but that is a different matter.

### ***The Broken Palmyra and the LTTE***

The LTTE had obtained a pre-publication copy of *The Broken Palmyra* and translated sections of the book for their own authorities in order to make a decision on the next step. Our suspicions that this had happened were corroborated in 1997 when we were given direct confirmation by an editor privy to the events.

During 1997 the Government with army help organised seminars in Jaffna to explain the Neelan-G.L. Peiris constitutional proposals. A journalist from the South had occasion to have a private chat with a courageous veteran journalist in Jaffna who had received commendations from Western missions in Colombo for carrying on with his task of reporting undaunted. The visitor asked the veteran why the media in Jaffna avoided discussing the proposals, even if only to criticise them.

To the visitor's surprise the veteran began with an outburst of wariness and trepidation, "You don't understand. We could write 99 things they (the LTTE) want us to write, but then if we write just one thing they

disapprove of, that would be the end." The veteran journalist continued, "You may know that the Rajasingam sisters worked untiringly for the LTTE and did so much through very difficult times. But then, see, they killed Rajani without any mercy." The visitor's ears pricked up and he urged the veteran to continue. The following is what the veteran journalist from Jaffna said, with subsequent clarifications we obtained from him in person:

In late August 1989, the journalist was given a copy of *The Broken Palmyra* by Major Shastri of the Indian Army in charge of a camp near Chundikuli and was asked as a favour to make a copy for him, as the Major knew that he had a copying machine. While copying, he was told of references to his paper by the person handling the copying; he became interested and had an additional copy made. This was seen by his brother-in-law, a newspaper proprietor, who began reading it. Subsequently, the Assistant Chemist, Chemical Lab, at the Cement Corporation's KKS cement factory from Vadamaratchy visited this proprietor. The latter, with no harmful intention, told him about the book to be published and that it would expose the LTTE. A couple of days later, Pottu Amman, who was then LTTE's area leader for Vadamaratchy, sent some of his men to the veteran journalist with paper and made a copy which they took.

The Assistant Chemist then lived in Pt Pedro. The LTTE then approached Mr. Rudra, a senior lawyer in Pt Pedro, to translate *The Broken Palmyra* for them. The lawyer, who knew the family, wriggled out of it but later told Rajani's father Mr. Rajasingam, also a native of Pt Pedro and an old boy of Hartley College. Pottu Amman was in the course of a few months promoted to the position of Chief of Intelligence.

Subsequently, about early September 1989, a son of Saloysius, a sworn translator in Nelliady, Vadamaratchy, who worked for the journalist, rushed to him with news he wanted publicised that a party working with the Indian Army had abducted his father, the translator. Before the next edition went to press, he came back and told the journalist to take the item out because it was the LTTE that had taken the translator. After mid-September the LTTE released the translator, and the journalist learnt that his job under custody had been to translate excerpts from *The Broken Palmyra*. Within a few days of his release Rajani was assassinated.

Having obtained the copy, the LTTE would have taken it to someone conversant in English to tell them what was in it, perhaps to the Chemist himself who alerted them in the first place, to select extracts for translation.

It is apparent that Pottu Amman wanted to keep this operation within a closed circle. For example, the Valvettithurai Citizens' Committee was a window for the LTTE in sensitive matters and continued to function,

chiefly because the LTTE and the Indian Army found its existence useful as a channel. Other citizens' committees had been silenced by the LTTE, either by intimidation or by killing their leaders, notably Principal Anandarajah of the Jaffna Citizens' Committee.

Having the translation done in Valvettithurai would have been easy for Pottu Amman, but he decided otherwise. This brings us to undercurrents of divisions and competing interests and furtive manoeuvrings within the LTTE, which came to the surface in 1990, which make it difficult to trace the chain of decision making that led to the killing of Rajani.

Mahattaya was in charge of field operations at that time even as moves were under way to cut him down to size. Pottu Amman, who may have known in 1989 that Prabhakaran was grooming him for the job of intelligence chief, was, not long after, used to edge Mahattaya out and strike the final blow against him. His increasing authority is further evident from the fact that the LTTE used him to provoke the Indian Army massacre in Valvettithurai on 2<sup>nd</sup> August 1989 described above, which created considerable resentment among the local folk. Pottu Amman was an outsider and both Mahattaya and Prabhakaran were from Valvettithurai.

In early May, the LTTE team was in Colombo for talks with the Premadasa government. Both Mahattaya and Anton Balasingam were in the team. Mahattaya had attempted during this period to contact Dayapala, Rajani's husband (see Chapters 4&5). There is no doubt discussions were afoot within the LTTE on how to deal with activism in the University. Killing Rajani or someone else was normal to the LTTE's way of thinking, but there would also have been opposition considering what it would cost. Rajani enjoyed the affection and goodwill of even students who were LTTE members, and she was irreplaceable for the wider community.

Other indications such as Rajani's own intimations and the fact that spies in the Medical Faculty had been closely watching her, and whispers about her reported subsequently, point to the fact that any plans the LTTE had about Rajani were largely independent of Pottu Amman's acquisition of a copy of *The Broken Palmyra*. The pre-publication copies of *The Broken Palmyra* had been in circulation from mid-1989, both locally and abroad. We have no doubt that copies were seen by LTTE supporters. A group of doctors in Lancaster, California, had been helping in the distribution of *The Broken Palmyra* upon its publication in the spring of 1990. They did this by contacting Tamil societies in the US and Canada and sending boxes of copies to those willing to help distribute. A doctor who helped in distribution told us about a Tamil society that declined the offer of copies. A senior doctor in that society had come prepared with arguments to that



end for the meeting where discussion of the book was taken up. He had with him a '*well-thumbed copy*' of the pre-publication edition.

As later explained, there was also a constraint on the timing. If the acquisition of *The Broken Palmyra* played any role at all, it was to reinforce a process already set in motion. The killing of Rajani and the LTTE's attempt at covering it up are the subject of the next two chapters.

## Chapter 3

### Some Crucial Pieces of the Jigsaw

*To everything there is a season...A time to be born and a time to die...A time to weep and a time to laugh: a time to mourn and a time to dance...I know that whatsoever God doeth it shall be forever: nothing can be put to it, nor anything taken from it.*

- The Book of Ecclesiastes

#### 3.1 The Sands Run Out

**3.1.1: Preamble:** Rajani was assassinated by the LTTE on the 21<sup>st</sup> of September 1989. This was a murder that was, like thousands of others, never investigated, no evidence compiled by anyone in authority and no one found guilty. In this chapter, we detail our collection of information and testimonies over many years, leading to a conclusive picture of her killers. We had much of this information by 2005, a large portion of it preserved in a memoir written in early 1990. The first testimony pointing to the identity of the killer came from the journalist Manoranjan in the months after Rajani was killed. Further important information came from members of the PLOTE's Theepori splinter group we interviewed in Canada in 2005.

More recently, we have been able to put together more detailed information about Rajani's killing. Given that much water has since flowed under the bridge, we felt that while placing the truth about her murder on a record that adequately traces its manner, purpose and the parties involved, it would also be appropriate to bring out a publication that allows today's reader to see her relevance to the present. As is evident from our account, Rajani's killing was well planned, mobilising a network of LTTE contacts and agents. Here in Chapter 3, we detail the cold-blooded murder and cover-up by the LTTE and the names of those who were involved at the time. In Chapter 4, we discuss who within the LTTE leadership was involved.

**3.1.2 The use of students in typical LTTE-style killings.** First, it is important to note that a large number of students studying in the University and surrounding schools were boarded in the area. During the Indian Army's presence the LTTE often used very young cadres for killing and spying operations. School dropouts frequently imposed themselves on former classmates. One youth, now in Canada, who was present in one of the boarding houses, said that two boys involved in Rajani's death, Kandeepan and Milos, came running to their room south of the University soon after she was shot. Their role, as suggested by circumstances, was likely to cover the area and warn of any intrusions that might result in the

operation being exposed or compromised since an Indian Army camp was nearby at Tinnevely Junction. These boys would have made it to the railway track to the west of the Faculty and run south along the track. A university employee told us that soon after the killing, two LTTE-ers had come into the main university premises south of the Medical Faculty and were at the water tank in front of the Science Faculty.

Kandeepan was the younger brother of Curdles (a senior intelligence functionary who died in the water bowser mishap in Navatkuli in February 1987). Kandeepan and Milos were young killers used by the LTTE at that time, as were Lollo and Mathy. Lollo for example used to go about in school uniform carrying name lists and pictures of intended victims given by his superiors. Credited with about 60 murders, he went crazy, and acquired a reputation for spending long spells alone at cemeteries. Yet all four were pure and simple killers and disposable at that. There was in their killings no intention of concealment. Reports immediately came, associating the killer with the victim. Often, they killed publicly. The Indian Army hunted down all the four mentioned in late 1989 and the LTTE did not miss them. Rajani's killing was a sophisticated operation, not the kind given to these young killers. They were, one infers, deployed as part of the concealment operation.

Key LTTE intelligence operatives came to Bharathy Community Centre in Pungankulam regularly, including Charles and Bosco, both leading subordinates of the intelligence chief, Pottu Amman. One who came less often was Kapil Amman, Pottu's deputy. While Bosco did not offer a reason for killing Rajani, Kapil Amman, who came to the Centre a few days after the killing, said that she was killed for campaigning overseas against the policies of the LTTE.

**3.1.3 The Cold-blooded Killing:** The late Prof. Kanagasundaram was the first head of the Anatomy Department; he was also the Dean of Medicine and had recruited Rajani. (He previously taught at the National University of Singapore.) When Prof. Kanagasundaram and some others left after the July 1983 communal violence, Rajani on her return from Britain, with her doctorate, became the only qualified member of the anatomy staff, although the department's cadre had six positions. Mr. Kulendran, , who had joined in 1981 as technical officer in the Anatomy Department, testified that Rajani was the only medical don to be on the premises, amidst considerable fear and uncertainty, to motivate and lead the non-academic staff in reopening the faculty after the Indian Army offensive in 1987. He recalled Rajani firmly arguing with and persuading Brigadier Manjit Singh to help them reopen.

When Rajani went to England in June 1989 for three months, there was no qualified lecturer in Anatomy. Kulendran recalled that the Dean, Prof.



Balasubramaniam, had written to her asking her to return and conduct the Anatomy exams for the 2<sup>nd</sup> MBBS. At the same time Kulendran had heard that on account of the Indian Army searching her office and her home, which both had a large collection of Marxist literature, her friends had advised her not to return. But she returned on 3<sup>rd</sup> September.

Upon Rajani's return, she found that a final year student and LTTE member, Prabhakaran, had been shot and injured by a pro-Indian group while returning from clinicals on a bicycle. He survived because the Indian Army found him and warded him in Jaffna Hospital. As if to excuse the shooting an Indian Army official told the Vice Chancellor that the student was a confirmed LTTE member. Taken aback by this development, Rajani asked her colleagues why the Faculty, the University and the student body had not confronted the Indian Army on this. After all, the latter had given an assurance that people would not be persecuted for their political views provided they did not carry arms. The injured student was unarmed.

Rajani discovered to her alarm that contrary to the University's practice, the students supporting the LTTE wanted the shooting of student Prabhakaran by an ally of the Indian Army suppressed. The Medical Faculty was then operating as something of an LTTE camp. The Indian Army which had its suspicions was holding back only because of the political cost. The LTTE lobby was worried that should the issue of student Prabhakaran be given prominence, the Indian Army would crack down on the Medical Faculty to prove their point. This was the nightmare that Rajani dreaded: by using the University for its short-term ends the LTTE was silencing the University as a voice of conscience and a centre of non-violent resistance to violations of the people's rights.

A few days later, Rajani hosted a lunch for the staff in her department at a restaurant near Tinnevely Farm. During the lunch she told her staff casually in Tamil that death to this *Thamilichchi* (Tamil woman) is not far away. (Several other premonitions of her death, including that the killer would be one born like herself of a Tamil mother have been cited from her last letters in *No More Tears Sister*<sup>69</sup>. After lunch, they had a happy session where Rajani sang some English songs and danced.

On the 13<sup>th</sup> September 1989, Majors S.K. Singh and Nautyal of the Gurkha Regiment called at Rajani's room in the Medical Faculty and there ensued an argument. Rajani told them with characteristic firmness that they had no business to raid her house during her absence in England and harass those who stayed there and that they should not come there and alarm her children, but could arrest her if they wished to question her. The July raid was done to obtain copies of the pre-publication edition of our book, *The Broken Palmyra*. The meeting ended on a strained note.

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<sup>69</sup> [http://www.uthr.org/Rajani/Film%20\\_%20Press%20Kit.pdf](http://www.uthr.org/Rajani/Film%20_%20Press%20Kit.pdf)

Soon afterwards, the two most prominent LTTE students in the medical faculty (see chapter 2) Sooriyakumar and Dharmendra, the latter known for carrying a pistol in the university premises, came in to speak to her. In her frank manner she told them what happened, that *The Broken Palmyra* had cropped up in the conversation, but that she did not fear anything serious and could handle the matter herself. The conversation drifted towards a subject that had a note of menace. There were already rumours that the Indian Army would pull out. LTTE circles in particular knew that President Premadasa had given them a *carte blanche* to deal with any opposition to them as they pleased. Dharmendra told Rajani that once the Indian Army withdrew, it would take them only two days to wipe out the EPRLF and other groups allied to the Indians, and then they would return to war with the Sri Lankan government.

Rajani asked, “*Why do you want to wipe out those poor conscripts and others very much like yourselves?*” Dharmendra replied that they were traitors. Rajani shot back, “*According to your definition I am also a traitor. You will kill me as well.*” Dharmendra did not respond to this. This was one of the rare occasions Rajani had any kind of two-way discussion with LTTE students. Their characteristic conduct was to listen to her, but not engage. Hitherto they found her standing up to the Indian Army useful in protecting students with LTTE links who were detained or threatened. Now that they had visions of becoming all-powerful and she was an obstacle.

At the time Rajani began to have significant dealings with Dharmendra, he had a roommate of Hill Country Tamil origin who was a medical student. The Hill Country student told Rajani that he feared for his safety as Dharmendra had accused him of sending letters purportedly from the LTTE warning students against sitting for examinations, when it was actually Dharmendra who sent these letters. Rajani told Dharmendra that because of their insensitivity, Tamils in Jaffna were already isolated and giving the impression that Hill Country Tamils were not welcome in Jaffna would do the Tamils and the University immense harm.

On another occasion, Dharmendra had come running to Rajani when the Indian Army searched for him, and Rajani assured him that she would always defend the right of students to hold and express their own political views. She had at times wondered whether he had any sense of loyalty to her or would one day put a bullet into her. After she was killed, he was seen indulging in emotional displays. Once he uttered, “*Whoever killed Madam will not have peace in this life.*”

A Hill Country student who fled Jaffna in 1990 and later obtained a transfer to another university, told a former colleague after Rajani's murder that Dharmendra used to say that they would one day put a bullet



into Madam's (Rajani's) head. Asked why he had not warned her, the Hill Country student replied that he had been afraid. He also confessed to being mortally afraid of a Medical Students' Union president who had been his roommate.

Sooriyakumar, who topped in examinations, was by contrast outwardly respectful and restrained in his conduct, giving no hint of his influence and intimacy with the LTTE. He listened but never responded to Rajani's arguments and pleas. A student who had been Sooriyakumar's roommate said that though being very friendly, he later discovered Sooriyakumar was passing on information about him to the LTTE. As Rajani's recent encounter with the Indian Army offered the LTTE an opportunity to kill her and shift the blame to the IPKF after the murder, Sooriyakumar predictably blamed the Indian party citing *The Broken Palmyra* as the cause.

**3.1.4 The Events of the 21<sup>st</sup> September:** Rajani conducted the viva voce exams for nearly 150 students, over four days for two hours each afternoon. On the final day, 21<sup>st</sup> September, Kulendran remembers telling Rajani that the sari she wore looked well on her. Earlier that day before arriving at the university Rajani entertained two British visitors, Malcolm Rodgers and Anna Doney, to lunch at her home, which was situated in a lane that was 250 yards east of the Medical Faculty off Adiapatham Road. The following account of the lunch is taken from a contemporary record the author made:

*"We talked a good deal about the situation. Rajani talked fast as though she had a great deal to say and not enough time to say it. She was looking sombre and was deeply anxious about the future of the community. She had expressed a premonition of her death a week after her return from Britain on 3<sup>rd</sup> September. She had seen a British publisher about the publication of *The Broken Palmyra*, but had not received word. She remarked, "These fellows are sharks. They wouldn't care if my brains were blown up." I learnt later that she had talked about death a number of times. On 2<sup>nd</sup> February when two students on a peaceful protest were killed by Indian Army firing, she had written to a friend reflecting on death – as a passing away from the pain of life... Following the murder of TULF leaders Amirthalingam and Yogeswaran on 13<sup>th</sup> July, she wrote to a friend why this group should kill persons who were a spent force who posed no threat to them. She said perhaps for the first time that she sometimes feared Anton Balasingam, who harboured an intense hatred towards these leaders. Rajani was not her vivacious self."*

She then left on her bicycle to conduct viva voce examinations at the Faculty at 2.00 PM. A green hiring car that had dropped her visitors at her house was to come back about then, but did not turn up. We learnt later



that some youths had stopped the car at the top of the lane. The driver got frightened and went away. Neither did he make contact with the visitors to collect his fare. In retrospect that was an indication of LTTE deployment in the area. A farmer in a field in another lane off Adiapatham Road in the same area later told one of our contacts that some youths he knew as LTTE told him earlier the same day to keep a lookout on movements in the area.

We learnt from our contacts that soon after Rajani's killing, some youths were seen running north from near the scene of the crime on Adiapatham Road. It was an area frequented by the LTTE and no one else could have got away with the intrusive activity recorded below.

There were peculiar goings-on in the Faculty premises the day Rajani was murdered. Around 3.00 PM three young men walked in through the main entrance of the Medical Faculty, all the way down the long foyer, and stopped in front of Rajani's room just inside the Anatomy corridor to the right. While they looked at the room, some students approached them from behind and inquired about what they wanted. Taken by surprise they said they were looking for Dharmendra. Subsequently one of these youths was seen talking to Dharmendra in the faculty canteen.

Two other incidents took place between 3.00 PM and 5.00 PM while Rajani was at the viva voce examination. A man of about 35 years walked down the foyer and towards the end, glanced sideways. Realising he had been noticed, he turned left away from the Anatomy corridor and went into the Forensic Medicine corridor. He was heard trying a door as if looking for someone and then came out and went away.

Lastly, a security guard escorted in a stranger. Before reaching the end of the foyer, they turned right into a path leading into an open space alongside the Anatomy Department. Stopping in front of a window from where Rajani could be seen at the viva voce examination, the security guard was seen raising his hand, upon which they went away.

Kulendran remembered that towards the end of the afternoon, Rajani's younger sister Sumathy, who taught English at the Arts Faculty, came to see her. He told Sumathy that the examinations would be over in 15 minutes. Sumathy went away saying she would talk to her later. Once the examinations were over Rajani told him that she would be late the next day, as first thing in the morning she would go to Jaffna Hospital to give the Anatomy answer scripts to Dr. Ponnampalam. She set off on her bicycle carrying the answer scripts in a shoulder pack.

***Rajani was killed at 5.45 PM between the Medical Faculty and her home.***

After Rajani had left, Kulendran began to start his motorcycle, when her student Neethirajah ran to him and told him that Rajani had been shot.

Bewildered as he was at the news, he accelerated his motorcycle until he found her on the road almost opposite the university guesthouse.

The guesthouse keeper, Asi, came and told them that the killer's first shot had not been fatal and he heard Rajani shout in English, "*Why are you shooting me?*" One of the assassin's subsequent shots went through an eye and pierced her head.

Kulendran went to Rajani's body and wept. Thirunavukkarasu, a labourer from the department with a polio leg, and yet a hard worker, came from Tinnevely Junction, placed Rajani on his lap and cried beating his chest. By this time Rajani's hands were shaking, and she was in the throes of death. Then Dr. Sritharan from the Mathematics Department arrived and became uncontrollably upset. Neighbours had, for fear, closed their house doors. Sritharan called out to them that a lady had been shot and needed help. The people who gathered began to fear that those who showed themselves close to her were also in danger of being killed. Mr. Brindabhan, an employee of the University who lived nearby, took Sritharan away.

Some of the students stopped a passing car and took Rajani to hospital. A short distance from where Rajani had fallen, Kulendran saw the backpack in which Rajani had carried the Anatomy examination answer scripts. He collected it and later handed it over to S.V. Parameswaran, Professor of Physiology. From the scene he went to Navalar Road to inform Rajani's parents. He told the father euphemistically that Rajani was injured and had been taken to hospital. Her father Mr. Rajasingam was visibly very upset, and her mother Mahila fainted. He later found that Rajani's body on reaching hospital had directly been taken to the mortuary. Mr. Rajasingam later went out alone on his bicycle in the dark to tell one of Rajani's colleagues pithily in English, "*Do you know? Rajani has been shot dead.*"

For Kulendran, Rajani's death darkened what would otherwise have been a happy occasion. Rajani and Prof. Kanagasundaram, then living in Singapore, had applied for a World Health Organisation scholarship to further his training for laboratory work in Anatomy. He had been informed on that very day of the success of the application for training in India. He was under the impression that the EPRLF, which was then allied to the Indian Army, had killed Rajani. His brother-in-law, a postmaster, cautioned him the same day, "*Wait awhile, don't be hasty... The truth will come out!*"

Rajani's killing was meticulously planned with clear knowledge of her work schedule and her route home. On this last day of the viva voce examination, given the late hour following a tiring day, she was likely to go straight home to her children. The timing of the killing coincided with the completion of the anatomy examinations.

Soon after Rajani was shot, it was Selvakumar, an off-duty security guard who had no particular reason to be there, who raised the alarm in the Medical Faculty. His actions evoked widespread suspicion.

Rajaratnam, then vice president of the Medical Students' Union, had been an LTTE supporter, and parted company with it after it massacred members of other groups. Rajaratnam went into the Medical Faculty immediately afterwards, and found Sooriyakumar and Dharmendra there. One look at them convinced him that they were responsible. He needed nothing more. He remained a strong and active supporter of moves to commemorate Rajani and a great strength to others in his defiant frame of mind.

Among the visitors who went to Rajani's house out of concern for the family was Prof. Ramakrishnan, who taught Philosophy and was staying in the guest house nearby. He stayed for some time. Dr. M.A.M. Nuhman who taught Linguistics and Mrs. Chitra Maunaguru came in for a few minutes. Nuhman, a native of Kalmunai, had long identified with the Tamil struggle, but could not stay in Jaffna after the LTTE expelled the Muslims a year later. Another who came in during the night was Cynthia, a medical student and LTTE leader Kittu's fiancée. Rajani had regularly reassured her when she returned after the Indian Army's takeover and urged her to follow the medical course. She did not appear very comfortable, and struck some of those present as having been sent to spy. She spoke much, but ramblingly, and her embarrassed friend who was present, signalled her to stop.

### **3.2 Eye Witnesses to the Assassination**

#### **Saratha Thevi**

Saratha Thevi, from near Kokkuvil, was a young woman in deprived circumstances near Kokkuvil. Rajani had helped her medically and then she came to live at Rajani's home. Although her education was only up to grade two, Saratha had an aptitude to learn fast and advanced as a respected paramedical worker, travelling daily to Tellipalai Hospital on her bicycle. Being close to Rajani, Saratha had an intuitive sense of Rajani's situation. On that fateful day, she was preoccupied with thoughts of imminent danger to Rajani. She recalled that she slapped herself hard on the face, worrying that something might happen to Rajani. She rushed home, also since Rajani had been expecting guests and wanted her back at 5.30 PM. She cycled back along KKS Rd. and turned east into Adiapatham Road.

Nearing Rajani's place, she heard several gunshots and saw Rajani who was cycling some distance ahead throw up her hands and fall on the road. Saratha rushed to her, and held her. A bullet had pierced one eye. Saratha



noticed Rajani looking at her through the unaffected eye just before she died. She then noticed students rushing to the scene shouting, "Madam! Madam!" She also noticed the killer fleeing from the scene. He was short and light-skinned. Saratha was followed to the scene a short time later by Aachchi, the elderly lady who was Rajani's housekeeper.

People of the locality later told Saratha that the killers were the LTTE. A few days after the killing, she was accosted by the LTTE who wanted to know how she came to know Rajani. She told them that Rajani had helped her when she was desperate and enabled her to become a self-respecting woman able to function on her own. She was unable to guess why she was asked. Most people she met greatly regretted Rajani's loss. Saratha suffered from many sleepless nights after the killing. She went to a young doctor at Jaffna hospital for medicine. In explaining her sleeplessness, she expressed what Rajani had meant to her. The doctor gave her medicine, but remarked that Rajani's death was no loss as far as they were concerned. It was an instance where ultra-nationalist politics, or contempt for one of their own number whom they could not understand, compromised the doctor's role.

### **Hussain**

Hussain (not the witness' real name) had gone north down Karuwepulam Road, about a hundred yards east of the Medical Faculty entrance, to meet a surveyor on private business. On reaching Adiapatham Rd, upon his return about 5.45 PM, he saw a cyclist doubling a passenger and riding furiously. The passenger was clutching a revolver. Dropping the passenger on the road, twenty-five yards east of Hussain, close to the university guesthouse, the cyclist proceeded on his way. Hussain who knew Bosco, recognised him as the passenger who had alighted, but Bosco had evidently not noticed him. From the other testimonies (see below), we infer that the bicycle carrying Bosco had overtaken Rajani, while she was riding, and dropped him ahead of her. Bosco (who was now facing Rajani) shot her a few times. Hussain then observed him crossing the road, getting on to the pillion of a motorcycle, whose rider had been waiting for him a short distance east (away from the Medical Faculty towards Tinnevely Junction) and getting away. It was thus that first-hand information about the killing was initially in the possession of Jaffna's Muslim Quarter (see End Note).

### **A young medical student**

Manoranjan, who later made his mark as a journalist, was travelling to Colombo by train from Jaffna about December 1989. A student recognised him and they began talking. The student doing first-year medicine in Jaffna was a cousin of Manoranjan's classmate and friend. The student said that he had seen Manoranjan helping with Rajani's commemoration,

but being unsure of his politics had hesitated to approach him. Once the train passed Vavuniya the student spoke more freely.

As though having decided to unburden himself the student spoke, "*Uncle, I am the only eyewitness to Rajani's killing. I am telling you because I do not want the truth to be buried.*" He proceeded to tell his story. Rajani was the student's anatomy teacher. His 2<sup>nd</sup> MBBS was to be the following year. Rajani came out walking briskly after sitting with her fellow examiner Dr. Ponnampalam and finalising the viva results of his immediate seniors and repeats. Students waiting to talk to her about their performance did not stop her seeing she was tired. Our witness, the student, had already removed his bicycle when Rajani took hers. She smiled at him. Out of respect he waited for her to go and followed behind. On the road she proceeded east.

The student then observed a bicycle briskly overtaking him and going towards Rajani. It had evidently been waiting west of the faculty. Subsequently he saw a man fire at her using a revolver. The gunman, who had alighted from the bicycle, fired a few more bullets into Rajani who lay fallen on the road. The student in shock overtook the man and Rajani's body. The student looked back as the killer finished. Their eyes met. The killer was about 35-years-old, well-built and light-skinned.

The student immediately recognised him. He had seen the killer at the Medical Faculty a few months earlier; he was unusual looking and not a student. Friends in his native Pt. Pedro told him that the man was Bosco from the LTTE's Intelligence Wing.

After witnessing the murder and returning to his room, he told his roommate what he saw. The roommate warned him not to talk about it. As the days wore on his fear did not abate. He decided to seek asylum abroad.

Inquiring about Bosco from former medical students of the late 1980s, we were told that while Aanjaneyar (Ilamparithy), nominally in the political wing, was the chief man dealing with them, Bosco was the man behind the scenes dealing in intelligence matters. According to a Catholic activist, Bosco was a student at a seminary. An apocryphal story about Bosco is that his supervisor Fr. Bosco detested the LTTE and was a strict disciplinarian. The story goes that Bosco dropped out and was wont to swear that he would put a bullet into Fr. Bosco's head – hence his nickname Bosco.

## **Bosco**

A staff member who was active in the university students union in the early 1990s said that LTTE cadres who used to come to the University at the time named Bosco as the killer. He also had a vague idea (proved wrong) that Bosco was killed when the SL Army ambushed a group of intelligence cadres near Pandivirichchan in the Mannar District in the early 1990s.



A priest we contacted said immediately that he had been to Bosco's office in 1991 or 1992 to inquire about the student Manoharan (whose abduction we deal with in Chapter 5). His office was in a lane taking off from near the railway crossing on Stanley Rd., near a bend, leading to a point near Hindu Ladies' College. The first time Bosco refused to meet the priest. The second time Bosco met him but never looked him in the face and seemed shy to face him. In manner and appearance, Bosco did not strike him as typical of the ruthless intelligence wing. The priest said that Bosco who stayed at Arul Ashram on Temple Rd. and attended St. Patrick's College, later joined the LTTE and became a high-ranking intelligence cadre under Pottu Amman, aided besides other things by his knowledge of English.

In response to our queries, the priest, with wide-ranging contacts with persons who had an evangelical orientation both inside and outside the Roman Catholic Church, soon made contact with a youth in his early 30s, who had known Bosco well and had been 11-years-old when Rajani was killed. The youth, who was reluctant to talk to us directly, related to the priest his story of the events after Rajani's murder.

As a young boy, and native of Ariyalai, the youth went in the evenings to *Bharathy Sana Samuha Nilayam* (Bharathy Community Centre), a short distance from Kandy Rd., at Pungamkulam Junction. It was the *rendezvous* for several cadres from the LTTE. This boy admired them and they let him examine the weapons they carried. Owing to his being a mere boy, they took no notice of him when they talked.

In the immediate aftermath of Rajani's killing, these cadres had an evening *rendezvous* at Bharathy CC. Present were Bosco from the Intelligence Wing, Navaneethan from the Military Wing and a person named Peter. The youth has a vivid memory of the conversation that ensued:

Bosco announced jubilantly in reference to Rajani: "*Avavai anuppiyachchu*" (She has been dispatched) and added: "*Ava ennai aen chudurai? Enru chingam mathiri ketta.*" (She looked at me like a lioness, and asked, why are you shooting me?)

(Here Bosco had evidently translated into Tamil, what the guest housekeeper Asi had heard Rajani shout in English.)

Navaneethan said in response: "*Vayukullai vachchirukkavenum*" ("You should have put her in the mouth"). The company was exultant. Navaneethan, the witness learnt, is presently settled in Britain. Peter, according to the same witness, was responsible for shooting dead St. John's College principal Edwin Anandarajah in June 1985, and is now dead.<sup>70</sup> Kapil Amman, LTTE's deputy intelligence chief who came to the

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<sup>70</sup> Peter's family are leading members of an Evangelical Church in Chundikuli. Asked if Anandarajah's killer, as widely rumoured, had been the son of Pastor Ariyarajah (of a different



Centre gave Rajani's criticism and her influence overseas as the reason for killing her.

Bosco then had his base in a furnished room in a house in Arulampalam Lane near *Tappalkattai Santhi* (Post Box Junction), further east on Kandy Rd. Bosco was also an avid reader of *Naan* (Me), the journal on psychology published by the Oblate Fathers (Oblates of Mary Immaculate), a connection that probably goes back to Bosco's residence at Arul Ashram, Jaffna, while attending St. Patrick's College. The witness<sup>71</sup> also said that a medical student named Sutha from Kilinochchi was a regular visitor to Bosco's room near Post Box Junction, where he had met him. They both studied and exchanged books on psychology. Bosco never took any vows. In 1996, after the Jaffna Exodus, the youth met Bosco at Murugamalai, Kilali, along with his wife, a lady from Sillalai, whom the priest cited earlier knew. Not long afterwards in the latter 1990s, Bosco, according to this and other sources, died reportedly of brain tumour.

### **Rajani's Murder and the Killing of University Security Officers Felix and Thevathas**

The nervousness the LTTE felt about being identified as the killer, is revealed in the murder of two university security officers. One of them, Felix Anthony (37), was abducted by the LTTE. The employees' union made no formal complaint to the authorities. It was earlier rumoured that Felix would be released after the commemorative events concerning Rajani. According to a near relative, the LTTE played a recording of Felix naming them as Rajani's killers. As part of its ongoing decimation of Jaffna society, the LTTE set up colleagues to betray one another.

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independent church), the witness refuted this attribution. He said that Peter had a grudge against Anandarajah. Sources close to the family said that another former LTTE member, now an independent pastor in Europe, confesses to involvement in the killing of the principal and said that he was brainwashed by the LTTE into doing so. Members of the St. John's staff told these sources that some LTTE supporters on the staff were involved in the killing. The way the LTTE functioned, it was normal for them to have spies and informants in every institution and the reason why Anandarajah was killed, according to the staff members, was not because he organised a cricket match with the Army but because he did not allow the LTTE to intrude into the school. Whether these teachers went to the extent of instigating the killing is another question. Two of these teachers died violent deaths. One, a dramatist, moved to the University.

<sup>71</sup> Following the 1995 Jaffna Exodus, the young witness went to the Puthukkudiyiruppu area in Mullaitivu, where he lived the life of a vagabond. Since he had friends in the LTTE, he was allowed into protected areas. They tried to inveigle him into the organisation. He constantly gave them the slip, but not without seeing atrocities being committed on surrendered Sri Lankan soldiers. He had seen the Channel 4 video on the last stages of the war. He said that while he was shocked by pictures of civilian deaths, he felt no shock at all on seeing army executions of captured LTTE cadres, and added that the pictures were exact replicas of his haunting memories of the LTTE's own atrocious behaviour. The witness used to freely make his comments in tea boutiques, and had said that the LTTE was guilty of grossly violating international humanitarian norms. He was overheard and arrested by members of the Media Wing and imprisoned for a month

We learnt through security sources at the University that on 27th September, six days after Rajani was killed, the LTTE shot dead Felix and another security officer Thevathas (39) on the beach south of Jaffna Town. A further pointer to how closely the LTTE had been monitoring the University is the murder in the previous year, in Kondavil of the security officer Tharmalingam, whom it identified as sympathetic to the EPRLF.

Being in the university precincts, security officers would have obtained detailed knowledge of Rajani's killing. One of those who monitored the security officers has been identified by employees as the same security officer who signalled the killers as Rajani left the Faculty. He was noted for carrying audio-visual recording devices while spying for whichever power then in control, and this made him feared. He is reportedly now a broken man. To this day, security officers tend to be evasive about Rajani's killing.

### **3.3 After the Murder: The Fallout and Elaborate Cover-Ups**

On the morning after the murder, Sumi Kailasapathy, a student council member who was greatly disturbed by the event, went to the council office and asked, who would have done this? Arunothayan, a full-time LTTE spy who flunked all his exams, launched into a defensive tirade. Sumi heard him out and pointed out that she had not made an accusation but was puzzled like everyone else. The student council drafted a statement in which Rajani's killers were described as fascists. Arunothayan objected and asked why they used such strong language. The others pointed out that they had used language just as strong when Indian Army firing on student protestors earlier in February killed two students and he had not demurred.

On the 22<sup>nd</sup> of September, the day after the killing, Rajani's coffin was brought in procession to the Medical Faculty for members to pay their respects. Hardly any of Rajani's faculty colleagues were present. Neither had any one of the several of whom, who lived nearby, visited her home by the morning after the killing to inquire after the children. Among the few exceptions were Prof. and Mrs. Saravanapavanandan who also joined the protest demonstration on 2<sup>nd</sup> October. As for the others, the only charitable explanation is that they knew and were scared.

The same morning, a former student of the university and member of the militant group EROS joined the queue of mourners filing past the coffin. He knew Rajani's father Rajasingam Master well, and had just arrived from the Vanni. While in the queue, he spontaneously gave vent to anger and exasperation at the killing. A medical student from Valvettithurai came up and cautioned him not to be expressive, since those who killed Rajani were taking a video recording. He added that the killers had come from nearby where he buys his food. The former student who bought his meals from a house in Potpathy Rd. used to meet other students there, including the



medical student who cautioned him. The video was being taken by the LTTE. Thus on the first day itself there were whispered indications that a section of the killers had come from Potpathy Road, which is easily accessible through Konavalai Lane just opposite the Medical Faculty.

A former PLOTE source from Kokkuvil told us that a colleague of his who stayed near Potpathy Road told him that two persons brought in for the murder had stayed the previous night in the room shared by Dharmendra and L. He said that L angered many colleagues by using former PLOTE connections to find sleeping places for LTTE cadres.

The Indian Army was stationed in the house west of Rajani's parental home in Navalar Rd. On the evening that she was killed, the officer next door to the Rajasingams, from North-East of India whose name Rajani's sister Sumathy remembers as Thapa, called over to commiserate. He was very upset thinking it was either the EPRLF or the Army, adding there was so much indiscipline. As the IPKF had decided to pull out, relations in general were more relaxed. The body had not yet been brought to the house. The following day another officer Manjit Singh, younger to the brigadier, who had earlier been next door, came to pay his respects. A number of other Indian officers and men too paid their respects at Rajani's parental home.

Rajani's funeral was on the 23<sup>rd</sup> of September. At the close of her burial service on a wet and cloudy evening in St. James' cemetery, Nallur, shadows were falling swiftly as mourners filed past. The rainy season just set in. The grave looking Mallakam Magistrate, Mr. Gunaratnam, called me aside. He was concerned that many people were still blaming the Indian Army. He said, *"Political considerations aside, I must tell you that this has all the hallmarks of the LTTE. It is what people call a 'clean job'. There was no clumsiness. All the bullets found their mark. This is the conclusion I can make based on the many inquests I have been called upon to perform."*

### **3.4 Don Arasu, Student L and Monitoring the Fallout**

There was one question which LTTE spies were asking people soon after the killing, *"Who do you think killed Rajani?"* The LTTE would have been quick to blame the Indian Army or a rival group if there had been a groundswell of opinion to support it.

Since several rumours blamed the EPRLF for Rajani's murder, they were the first to issue a statement accusing the LTTE and naming a Senkathir as the killer. The LTTE said absolutely nothing until Rajani's commemoration, two months later on 22<sup>nd</sup> November. But they were watching everything very closely and taking video recordings.



LTTE spies were trying to find out what people in general and those close to Rajani in particular thought of the killing. Hence Arasu's visit to the journalist AJ Canagaratna, and the actions of Arunothayan and L. When the coffin was moved to the main university hall from the Medical Faculty, the day after the murder, Arunothayan sent a student to ask Dr. Sritharan who killed Rajani. Sritharan told him openly, "*Ask Arunothayan who sent you. He knows best.*" The LTTE held off making a public statement as growing opinion blamed the LTTE for what the people widely acknowledged was an irreplaceable loss. We at the University deliberately avoided blaming anyone. (When the LTTE issued a denial two months later, it was more a threat to those who held otherwise.)

The LTTE's silence was palpable. It was soon clear to us that the killing had been planned so as to implicate the Indian Army or one of its allies. This part of the plan had gone awry from the start. Many of the students and people of the locality had their suspicions confirmed from the start by the LTTE's nervousness and began pointing their finger at it.

The person we refer to as Arasu had been a humanities don in the University, and an LTTE supporter. He distanced himself from the LTTE after Prabhakaran had Sundaram of PLOTE killed in January 1982. Arasu around 1985 published a book on Indian regionalism and the danger it posed to the Tamil struggle. Contemporaries who participated in discussions around the university at that time, said that H.N. Fernando of the Ceylon Teachers' Union was the main inspiration behind the ideas in Arasu's book, derived in turn from discussions around the 1971 JVP uprising. Wanted by the Jayewardene government (which cynically accused Left parties of the July 1983 violence), H.N. Fernando, who was then in poor health, took refuge with friends in Jaffna where Arasu met him. These contemporaries said that Mahattaya was influenced by Arasu's book. Sometime after the LTTE eliminated other groups in 1986, Arasu threw in his lot with it once more and was in hiding away from Jaffna after the Indian Army came into control. It is these circumstances that explain the university don Arasu's visit to A.J. Canagaratna, a close friend of Rajani and her family, who remained in Jaffna. He was a rare, independent intellectual, who died in Colombo in 2006.

On the 23<sup>rd</sup>, the day of Rajani's funeral, Arasu visited A.J. Canagaratna, who resided with Kugamoorthy (see Ch.4), escorted by two boys whom A.J. took to be LTTE cadres. Arasu feigned surprise when told by A.J. of Rajani's assassination. Arasu claimed that he was in Jaffna to attend to a dispute between his parents and their landlord. The nature and fortuitous manner of Arasu's visit left a strong impression that he had been sent to monitor the fallout from the murder. A.J. was part of Rajani's circle and he would have been the right person who knew what people in her circle thought. A.J. observed that Arasu was not comfortable during the visit.

According to information we received at that time, Arasu was brought in a car from Pungudutivu attired as a bridegroom going for his nuptials. He would have needed such a strong disguise as he would have been easily recognised at checkpoints by rival militant groups. His knowledge of the University and literati in Jaffna would have inevitably led the LTTE to seek information from him. This is not to say he was happy about this role, but having come thus far he was trapped, unless he wished to surrender.

L was Dharmendra's roommate. They had been classmates in Vavuniya and L had joined the PLOTE. The LTTE banned PLOTE in 1986. Promising him safety, Dharmendra took L under his wing and used him as a tool for intelligence work, taking advantage of his former PLOTE contacts. L spread a story soon after Rajani's murder, that Dharmendra saw a person running south through the Medical Faculty towards Jaffna Town. This was contrary to accounts of the northward flight of those brought in to secure the area for the killing. Dharmendra, who jealously guarded the Medical Faculty as an LTTE base, was unlikely to treat a breach of security so lightly. Many concluded that Dharmendra used L to lay a false trail.

L made himself scarce shortly after Rajani's assassination. A number of persons in his neighbourhood were convinced that he was compromised in the assassination. Saratha, a young woman whom Rajani had helped, said of this youth, *"I always told Amma (Rajani) to be careful of L, but Amma thought he was a PLOTE boy and did not take me seriously. See what has become of her?"* He later told another youth in the neighbourhood cryptically that he had broken all connections and was out of the LTTE.

In early 1990, L sought a meeting with Dr. Sritharan of the UTHR (J). They met in Colombo in March 1990 and L wished to meet the Vice Chancellor Prof. Thurairajah. The three met at the Open University, Colombo. Thurairajah casually said that he had met the UGC Chairman Prof. Arjuna Aluvihare who communicated what Vasudeva Nanayakkara MP, member of the Parliamentary Select Committee dealing with the NLMC, had told him. The Committee had received two letters from the Jaffna Medical Students' Union, the first endorsing the incorporation of the NLMC into Eastern University and the second opposing it. On Sritharan pointing out to Thurairajah that L was the Union president, L reluctantly admitted that he had signed the first letter without calling a committee meeting. The second, he confessed, came from the committee signed by the vice president (Mr. Rajaratnam). L claimed that he had signed the first under duress when asked to do so by the Dean of the Faculty, Prof. Balasubramaniam, whom he added, cried profusely when Rajani was killed.

Rajani had been a lone voice opposing the incorporation of the NLMC. We see no direct connection between the NLMC issue and Rajani's murder.



However, L's duplicity and an influential section of the Faculty being compromised with the LTTE over the NLMC, exemplify the murky environment that made Rajani's peril greater, and her death convenient.

Later, alone with L, Sritharan related the evidence he had of L's complicity in Rajani's murder. Sritharan said he knew L was minding a fleet of auto rickshaws, which the LTTE used to transport weapons, at a house in Kokkuvil. Sri asked why at Dharmendra's bidding he spread the false story of a man seen running through the Medical Faculty soon after the shooting. L admitted that he did thus to protect his life as a former member of the banned PLOTE. While denying any inside knowledge of the assassination, L offered to find out. Sri told him that he believed in being straight with students and if he did not know, he did not want him to nose around. But if he told him the truth, he would do his best to help him to go abroad.

L told Sritharan that he feared returning to Jaffna because of Dharmendra, his former classmate in Vavuniya. After the LTTE banned the PLOTE, L had kept away from studies for two years. Dharmendra brought him back as his roommate and used him. Later when Dharmendra felt that his family in Vavuniya was threatened by the Indian Army and allies, he asked L to negotiate his surrender to the EPRLF, but changed his mind. Dharmendra evidently feared that L might let slip his contemplated treachery.

Sritharan asked L if he met former assistant lecturer Arasu who was sent to inquire around after the killing. L answered in the affirmative. Arasu, he said, was staying with an LTTE supporter Tharan in Punnalaikkadduvan.<sup>72</sup> L added that were the LTTE responsible for Rajani's assassination, Arasu would have known; Tharan had told him that the LTTE consulted Arasu on all killings in Jaffna, and it was he who instigated the killing of former DDC chairman and TULF stalwart Proctor Nadarajah in 1988. L said LTTE members interested in the incorporation of NLMC had said at the Faculty that those opposing it would be dealt with severely.

While Arasu's colleagues knew that his vanity and sense of intellectual superiority enabled the LTTE to make a tool of him, his actual importance within it was open to question. During the latter phase in 2009, he was among those who wanted the LTTE to negotiate an end to the carnage, but to no effect. While the LTTE would have consulted many about killing Rajani, we must not assume unanimity among LTTE advisors.

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<sup>72</sup> Tharan was the brother of LTTE's Puli Devan, whose killing, reportedly after surrender in May 2009 featured in the White Flag controversy, and remains a major issue of government accountability.



Arasu continued writing for the Tamil newspapers in the early 1990s and moved to the Vanni during the 1995 Exodus and married sometime in the 1990s. Given his spurts of independence and criticism of the LTTE's cavalier approach to diplomacy, it would have found him a difficult man to deal with. Some of his batch mates said that Arasu completely broke with the LTTE about 2001 and became an English teacher in the Vanni.

### **3.5 Operation Fall-Out and Those Involved**

The killing of Rajani was an elaborate operation which mobilised considerable institutional resources to handle the fallout, and marks its divergence from the Rajiv Gandhi's. In the latter the main problem was access to the victim. There was little prospect of shifting the blame. In Rajani's case access was easy. She was constantly out alone on her bicycle. The difficulty was controlling the fallout. The LTTE's dilemma was the political cost within the community, hence the involved plan to shift the blame and the rush to carry it out before the Indian Army's withdrawal.

If we look at what the planning of the murder and monitoring of the fall-out necessitated, it becomes clear who was involved in the killing. As we argued earlier, the political cost was a deterring factor and whoever wanted Rajani killed had to make a case and show that a cover up was feasible. The heated argument Rajani had with two Indian officers about which Sooriyakumar and Dharmendra inquired as though concerned for her rendered the task feasible. The planning of the murder required considerable inside information from within the Medical Faculty. The Anatomy examination had been delayed and Rajani was expected back to conduct it. Rajani arrived on 6<sup>th</sup> September, fifteen days before her murder, and the Indian officers visited her about a week later.

Shortly after her arrival, Rajani wrote to the Vice Chancellor Prof. Thurairajah to inform him of her return, saying, "*There is no life for me apart from my people*". Prof. Thurairajah was once moved to remark that Rajani was the only man in the Medical Faculty. Many of the medical students who supported, or were members, of the LTTE, were also fond of Rajani. If they sensed that the LTTE had killed her, and spontaneously protested, the result would have been very embarrassing for the LTTE.

Pushpakumar was a third-year medical student whom Rajani had helped. He was a member of the LTTE and the Indian Army had asked him to come for questioning. Rajani kept him at home and told him not to go, and if asked, to say that she as his student counsellor had told him not to go because they tortured those being interrogated. The matter blew over. In the early aftermath of the murder of Rajani, Pushpakumar was apparently not aware who killed her. After the initial commemoration meetings he was found crying in the lobby of the Medical Faculty moaning that they had not

done enough for 'Madam'. As days wore on his colleagues felt that the whip had been cracked and he had received orders to spy on them.

Most LTTE supporters in the Faculty, it appears, were in the dark about plans to kill Rajani. The task of those who knew was to manage the fallout. The evidence we have collected above indicates that besides the security guard (see above), Sooriyakumar, Dharmendra and possibly L, knew.

Sooriyakumar and Dharmendra had authority over the students by virtue of being in the LTTE and through their dummy Medical Students' Union president, L. They were on the spot spreading disinformation. Among students who knew the truth, protest and display of emotion were muted. Circumstantial evidence strongly points to Sooriyakumar and Dharmendra, the most prominent LTTE insiders, as accessories to the murder.

The 1995 Exodus resulted from the LTTE's order on the 30<sup>th</sup> of October 1995, for the entire Jaffna populace to move to the Vanni in the wake of the army offensive to take the peninsula.<sup>73</sup> It was crucial for its plan that the Jaffna Hospital staff should be importuned or threatened to close the Hospital. Here the LTTE met resistance. On 12<sup>th</sup> November 1995, LTTE political wing leader Tamilchelvan came to the Hospital and tried to bully the doctors to shut down. Some doctors resisted. Dharmendra was by then an intern at Jaffna Hospital. As a student, Dharmendra had been in the same clinical group as another intern whom we will call Wenceslas. Wenceslas, who was an active Christian, had engaged Dharmendra and discussed the nature of the LTTE with him. Wenceslas says that the discussions had some impact, as Dharmendra had come to the position that the use of violence was wrong, although he generally avoided sensitive topics such as Rajani's murder. However, Dharmendra once admitted that killing Rajani was one of the failures of the LTTE. Perhaps Dharmendra remembered what Rajani told him many times, *"You are still young and have strong ideas about your cause. You feel justified in killing those you deem traitors. As you mature your ideas will change. Perhaps you will feel equally convinced that your former beliefs which drove you to kill are wrong. By then it would be too late and valuable lives would have been lost."*

Wenceslas said that Dharmendra had been very close to Mahattaya and for this reason was among those sidelined once the LTTE moved against Mahattaya and his supporters, moves which climaxed in the spring of 1993. The internal power struggle acted as a catalyst in Dharmendra's distancing himself from the LTTE's positions, with which he could not have been in total agreement anyway. Had Mahattaya been a protagonist in murdering Rajani, it would explain Dharmendra's involvement in the

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<sup>73</sup> This was on the fifth anniversary of the LTTE's order for the Muslims to quit the North *en masse*.



spadework under orders. If Mahattaya had not been involved, Dharmendra would have had a little more leeway, but may not have been strong enough to distance himself from an action he was evidently uncomfortable with. By the time of the Jaffna Hospital crisis in November 1995, Dharmendra, although still a member of the LTTE, was just hanging on. Wenceslas said that having been associated with the organisation for so long, he felt trapped, and was waiting for an opportunity to leave. After the meeting with Tamilchelvan where Wenceslas had objected to closing the Hospital, Dharmendra told Wenceslas confidentially that he was marked. Wenceslas was surprised because Tamilchelvan had smiled through the entire meeting. Dharmendra's confidence, he felt, was intended as a friendly warning.

These and other indications led some of the doctors to feel that if they continued to refuse the LTTE's offers of exit visas for their families and tried to keep the Hospital open, even as the International Committee of the Red Cross faltered, M. Ganesharatnam, Daya Somasundaram and Noel Somasundaram, doctors who were most vocal on keeping the Hospital open, would have suffered Rajani's fate. The third would have been the most vulnerable as a junior medic. It adds a further element of gravity to the ICRC's conduct in allowing itself to panic instead of backing the medical staff who wanted to keep the Hospital open.<sup>74</sup>

Through the grapevine of batch mates and contemporaries from the University of Jaffna, several doctors gathered that the LTTE sensed there were difficult times ahead, once it was pressurised to enter the Norway-brokered peace process in 2002. In preparation, it commenced sending abroad several professionals in its ranks, to strengthen itself in the West. This appears to be the context of Sooriyakumar's move to Britain by the end of 2003<sup>75</sup> and subsequently Dharmendra's opportunity to move out.

Sooriyakumar's brother was Newton, a key operative in the LTTE's Intelligence Wing. After the LTTE took over Jaffna in the early 1990s, it appointed Sooriyakumar Shadow Controller of Jaffna District Health Services. He subsequently served the LTTE as a surgeon. Sooriyakumar appears to have visited Colombo around 2005 to inquire about Newton, who was abducted in the South during the rising spate of tit for tat incidents at that time, even as the peace process was formally on. We last heard that Sooriyakumar was with the National Health Service in the UK.

Dharmendra got into the news when he accompanied Sea Tiger Leader Soosai to Singapore for medical treatment during the peace process of 2002. He left the LTTE before the last few months of the war, and is rumoured to have left the country as a UN volunteer doctor.

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<sup>74</sup> <http://www.uthr.org/SpecialReports/spreport6.htm>

<sup>75</sup> <http://www.tamilnet.com/art.html?catid=73&artid=10682>



We have no evidence that L's predecessor as Medical Students' Union president, who was an active LTTE front man in 1987, had any role in the killing. His elite background, St. Anthony's, Trinity and St. John's, places him among the types for whom the LTTE was a means to power. Their sort would have distanced themselves once it ceased to suit their ambitions. In 1987, as a leading member of the LTTE's network in the University, he was involved in the arrest of Gamini Navaratne, and demanded that the Jaffna Hospital stay put in the face of an impending assault by the Sri Lankan Army. The LTTE found him useful at that time and he too was ingratiating himself into the LTTE's confidence without being in its inner councils. He too avoided Rajani when she wanted to discuss his ideas.

### **3.6 Shadow War and Commemoration**

By the time the funeral was over on the 23<sup>rd</sup> evening, there was no doubt in our minds that the LTTE was responsible for Rajani's murder. Many of our friends abroad who had their ears close to the ground were disappointed that we left matters open rather than name the LTTE publicly. Right or wrong, it was then a matter of tactical judgment.

Firstly, political developments in the South were against us. The United National Party government under Premadasa was assisting the LTTE to gain control of the North-East. Locally, more and more people were coming to know that the LTTE were Rajani's killers. Our strategy was to raise the issue at an international level, particularly by appealing to those overseas sympathetic to Rajani's work. Apart from the UTHR(J), a large number of students, the Science Students' Union, the Medical Students' Union and the Science Teachers' Association supported this course of action. Our immediate goals were a protest march and then a commemoration inviting international visitors. In this adverse political environment, to accuse the LTTE would have been to scare away people from participation and place an enormous strain on the students. We thought it best to allow the truth to come out in the process.

The LTTE neither admitted nor denied the killing and was aware that nearly everyone else soon came to know they did it. Our preparations became a shadow war. The LTTE had no ground for confronting us, and they were becoming nervous as people with no direct connections to the University increasingly blamed them. An elderly lady from Vadamaratchi, an education officer, told us firmly, "*It is the LTTE*", as though we were slow on the uptake. Thus was the talk in the tea stalls and bicycle shops.

We had preliminary commemoration meetings in the University on 2<sup>nd</sup> October and at two schools, Chundikuli Girls' College on the 4<sup>th</sup> and Jaffna College on the 6<sup>th</sup>, where Rajani had studied. The protest march on 2<sup>nd</sup> October was led by Vice Chancellor Prof. A. Thurairajah and Dean of Arts Prof. N. Balakrishnan. Only Prof. and Mrs. Saravanapavanandan among

Rajani's medical colleagues participated. The first commemoration meeting followed the march, where Thurairajah proudly read out from Rajani's last letter sent to him upon her return from Britain about two weeks before she was killed: ***"There is no life for me apart from my people."***

As the weeks wore on towards the commemoration involving participants from abroad and other parts of the country fixed for 22<sup>nd</sup> November 1989, Prof. Thurairajah asked us one day 'was it the LTTE that killed Rajani'? Sritharan replied, *"Why, didn't you know that?"* Thurairajah said that he had thought otherwise. But later in Colombo, British High Commissioner David Gladstone asked him the identity of Rajani's killer. Thurairajah said that he did not know. Gladstone told him he had authentic evidence that it was the LTTE. Thurairajah was dumbfounded. Gladstone was an ambassador out of the ordinary who kept his ears close to the ground by personally cultivating a variety of contacts.

Sritharan had earlier explained to Thurairajah the circumstances of the murder clearly and Thurairajah had listened, but the explanation had gone completely over his head.

From that time onwards, Thurairajah was a cautious participant in the commemoration proceedings, but never discouraged us. He continued to do what we requested from him as chairman of the commemoration committee. We could also feel the staff becoming frightened. But the student unions stood firm.

By the evening of 19<sup>th</sup> November 1989, the southern delegates for the commemoration had arrived in Jaffna and were hosted for dinner at Rajani's parents' home. The fact that the Medical Students' Union president L was absconding was a sign of the LTTE's hostility. Its vice president Rajaratnam and Chooty Kulasingam, the president of the Science Students' Union, took on the brunt of organisation at considerable risk. Late evening on the 19<sup>th</sup>, while the Southern delegates were at Rajani's parents' home, the two of them came with sombre faces and reported that while they were drawing up the slogans for the march, an impressive collection of LTTE area leaders came to them and wanted them to carry slogans provoking the Indian Army by demanding their exit.

Every time the student leaders tried to explain why they cannot do this the LTTE men got angrier. Sritharan advised them to keep talking to the LTTE and felt certain that they would not dare to stop the commemoration. It became nevertheless a war of nerves.

The two-day commemoration began with seminars at the University on the 20<sup>th</sup> morning, when several of the foreign delegates too joined us. During the last seminar in the afternoon, a crisis arose when a group of LTTE-ers



under the leadership of Tamilchelvan, then known as Dinesh, came to the student union room where slogans were being prepared for the next day's march and tried to divert the purpose of the march into one against India. In effect they were trying to stop it. Rumours were already being spread that the march was off.

Sritharan too joined the students and asked the LTTE-ers if they knew the history of the struggle and how the LTTE had played a major role in giving India a foothold in Lanka? He said, now that we have to live with it, we need to deal with India carefully and not brashly. He challenged them on their implacable enmity towards other groups who too took up arms for the same cause. The LTTE men responded that the PLOTE had been a complete disgrace by acting as mercenaries in the Maldives. Rajaratnam, the vice president of the Medical Students' Union, immediately questioned them on the LTTE's no less disgraceful role in drugs running. The LTTE-ers quickly denied it. Sritharan asked them if they knew why their offices in Paris were raided by the French Police and offered to give them further details. This was a rare occasion the LTTE was forced into a political engagement and did not quite know how to cope with it.

While these arguments were going on, Sritharan came to the Kailasapathy Auditorium and in a move to scotch rumours that the march was off, told this writer to announce at the end of the last seminar the time and route of the march. As Sritharan predicted the LTTE withdrew. Adding to the drama, Colonel Sashikumar commanding the Gurkha battalion at Kondavil, told Prof. Thurairajah that they had information that the LTTE were against the march and that the Indian Army would duly provide an escort.

The highlight on the second day, 21<sup>st</sup> November 1989, was the peace march through Jaffna Town, led by distinguished foreign guests who had all known Rajani: Martin Ennals, former secretary general of Amnesty International; Abdul Rahman Babu, former minister of the Tanzanian government and later its political prisoner; and Liz Phillipson, political assistant to British Labour MP Jeremy Corbyn. The slogans demanded an end to political killings and an end to the virtual conscription of children by all parties. The LTTE's threatening behaviour and attempts to censor slogans and substitute its own were firmly resisted by the students.

Prof. Thurairajah kept away from the peace march, but chaired the main commemoration meeting in Kailasapathy Auditorium on the second day. Among those who attended were activists from the South and colleagues from Eastern University. Rajaratnam, the vice president of the Medical Students' Union, spoke boldly about the tragedy facing our youth who, ignorant of the issues involved, were being armed to serve rival factions



and all they were left with finally was a thirst for vengeance. In the commemoration meeting Mohamed Abdul Rahuman Babu observed:

*“Rajani has not died in vain, because her exemplary work will have influenced thousands and thousands of future generations. I was so touched yesterday in Jaffna, when we marched from the University through the streets of Jaffna, to see the emotions of the people who were watching, and the great terror. We could see they were terrified because there were guns everywhere, seen and unseen guns, but you could see also that their hearts were with the object of our march.”*

For two days we all enjoyed a respite from fear and the atmosphere was very free, even though the LTTE watched and openly filmed the proceedings. We had letters from members of the public expressing their appreciation of the peace march and their tremendous joy and relief at seeing the spirit of freedom still aflame in Jaffna despite the loss of Rajani.

It was at the commemoration that the LTTE, after long deliberation, felt compelled to issue a statement it distributed to the participants, denying they had nothing to do with Rajani's murder. The statement in Tamil, which began with formula rhetoric about liberation, switched tone severely warning all 'traitors' who ostensibly darkened the LTTE's good name.

As time wore on it became clear that the LTTE had not only been meticulous in execution of the murder, but also monitored and documented allied developments. After Rajani's commemoration, an old and friendly Jaffna milkman conveyed his excitement at having seen me in a video. He innocently explained that his nephew who was in LTTE Intelligence, played the video recordings of the commemoration at his home.

### **3.7 Medical Faculty: Riddance of a Painful Memory**

Weeks after Rajani's killing, the Medical Students' Union and Medical Faculty employees submitted to their faculty board a proposal to name the new faculty auditorium after Rajani. They advanced the necessity of a strong gesture of solidarity with the deceased colleague who had sacrificed so much; whence just when the Faculty was finding it hard to attract staff with advanced training abroad, a conscientious trained young person had come back at a difficult time and was brutally killed; it therefore places on the colleagues a strong need and obligation to demonstrate their indignation by giving such sacrifice the honour due.

Instead the Faculty and Senate ignored Rajani and proposed other names for the honour – the very names of persons toward whom there had, until then, been hostility, indifference or scepticism. In short, these were persons who were regarded unworthy of the honour. A faculty committee decided instead that in view of Rajani's services to Anatomy, the ground

floor corridor, rooms and the laboratory used for teaching Anatomy, known as the Anatomy Block, would be named after Rajani. The Professor of Chemistry told the Senate that a line must be drawn somewhere, as otherwise they might start dedicating single rooms in honour of individuals.

Mathematics Professor Tharmaratnam disagreed with Rajani politically. He felt that the militant phenomenon was called forth by the cowardice and moral bankruptcy of the establishment, and the corruption of the militants was more restrained than that of their older peers, who respected only the gun; and had these older, especially academic, peers vicarious access to guns, they would certainly have gone berserk in dealing with their perceived enemies. It was the failings of his generation that he felt most keenly. It was a point of disagreement with Rajani; who while critical of the sins of the older generation that had become a spent force, went further in insisting that the militant leadership should be actively challenged and should not be ignored. Tharmaratnam had a long history of contesting abuse, especially in the university system, and suffered for it. He had a deep respect for Rajani. Speaking at the first commemoration meeting on 2<sup>nd</sup> October 1989 at the University's Kailasapathy Auditorium, he said, ***"Rajani not only believed in academic freedom, she practised it."*** He also participated in the commemoration meeting at Jaffna College on 6<sup>th</sup> October, where both he and Rajani had studied.

Having listened to what passed in the Senate, Prof. Tharmaratnam remarked that he was puzzled by Rajani's colleagues' attitude to her and remarked that even self-interest and self-preservation demanded that they formally value her. This clarifies what we had encountered in the disputes over the NLMC and the constant challenges Rajani posed to authoritarianism. An influential section of the staff harboured hostility towards Rajani deep down, which alone explains their hardened attitude to all efforts to commemorate her.<sup>76</sup> This suggests that it was not fear of the LTTE alone that underlay her faculty colleagues' indifference towards observances after her death and the commemoration.

### **3.8 More Repression in 1990 – An Attack on the Incipient Democratic Awakening**

The commemoration and protest made a mark, which the LTTE found difficult to erase. Optimistically, we thought we could stay on and continue as before. But we had to contend with the politics of the South with its readiness to sell everyone else and themselves into the bargain. First they appeased the LTTE and helped them to stuff their prisons to bursting

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<sup>76</sup> The Jaffna University common room, which carries pictures of deceased members of the university staff, had no picture of Rajani into early 2015, an omission that several visitors found disconcerting.

point. Then when the LTTE provoked war in June 1990, as known in advance to those with a rudimentary understanding of the LTTE, the Government thrashed Tamil civilians with such vindictive fury that the feeble flame of Tamil dissent too was all but extinguished.

In January 1990, a group of medical students approached Sritharan and identified themselves as LTTE supporters. They said Dharmendra had encouraged them to participate in the commemoration peace march and they had felt reassured that the LTTE had not killed Rajani. But now they had some doubts. They asked if they could arrange a meeting between Sritharan and the LTTE to thrash these out. Sritharan told them that it was the LTTE who killed Rajani and no purpose was served by such a meeting.

In April 1991 when the war was in full swing, some LTTE recruiters went to a tutory in front of St. James' Church on Hospital Road, Jaffna. The school children started asking questions. One was why they had killed Rajani. Taken off guard, the recruiters responded, *"That was a top-level decision. We will make a statement at the appropriate time."* Next question was why they had killed St. John's College principal, Mr. C.E. Anandarajah. The session broke up in commotion.

At Jaffna University itself a number of students continued to act with independence in the face of a slow exodus of staff and students. Section 5.2 of our Report No.8 under *Crackdown in the University of Jaffna* describes continuing resistance by students following the LTTE's arrest of several students from May 1991. The LTTE summoned a meeting under false pretences and put on stage a senior lecturer in Tamil and former senior student counsellor to address them. The lecturer told them, *"There are still weeds left in the University. They will not be tolerated. These weeds must be plucked up and cast away."* He went on to call the detained students traitors in which category he included also the Muslims. This senior don E. Balasundaram who undertook this performance to curry favour with the LTTE, also had the privilege of leaving the University in 1994 and is now in Canada, where he is president of the Swami Vipulananda Arts Society.

Having gone deeper into the killing of Rajani, one is left with a feeling of anti-climax. Recollecting the feeling evoked by the event and the commemorative speeches made, we generally had a picture of the killer as a menacing demon. But Bosco does not present such an image. He comes across simply as one of the muddle-headed cogs in the killing machine. Some were local rowdies given an undue sense of importance by the gun. Many others were ordinary men, several of whom had close kin in other groups, who hid their doubts or guilty secrets behind the fiery, hate-filled rhetoric deifying Prabhakaran and Eelam. To show any sign of doubt before fellow sycophants might have proved fatal.



Years later, a refugee claimant seeking professional advice in Britain told Rajani's elder sister Nirmala that he had been employed at the LTTE intelligence HQ and had dealt with files. From a file he handled he gathered that the LTTE had killed Rajani and there was also mention of *The Broken Palmyra*. In Chapter 4, we will briefly discuss who ordered the killing, before moving on in Chapter 5 to talk about the spirit that Rajani and students such as Chelvi and Manoharan nurtured at the university.

### **3.9 End Note: Links to the Untold Story of the Muslim Quarter**

Recently, we received more corroboration of internal reservations in the LTTE on killing Rajani from Jaffna Muslims who returned to Jaffna twenty years after their expulsion by the LTTE at the end of October 1990.

The growth of Tamil militancy created some dilemmas for the Muslims. They basically had no problem with Tamil self-determination and were ready to fit into it as a minority within a minority. But they told LTTE's Kittu, who was among the first to try to establish a base in the Muslim area, that they cannot support violence and the LTTE should not seek to establish camps in their area. They had compatriots living in all parts of the island, and they should not suffer the kind of violence the Tamils suffered on the pretext that Jaffna Muslims supported the militants. They said they were ready to help them in any way not involving arms or military supplies.

The result was that the Muslim area in Jaffna had some resemblance to the formal neutrality enjoyed by Sweden and Switzerland during the Second World War. During difficult times the Muslims were able to provide services in communications and transportation of civilian necessities. When Jaffna was cut off soon after the LTTE's war with the Indian Army, a communication centre was opened in the Muslim area that was used by all.

When parliamentary elections were called in early 1989, the EROS group, backed by the LTTE, sought and received cash from the Muslims to contest the elections. In turn the EROS group placed Mr. Aziz from the Muslim community in Jaffna on their national list. The group obtained 13 seats in the North-East. With the permission of the Jaffna Muslim leaders, the national list seat promised to them was given to Basheer Segu Dawood of the EROS in the East. President Premadasa was anxious to talk to the EROS MPs. Jaffna Muslim leaders coordinated the transportation of Jaffna EROS MPs and facilitated their talks with Premadasa. One of EROS's demands was the release ostensibly of their political prisoners in a list of around 63, where the majority comprised LTTE detainees. For this purpose, special release forms were printed omitting reference to the Sixth Amendment, which barred those released from advocating separatism.

Soon afterwards, the LTTE wanted to do the talking themselves and thus began the LTTE-Premadasa talks. However, when the LTTE resumed war

with the Premadasa government in June 1990, the contacts of the Jaffna Muslims in Colombo, which were once useful to the LTTE, became a source of suspicion. The case was similar to that of Hill Country Tamils in the Vanni. Their knowledge of Sinhalese and their contacts had till then proved useful to the LTTE. Three years after the expulsion of the Muslims in 1990, there was widespread talk that the LTTE was contemplating the expulsion of Hill Country Tamils as well.

Earlier we mentioned the shooting of the medical student Prabhakaran a few weeks before Rajani's assassination. He was admitted in the Jaffna Hospital's ICU. His family sought help from a Muslim businessman, who used his connections and had him airlifted to Colombo Hospital. He was recuperating at the Muslim businessman's house when Rajani was shot dead. A few days later two other Jaffna medical students from the LTTE, Seermaran and Ravi, came to the businessman's house in the morning to meet Prabha. A topic that arose was the killing of Rajani.

The two who had come from Jaffna blamed the EPRLF. The businessman who was on his way out of the house knew the truth from his Jaffna associations. He paused and told the students, "*Don't talk nonsense, it was the LTTE that shot her.*" They were fond of Rajani as a teacher, and were dumbfounded by this revelation. They no doubt checked back to clear their minds. The LTTE had hoped to blame groups close to the Indian Army and had planned the killing meticulously. But they received a rude jolt on finding that the truth was quite widely known. Besides Muslims, there were also Tamils who knew and decided to be silent.

In late September 1990, a little over a month before the LTTE drove the Muslims out of Jaffna, Bosco and Salim from the LTTE's Intelligence Wing arrested a prominent local Muslim who had earlier helped them. Kanthi, a notorious figure in the LTTE's Gulag, took this Muslim man thrice to Nagar Kovil and threatened to shoot him. The detainee had told him, "*My departing this world is in Allah's hands. I do not worry about what you would do to me. But please, if you are shooting me, take me back home and shoot me in front of the Mosque.*" The detainee was spared.

## Chapter 4

### Who Ordered Rajani's Killing?

*Presentiment is that long shadow on the lawn  
Indicative that suns go down  
The notice to the startled grass  
That darkness is about to pass*

- Emily Dickinson

#### 4.1 False Trails and EPDP Obfuscation

The evidence we marshalled from diverse witnesses in Chapter 3, establishes a solid basis for our conclusion that the LTTE killed Rajani. But until such evidence was forthcoming, her murder remained a source of political games. Pro-Tiger elements vilified us for blaming the LTTE. But since the available evidence in the aftermath of the murder, and the weight of informed public opinion, left little doubt about the LTTE's culpability, some pro-Tiger elements found an escape route in the LTTE demonising its deputy leader Mahattaya as a traitor. A new tack tried was that it was Mahattaya and not the LTTE who murdered Rajani. In the camp opposed to the LTTE, too, the blame game of attributing the murder to the EPRLF was used for political mileage. We deal with the latter first as a matter of record and go on to discuss in detail who within the LTTE was most probably responsible for ordering Rajani's death.

About 1992 an Amnesty International delegate told a member of the UTHR(J) of a claim by the EPDP, based on an informant supposedly with them, that the EPRLF had killed Rajani. The claim being in conflict with evidence we had gone over repeatedly, we ignored it as not worth pursuing. It was also generally known that the EPDP was anxious to discredit and supplant the EPRLF. Moreover, there was hardly anyone then outside the LTTE questioning our version of the murder. Much later however in the latter 1990s, the EPDP paper *Thinamurusu*, which was then edited by its deputy leader Ramesh, twice repeated the accusation naming a Thomas from the EPRLF as Rajani's killer in his serial on the history of the militant struggle. Pro-LTTE elements were quick to use the EPDP's allegations in an attempt to discredit us.

At that time we did not have the extensive evidence we have now, and made inquiries into the matter. We asked Mr. T. Sritharan of the EPRLF who told us that around 1992 in Madras, he and Subathiran, another senior EPRLF leader, met the Indian journalist Bhagavan Singh who told them that one youth – who was in the EPRLF and then the EPDP – had told him that it was he who pulled the trigger on Rajani. They were very upset as they too had been convinced that the LTTE were the killers.



At that time, in 1989, the North-East Provincial Council coordinator, Mr. Muruganesan, had handpicked Subathiran to centralise the holding of weapons and bring order among the unruly elements, particularly in Jaffna and Maruthanamadam. Subathiran thus knew quite well what was going on. He made inquiries after meeting Bhagavan Singh and found no trace of any plan in the EPRLF to harm Rajani. Sritharan of the EPRLF told us that they would like the matter cleared up; and if it was a member of the EPRLF who had killed Rajani, they wanted the truth to come out.

They also found out that the youth who met Bhagavan Singh was a Selvakumar, who was for a short time under Suresh Premachandran, but later joined the EPDP. They found that he was a Rambo-type who knew English and liked racing about in cars; they were puzzled as to how he came into their group. When we contacted Bhagavan Singh in Madras, he said that he later stopped taking Selvakumar seriously as he found that he had a drinking problem. We came to the conclusion that the EPDP had naively or otherwise used Selvakumar to score a point against the EPRLF. But Selvakumar proved to be a wild card. He deserted the EPDP in December 1992, was caught by them in a Kotahena club on New Year's Eve and detained. He later divulged information to international human rights groups about the EPDP's prison in Park Road, Havelock Town. After this embarrassment, the EPDP went silent for several years on their Rajani story. Selvakumar reportedly found refuge in Sweden.

In the late 1990s the EPDP revived the story substituting Thomas for Selvakumar. Thomas who had left the EPRLF was astounded. He was at the time living in Colombo. At least two persons from within the EPDP questioned the EPDP leader, telling him he knew well that it was the LTTE that had killed Rajani. The EPDP leader replied either by aggressive dismissal such as, "Why not, the EPRLF have killed haven't they?" or by remaining silent.

The EPDP's need to discredit the EPRLF lies in its leader Douglas Devananda's breakaway from the EPRLF in 1986. After sullyng its reputation through involvement in the Indian Army's pacification programme against the LTTE, the EPRLF was in crisis by 1990 and faced many painful questions. Many of its members and conscripts in the Tamil National Army were massacred by the LTTE. Some of its leaders like T. Subathiran and T. Sritharan wanted to return to their party's Marxist roots, and refused to give their armed cadres to President Premadasa's counter insurgency programme. The EPDP accepted Premadasa's patronage and supplied armed cadres to the State. The cadres participated in the taking over of Jaffna's offshore islands and security operations in Colombo. Because the EPDP's own cadres were politically inexperienced, it had a need for experienced EPRLF cadres in dealing with the people.

This was the main reason, apart from old rivalry and anger, why the EPDP went all out to discredit the EPRLF and attract its cadres using government patronage and offers of financial security. The section of the EPRLF that wanted to be a political witness among the people, true to its Marxist origins, was cash strapped and its monies and property were controlled by its secretary Suresh Premachandran. The last straw came at the end of the 1990s. Suresh, we may infer, having come to an understanding with the LTTE, fixed a long overdue general meeting in Vavuniya town where LTTE assassins operated with ease. This effectively prevented those who opposed Suresh from attending the meeting. Suresh thus took his followers, a minority, along with the organisation's assets, and formally deserted to the LTTE front, the Tamil National Alliance. The majority in the EPRLF who did not want to associate with the LTTE faced hard times. Several of them in time joined the EPDP that was part of the Government; and for Marimuthu Rasalingam of Karaitivu in the East, it turned out to be a raw deal. Getting persons like Rasalingam, an ex-bank employee who had political experience in the EPRLF, enabled the EPDP to forge a presence in the East. Rasalingam became chairman of the local council in Alaiyadi Vembu. He had to travel from his home in Karaitivu to Akkaraipattu by bus and the only security he was offered was two policemen to sit on either side of him, which he rejected as someone who had to move with the people. The LTTE killed him on 18<sup>th</sup> April 2003 when he left the council office in Akkaraipattu (UTHR(J), Bulletin No.32).

We now examine the charge made by some persons who had links to the LTTE that Mahattaya was the main party to Rajani's killing.

#### **4.2 Mahattaya Knew**

Mahattaya came into Rajani's life through her sister Nirmala. Rajani had little or no direct contact with Mahattaya and had not been involved with the LTTE while in Jaffna. Rajani's husband Dayapala warned her against having any contact with them because he believed that their politics was the anti-thesis of human dignity. Rajani only became involved with LTTE cadres in Jaffna, purely out of compassionate reasons. In February 1982, the month after Charles Anthony (Seelan) had been used to kill Sundaram of the PLOTE, he had a serious injury from a gun accident. It was Nirmala and chiefly Rajani who saved his life and nursed him intensely for two weeks before he could be moved to India. Seelan had a second knee injury after leading the attack on Chavakacheri Police Station in October 1982. Soon afterwards, when Army Intelligence arrested Nirmala and her husband Nithyanandan, they did not have anything on Rajani. who was not a sympathiser of the LTTE at that time.

In the early 1980s, Rajani, Dayapala and their two infant children lived in the main house of the Rajasingams, and Nirmala and Nithy lived in the annexe. Mahattaya occasionally visited the Nithyanandans. Kugamoorthy came there



for help in Advanced Level Economics from Nithyanandan. A. J. Canagaratna, a Marxist intellectual, was Nirmala's colleague in the University's English Language Teaching Unit. Those in A.J.'s circle recognised in him an intellectual pearl of great price who was not given his due by Jaffna society. A.J. who was truthful and very straight in his dealings had no sympathy for violence and held in contempt the opportunism and pretentiousness of several of his prominent university colleagues. A bachelor, he went into periodic depressions when he drank heavily and someone had to take charge of him and bring him back to normal. This was the role Nirmala played. Hence the Rajasingam household became a meeting place, where persons holding disparate opinions got to know each other.

After Nirmala's arrest, Kugamoorthy took A.J. under his wing and, eventually, into his home. Kugamoorthy was a very compassionate and helpful man whose sympathy was essentially with the LTTE's victims. An extraordinarily dutiful son, he patiently washed his mother's septic bed sores. When the LTTE banned the EPRLF, a young girl came to his home with a small bag containing her picture in an EPRLF uniform and several cassettes of her leader Padmanabha's speeches. She needed to hide. With the help of Kugamoorthy's friends, she was taken to Fr. Jayaceelan, who found her a place in a convent. Kugamoorthy was killed in Colombo during late 1990 as a suspected LTTE agent after being abducted by state intelligence operatives, who came in a van with a key EPDP personality. This EPDP personality became in turn an embarrassment to the EPDP by his writings in the *Thinamurasu* he edited, as it began to lean towards approbation of the LTTE leader, and inevitably belittled his nominal leader, Douglas Devananda (a government minister and survivor of the 1983 Welikade prison massacre), whom the LTTE repeatedly tried to assassinate. In 1999, the *Thinamurasu* editor fell victim to state-sponsored killers.

Unlike the others in the LTTE leadership, Mahattaya was, while being as brutal as the rest, a political animal. Mahattaya was keen on finding out the public pulse, especially after the LTTE brutally decimated the TELO and public disquiet grew. For this purpose he regularly visited A.J., making him feel very nervous. Typically, Mahattaya put to A.J. questions like, "*Earlier many good people supported and helped us, but they now behave as though they would not touch us with a broomstick. But the large numbers flocking to us now are the very persons whom we regarded anti-social elements. Why is that?*" Indicating that the answer was obvious, A.J. replied cautiously, "*You must ask the people.*" On another occasion near 9.00 PM, while calling on A.J., Mahattaya's security alerted him to a radio call. Mahattaya was told of an arrest and asked what to do with the detainee. Mahattaya replied peremptorily, "*Thalayla podu*" (Put him one in the head). On another, or possibly the same occasion, A.J. pleaded for



the victim and Mahattaya ordered the execution stopped at least for the time. On these occasions, Mahattaya also met with Kugamoorthy frequently. Arasu too (see chapter 3) knew A.J.'s value as an intellectual and frequently sought him out. Through this contact, A.J. warned individuals whenever he gathered that trouble was brewing for them.

Nirmala, Rajani's sister, told us that upon Rajani's return to Lanka from England in 1986 after her PhD, Mahattaya wanted to see her; but she had refused. Mahattaya had his informants in the Intelligence Wing, through whom he would have learnt in the spring of 1989 that they were very annoyed with Rajani's influence as an alternative voice in the University. This was when he contacted Dayapala.

If Mahattaya wanted to meet Dayapala, he knew that Kugamoorthy was an appropriate channel and to this end sent three messages during April to June 1989. Though murdered by the State as an LTTE supporter, Kugamoorthy was certainly not one. Mahattaya maintained contact with all those he came to know at Nirmala's house and it was an imposition they could not refuse. It appears that one of the reasons for Mahattaya wanting to meet Dayapala was Rajani.

It is appropriate to say a word here about the company that met in Nirmala's annexe. A.J. feared the LTTE, but reluctantly bore Mahattaya's visits. Kugamoorthy, with whom A.J. later stayed, had personal rapport with Mahattaya, but was totally opposed to his politics, and personally helped LTTE's opponents who were in trouble. He was someone whom one would unhesitatingly call a good soul. Dayapala too became a critical member of such company. As ruthless as Mahattaya was, he had a capacity for friendship and those who knew him assert that this aspect of his personality was genuine. Dayapala too is inclined to this view.

Unlike the typical LTTE member, Mahattaya was not narrow. His father had been a member of the traditional Left (LSSP). He established friendly rapport with Dayapala, told him and showed him things an LTTE-er would not, to someone outside the group. After the attack in July 1983 when 13 soldiers were killed, Dayapala could not refuse when Mahattaya took him to the location and explained the attack to him. On an occasion in late 1982, Dayapala was at Kugamoorthy's when Mahattaya came there. An LTTE cadre by the name of Pandithar came by, gave his gun and grenade to Mahattaya and left. Mahattaya explained that he was leaving the group and then dismantled the grenade showing Dayapala how it is done. Mahattaya never attempted to use Dayapala for his ends.

During the early days of Nirmala's involvement with the LTTE in 1980, she brought Mahattaya to Rajani, who treated him for a hand injury. Once or twice Rajani and Dayapala while cycling had met Mahattaya and tipped him off about an army presence in the direction in which he was moving. After

Rajani left the LTTE in London (from where she had earlier joined) and became critical of them, both she and Dayapala, besides their circle, believed that Mahattaya would remain an advocate against the LTTE harming her.

In 1989, during the peace talks with President Premadasa, Dayapala, then underground, as earlier mentioned, received three messages from Mahattaya to meet him. The first asked Dayapala to meet him in Jaffna. Being a fugitive himself, Dayapala replied that it was not possible. The second was to the effect, *"Why are you going through such hardship hiding in the South, you come to the Vanni and we will look after you."* Dayapala again rejected it. He had become politically close to the EPRLF and Mahattaya knew it. The other possibility that occurred to him was that he may be used to enforce silence on Rajani. The third message was along the same lines as the second.

Rajani went to Britain in June 1989 for a research stint. By this time, as indicated elsewhere, Rajani had premonitions of approaching death and had no illusions about any advocacy for her within the LTTE. When Rajani set off to return to Jaffna in early September 1989, Nirmala told her to send her daughters to Colombo in the event of trouble and to go underground, until they could get her out. Despite the warning signs, Rajani felt responsible for her colleagues, particularly in the UTHR(J). She returned in September and was murdered within the month. Kugamoorthy later told Dayapala that had he accepted Mahattaya's invitation the outcome could have been different. However by this time the Prabhakaran was working against Mahattaya.

Knowing some of those involved, such as Dharmendra, who were close to Mahattaya, makes it certain that Mahattaya knew that some plans concerning Rajani were afoot. The time span 1987 - 1993 covers Mahattaya's ascent to power and precipitous decline. It is also in this period that the LTTE decided to sabotage the IPKF mission and go back to war with the Sri Lankan state, the span in which Rajani and many other dissenters were eliminated. Further, the period was critical for internal power struggles within the LTTE that were not obvious to the outsider. Different sections of the LTTE - particularly the Intelligence Wing - were stalking Rajani. Those familiar with the LTTE in 1989 assert that Mahattaya was in charge of operations and intelligence personnel, despite taking orders from Mahattaya, were also working against him.

### **4.3 War and LTTE's Internal Strife**

After the May 1986 massacre of TELO cadres and decimation of other groups, Mahattaya's influence in Jaffna grew. Prabhakaran moved from India to Jaffna in January 1987, setting the scene for a bitter internal feud.

Arasu told a former teacher that it was Mahattaya who instigated Rajani's killing. If indeed Arasu was an intelligence asset, this claim needs to be examined carefully. It is true that in early 1990, before the outbreak of war



at least, Mahattaya appeared to enjoy unchallenged authority over Bosco (who shot Rajani) and other members of the Intelligence Wing, including Salim, Charles and Theepan. This we may infer from Samaran's booklet *Psychopaths* published by the EPRLF in 1992, after the author's escape from the LTTE's notorious Thunukkai prison.

Samaran was taken prisoner by the LTTE in early 1990 as a suspected EPRLF supporter, first held in Charles Camp, Chavakacheri, and then transferred to Thunukkai Complex, where owing to the huge number of detainees, prisoners were interrogated by 15-year-old boys who asked them set questions (including vulgar ones totally unsuited for children) and wrote down the answers verbatim for their masters. Extract from *Psychopaths*:

*"Bosco, who was in charge of a prison camp in Chavakacheri, called me and spoke to me. The time was past mid-night. We saw six vehicles coming towards us. I was quickly shut up in a cadjan shed, but could see and hear what went on through holes. As soon as the vehicles stopped, the men got down and took up positions. Deputy Leader Mahattaya then alighted, and Salim saluted him and stood to attention. Mahattaya asked, 'Have you started the inquiries on prisoners, why have I not received any reports?' Salim replied that he had gone to Mannar for two days, and that was why they had not started the inquiries. Immediately Mahattaya became angry and abused Salim in filth in front of his subordinates, 'Why did you go to Mannar, to sleep with your woman, did you? You had better finish the inquiries and the reports must reach my hand in ten days. If this is not done, I will finish you off.'"*

Mahattaya's party thereafter got into their vehicles and went round the barbed wire perimeter of the camp. Mahattaya then called Salim and ordered him, *"Get those sons of harlots to clear more jungle,"* and drove off. This incident appears to have been before the outbreak of war in June 1990, when lorries carrying LTTE's prisoners (65 in a lorry) and leaders like Mahattaya moved freely through the Sri Lankan Army checkpoint at Elephant Pass. It also appears that Mahattaya did not have much in mind then besides the prisoners and was not thinking of impending war. Eliminating dissent was part of his consolidation. He wanted more jungle cleared, probably to accommodate hundreds of additional prisoners.

The Intelligence Wing leader Pottu Amman never came inside the camp, but inspected the place from outside twice a week. Pottu Amman's arrest of Mahattaya in 1993 suggests that Prabhakaran had been using Pottu to tighten the noose around Mahattaya. Vassals like Salim and Bosco, instructed by Pottu, or on their own, had humoured Mahattaya.

There is a strong case for the proposition that the LTTE's main motivation for resorting to war every time there was an attractive option of peace had



to do with the resolution of its internal power balance, as well as to re-consolidate the Leader's absolute supremacy. During early 1987 Mahattaya was influential and most ground commanders with field experience had direct dealings with him. These commanders had earlier moved closely with and listened to the ideas of members of other groups, several of whom they later killed on orders from above. In a personal crisis several of them were prone to questioning LTTE ideology and asking why a large number of their fellows left, while some others were killed on orders from within?

To draw a proper picture one needs to list senior LTTE members from its inception in 1975 and trace what became of them. Though Karuna became one of the senior-most leaders by 2000, he had joined as late as 1984. For the LTTE to order the suicide of a senior figure like Thileepan to arm twist India for political concessions points to the pathological. Those left within were totally incapable of challenging the Leader. Seniors like Sellakili who might become a nuisance were eliminated by stealth.<sup>77</sup>

Mahattaya was prominent in the war with the Indian Army. When the LTTE provoked the war it ordered a dozen of its cadres including senior leaders like Kumarappa and Pulendran, who had been detained by the Sri Lankan Navy, to commit suicide, nine days after Thileepan's. Anton Balasingam and Mahattaya, who obtained permission to take food to the detainees at Palaly Base on 2<sup>nd</sup> October 1987, gave them cyanide and communicated the order from the Leader bidding them to commit suicide in the event of an attempt to transport them to Colombo, to which transfer the Indians objected. A.J. was thoroughly shocked to learn that Mahattaya - while addressing the press at the Jaffna LTTE office in front of the University at 4.30 PM on 2<sup>nd</sup> October 1987 - had suddenly looked at his watch and dropped the bombshell that it was time for him to collect the bodies from Palaly Base. Under the Indo-Lanka Accord, India had to deal with the problem of the detainees at Palaly, legally and diplomatically, but the matter would have been resolved soon. Once the detainees committed suicide, the LTTE blamed India and started the war.

By the spring of 1989 the LTTE had begun secret talks with the Sri Lankan state to make a deal that would get the Indian Army out and leave them in charge. Mahattaya was the leading LTTE representative in talks with the Premadasa government. His own ideas went in the direction of political consolidation under the political party the Peoples Front of Liberation Tigers (PFLT), which he headed. These political ideas he put to work. For instance, the major conference with Muslim leaders in Vaharai in early 1990 left many leading Muslims happy.

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<sup>77</sup> Sellakili died during the 23<sup>rd</sup> July 1983 ambush of an army patrol in Jaffna, an event soon shrouded by the eruption of communal violence. Some who took part were convinced that Sellakili was not killed by army firing.

It seems that Mahattaya was prepared to dilute the ideology of Eelam, which recognised only a uniform cast-iron Tamil identity with the LTTE enjoying almost divine status. He was willing to accommodate the Muslims within an authoritarian polity with something like the Millet system used by the Ottoman Turks, which gave the large Christian minority some, at least symbolic, autonomy in their internal affairs. This was already in operation with some prominent Christian churches having worked out mutually convenient arrangements with the LTTE.<sup>78</sup> The LTTE reaped considerable benefits from the church leaders' overseas propaganda machinery. Today these churches face crises of identity after having for over two decades accommodated Prabhakaran alongside Jesus Christ.

These were general practices where leading sections of civil society cast principles aside to come to pragmatic arrangements with an authoritarian force bent on consolidation. Local and international peacemakers saw in these practices an opening to advance peace and positioned their strategies accordingly, even though it meant consolidating a repressive polity. They sought appropriately fashioned rewards and punishments at global level, involving mainly recognition and material aid, to deter their reverting to war. This had very little to do with human rights on the ground. To this end, an insurgent group seeking political consolidation was for peacemakers a welcome sign suitable for their skills; even if the peace in prospect was so oppressively fragile that a breakdown was not only likely, but would also leave the supposed beneficiaries far worse off.

By mid-1989, many supporters of the LTTE knew that the talks with President Premadasa were to get the IPKF out of the country before they launched their final battle for Tamil Eelam. Mahattaya would not have differed on this; the difference would have been in the timing of the *finale*.

On 10<sup>th</sup> June 1990 the LTTE broke the ceasefire agreement and commenced the war in the East in a most provocative manner, killing

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<sup>78</sup> The churches had, as a rule, been careful not to criticise openly the government of the day. Bishops Lakshman Wickremasinghe and Leo Nanayakkara (Anglican and Roman Catholic respectively) became exceptions consequent to the suppression of the JVP insurgency in 1971 and the labour and minority issues that came into focus in the latter 1970s. An early exception was Bishop Harold de Soya (Anglican) who having witnessed in 1961 (when he was Archdeacon of Colombo) the violent manner in which the Government dealt with the Satyagraha in Jaffna, expressed his humanitarian protest in a sermon preached in Colombo. Leading churchmen among the Tamils, like the majority of their southern counterparts, fought shy of criticising the Government even as Tamil political sentiment became increasingly nationalist from the mid-1970s. In 1980, the Bishop of the Church of South India preached a memorial sermon in Tellipalai hailing the late Tamil nationalist leader S.J.V. Chelvanayakam, who had called for a separate state in 1976, as 'the Moses of the Tamils who died before seeing the promised land'. It was a cue for Tamil churches to swim the Tamil nationalist tide deploying the arguments of Liberation Theology, whose context was economic oppression. The same logic pushed many churchmen to throw in their lot with the LTTE's monopoly gained by brute power. However, many churchmen remained silent opponents of the LTTE and helped dissidents to hide and escape.



hundreds of surrendered policemen. This was contrary to the aim of Mahattaya's work. A new ceasefire was agreed upon, which broke down. President Premadasa was anxious to avoid war and tried earnestly to avert one. On 15<sup>th</sup> June a party led by Higher Education Minister A.C.S. Hameed flew to Jaffna to talk directly to the LTTE leadership. The following section in UTHR(J) Special Report No.3 of October 1990 is from the account verbally communicated by Prof. Arjuna Aluvihare, who was then University Grants Commission (UGC) Chairman:

*"The Minister landed at Palaly air base, and his party was driven to an LTTE camp 10 miles towards town in LTTE vehicles. The LTTE leadership was represented by Mahattaya, Balasingam and Yogi. Mrs. Balasingam was also present. A ceasefire was agreed upon to take effect the following day. It was agreed they would all meet shortly after 9.00 A.M. the following morning to place the formal seal on the ceasefire. The Minister and his party were to return to Colombo for the night. A member of the party observed that the LTTE was cagey about the arrangements for the following day. To questions about essential details for the following day, cryptic answers were received, which betrayed a feeling that tomorrow would not happen. In the arrangements for the following morning, the LTTE wanted the minister to wait outside the base rather than pick him up from inside as it had done that day. Balasingam cautioned the party that the LTTE sentries may be nervous. A member of the party noticed that Yogi, Mrs. Balasingam and to a lesser extent, Balasingam, were showing evident signs of discomfort and edginess. Mahattaya, however, looked composed. He concluded after the sequel that an elaborate drama was being put on – the three members mentioned played along without being happy about it."*

The peace attempt came to grief when the LTTE fired mortars into Palaly Base. Aluvihare's impression was that the LTTE put on an elaborate drama, with the Balasingams and Yogi playing along reluctantly. The Balasingams and Yogi knew Prabhakaran's mind and their presence served the purpose of keeping a check on Mahattaya. The talks above would have been a purposeless ritual unless someone powerful enough in the LTTE wanted a ceasefire, and contrary efforts were directed by a party with a different agenda to render the 'talks' futile.

Through the PFLT, Mahattaya had tried to consolidate and stabilise the LTTE's influence over the populace, including the Muslims. Such an effort required time. To throw it all away at the outset by massacres of Muslims was to cripple the LTTE's prospects of ruling the East.

Mahattaya's rivals in the LTTE leadership could not take him on directly as many cadres were loyal to him. They had to undermine him step by step. Starting the war prematurely is an instance of the tortuous internal politics



of the LTTE. Rajani's elder sister Nirmala supports the reading that Mahattaya was the intended victim of the premature war. She told us, *"Mahattaya was trying to build himself up politically. He was a killer, but was not so narrow like the other LTTE leaders. He was not the type to dismiss a man as an enemy because he was Sinhalese. He was talking to the Muslims and was working his way towards talking to the Sinhalese."*

**Senkathir:** Further evidence that the war was wholly or in part a coup against Mahattaya came later in 1990, when several of his loyalists were removed from important positions. It was then that the Mahattaya protégé Senkathir disappeared. Though his body was never shown the LTTE held that Senkathir died fighting in the Vanni. His oppressed caste community in Karaveddy insisted there had been foul play. Senkathir had also featured in a story that in effect connected Mahattaya with Rajani's murder. Immediately after the killing, many blamed EPRLF. A few weeks later, the EPRLF put out a notice claiming that Senkathir killed Rajani.<sup>79</sup> Several impartial observers in Karaveddy believe that members of the high castes in the area lobbied against Senkathir, because they resented his throwing his weight around among them and this was at the root of his disappearance. His community summoned the LTTE to a meeting demanding an explanation. At the meeting, the cornered LTTE spokesmen resorted to the expediency of claiming that they punished Senkathir because he had killed Rajani without the Movement's authorisation!

Mahattaya was being progressively isolated. By 1992, his isolation was already palpable. 5.4.1 of UTHR(J)Report No.10:

*"Travellers exiting the LTTE-controlled Vanni to Vavuniya on 6<sup>th</sup> July 1992 were stopped and ten blindfolded 'traitors', two women and eight men, were brought there. "At this point a Pajero jeep arrived. A slightly obese man in mufti and a further 5 persons descended from the jeep. The crowd whispered, 'Mahattaya, Mahattaya'. Six persons had come with the 'traitors' in the Elf van who had a frightening visage. Although two were huge, the smaller ones were no less daunting. They wore black arm-bands on the left hand, and not a hint of a smile escaped their faces. They positioned themselves 15 yards in front of the traitors, weapons ready."*

The execution proceeded after the victims were charged with being found passing information on to the Sri Lankan Army. Mahattaya was not a man who had needed gory shows to prove his authority. We recorded:

*"[This show was put on by Mahattaya] at a time when his authority within the Movement was increasingly the subject of speculation.*

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<sup>79</sup> Soon after Rajani's murder, the EPRLF issued a statement identifying Senkathir as the killer (Ch.2). This we inferred was possibly based on an intelligence report that Senkathir was in the area – an accusation the LTTE later found useful against Mahattaya.

*Mahattaya, according to reliable reports, has now been delegated to do rehabilitation and refugee work. One reason for the demotion, it is said, is a complaint that he was interfering too much with the work of the intelligence unit!"* Namely Pottu Amman's unit.

The final act of the coup against Mahattaya came on 31<sup>st</sup> March 1993. On that day the Intelligence Wing went to his home and arrested him. On the same day they went to almost every civilian home that Mahattaya used to visit and took in many persons, a number of whom according to local sources were never seen again. The complete secrecy in which the operation was advanced indicates that Mahattaya's sources in intelligence had been weeded out as part of his progressive isolation. While the official date of Mahattaya's execution is given in Adele Balasingam's book<sup>80</sup> as 28<sup>th</sup> December 2004, a village headman who was interrogated on the charge that he was helping Mahattaya, said, after his release, that Mahattaya was shown to him over a year after his official execution, sporting long hair and a lengthy beard.

History is full of ironies. In May 1987, Mahattaya was investigating an initiative from the University calling upon the LTTE to talk to the Government on the December 19<sup>th</sup> 1986 Proposals (see Ch.2). The conversation with the author whom Mahattaya was interrogating at his home turned on non-violence as a means of struggle, prompted by the author's brother who was present. Mahattaya responded sharply, *"We have spent twelve years building up our Movement. Do you want us to throw it all away and go home?"*

#### **4.4 Who Ordered the Killing?**

Mahattaya's increasing isolation from the centres of power and decision making leads us to question the story that it was he who was the decisive voice in Rajani's assassination. Tracing the story takes us further, to the Intelligence Wing and Bosco. Rajani's killer Bosco was identified by both witnesses and those who knew him (including Hussain, the boy at the community centre and Samaran) as a member of the Intelligence Wing. This also connects up with Kapil Amman, a leading intelligence man, who spoke at the community centre and the student Sooriyakumar, whose brother Newton was senior in intelligence. The involvement of the Intelligence Wing points to the killing having Prabhakaran's sanction, of a general or particular nature.

The Intelligence Wing, which Prabhakaran created while based in India, remained intimately his own creature, and was used to weed out dissent in the mid-1980s. The central committee apparatus was consequently done away with and many left the movement at this time. It was natural that

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<sup>80</sup> The Will to Freedom: An Inside View of Tamil Resistance (2003)



leaders who operated on the ground would build up their own contacts and have some dangerous illusions of autonomy. The Intelligence Wing was the tool used by the Leader to watch them and cut them down to size. Up to early 1990, Mahattaya remained outwardly powerful and those in the Intelligence Wing did not disobey him openly. In 1993, he was taken by complete surprise when Prabhakaran judged the time ripe and ordered the intelligence outfit to press the final strike against him. Until 1990 at least, Prabhakaran found it prudent to humour Mahattaya by tolerating his giving orders to the Intelligence Wing, while biding his time.

The timing of Rajani's killing, just after the announcement of the Indian pull out and days after she had a heated argument with two Indian officers, points to both political and intelligence concerns being coordinated at a high level. As the LTTE was then working closely with the Sri Lankan government, they would have sensed by about mid-1989 that the Indian Army would pull out in the next few months and set their mind to clear the North-East of actual and potential opposition so that the region fell into their hands with the Government's blessings, like a ripe mango. Killing Rajani was the first step towards silencing the University. Had they waited, the cost of being openly identified as her tormentors would have been heavy. The secrecy and speed with which the LTTE set about having parts of *The Broken Palmyra* translated about August 1989, suggests, besides the urgency, that there were some doubts within the LTTE, purely on what it would cost them. Intelligence of the argument she had with the two Indian officers changed the state of play, as it provided the opportunity to kill her and shift the blame away from themselves.

As for Mahattaya, he knew about the developments right along. We saw in Chapter 3 that Dharmendra, one of the medical students privy to the killing of Rajani, was close to Mahattaya. If Mahattaya was in charge of operations as claimed by those who knew the LTTE at that time, which is further supported by Samaran's testimony above that the Intelligence Wing appeared to take orders from him, the case for his involvement, passive or otherwise, in the operation against Rajani becomes strong.

The reasons for Rajani's murder given by various persons who had contact with the Intelligence Wing are consistent: that Rajani's influence overseas was adverse to the LTTE. The reference would have been to her writings and in particular *The Broken Palmyra*. In these she had sharply attacked the LTTE's military tactics that deliberately maximised civilian deaths for propaganda and had taken to pieces their claims to be true liberators. There were three other co-authors of *The Broken Palmyra*. Having known of Rajani's outspoken personality, the LTTE would have thought her the decisive influence and that killing her would silence the others as well.



Most importantly, for someone who knew the organisation from the inside to become a leading dissident on home ground would have been seen by the LTTE as a critical challenge to its authority. Rajani understood this. Her writing in *The Broken Palmyra* shows that she was challenging the LTTE's politics and very carefully avoided personalities. But when the politics descended to a level of depravity that was cynical about civilian suffering and boasted of human catastrophe as the price of the separate state, Rajani's confronting student supporters of the LTTE with these perversions caused severe headaches to the LTTE, which had a sizeable following among medical students. As events showed, it deliberately fashioned a hard core of cadres among the elite who could eventually be deployed overseas, monitored and checked. It gladly used dilettante supporters among the overseas elite who flocked to its banner, though it never trusted them.

#### **4.5 Hints from the Past**

One would find it hard to understand the LTTE's actions without taking internal power struggles into account. People on the ground saw it functioning as more than one group. For example, LTTE's Jaffna leader Kittu lost a leg in a grenade attack in the night of 30<sup>th</sup> March 1987. Those who went to the LTTE's Jaffna office the following morning and asked for Kittu found new men who laughed at their question. It soon became the talk of the streets that Mahattaya's men had taken over the office, although to this day it is not certain who attacked Kittu. 'Mahattaya's men' was a common expression in Jaffna – a public acknowledgement of division within.

The story in *The Hindu* of 24<sup>th</sup> July 1989 about a gunfight between Prabhakaran's and Mahattaya's supporters leading to Prabhakaran's death turned out to be false, but was not taken lightly by the people who heard rumours of dissension. When the Indian Army left in early 1990 and Mahattaya with LTTE fighters approached Valvettithurai, the people demanded Prabhakaran in person before admitting them.

In Rajani's case she was being watched in the Medical Faculty by persons close to the Intelligence Wing (e.g. Sooriyakumar) and by persons close to Mahattaya (e.g. Dharmendra), each spy reporting to his patron. Pottu Amman, though placed in Vadamaratchy to check Mahattaya, had to humour Mahattaya, but was not reporting to him. Pottu Amman no doubt reported directly to Prabhakaran. We saw the considerable discretion he employed in dealing with *The Broken Palmyra* (Chapter 2).

We saw in the foregoing that Mahattaya was around May 1990 going into intelligence camps and demanding that they expedite interrogation reports on prisoners. Pottu Amman – nominated by Prabhakaran to take over intelligence – rather than going inside, had been calling intelligence camp

wardens out and talking to them. One of the accusations later levelled against Mahattaya was that he was meddling in intelligence matters.

We note that Rajani was assassinated by intelligence cadres within a short time of Pottu Amman's dispatching translations of sections from *The Broken Palmyra*. A possible explanation that fits available facts is that Pottu Amman's report went in the first place to Prabhakaran, mentioning besides the opportunity provided by the visit to her office of two Indian officers. Besides, Prabhakaran may have used an order to murder Rajani as a means of asserting his own authority over Mahattaya within the organisation. This does not mean that the latter played no role in the matter.

We have not identified any prominent Mahattaya person to have been directly involved in the killing itself. Arunothayan, a Mahattaya man, was involved mainly in monitoring and controlling the fallout. A further significant indication is that a person who dealt with intelligence files in Pottu Amman's office told Nirmala that the file pertaining to the killing of Rajani was among those he had encountered in the archives. As for Balasingam, we know of nothing he said on this score, but may surmise that he lost no sleep over Rajani's murder. We might mention that Rajani had been alarmed when the LTTE killed TULF leaders A. Amirthalingam and V. Yogeswaran; from what she had come to know, Balasingam hated the TULF leaders with a pathological intensity.

To summarise the foregoing, the killing of Rajani was done by the LTTE's Intelligence Wing with Mahattaya's knowledge, if not consent. We may go a little further. When it became widely accepted in Jaffna, within a few weeks of the murder, that the LTTE was responsible, it was sorely embarrassed. After it detained and discredited Mahattaya in 1993, some pro-LTTE expatriates tried to pin Rajani's killing on Mahattaya, who was by then reduced to a rogue and renegade. But the LTTE did not make this its official line. They had no second thoughts about Rajani's death. The highly secretive translation of excerpts from *The Broken Palmyra* by Pottu Amman, and the killing being carried out a short time afterwards, suggests that the order was given by Prabhakaran himself to Pottu Amman; perhaps among other reasons, as a means of asserting his authority in an ongoing internal power struggle.





## Chapter 5

### Breaking with the Authoritarian Ideologies of Straw Men

*Though nationalism was meaningful due to the threat to existence under the Sri Lankan state, its narrowness, violent rhetoric and bigoted imagery were the reactionary elements that were to remain with the nation. The militants were not the initiators; they were the continuation of this history. The ideology in its totality goes to the credit of the 'moderate' and 'middle of the road' nationalists, who were the initiators of this narrowness.*

- Rajani Thiranagama, *The Broken Palmyra* Vol. 2, 6.2.5

#### 5.1 After Rajani: Turning Jaffna into a Sepulchre of Hearts and Minds

The spirit of open defiance represented by Rajani was extinguished with the arrest of students Chelvi Thiagarajah and George Manoharan. In May 1991, Chelvi had an open confrontation with a leading accredited dramatist, soon after the staging of the latter's play at Chundikuli Girls' College. The play, directed towards recruitment, was about the victims of the Indian Army rising from the ashes like a phoenix to give birth to a new nation under the LTTE leader's guidance. Chelvi was furious about its totalitarian intent, which devalued victims of the LTTE at a time when it was detaining and exterminating dissidents by the hundreds. Those present at the confrontation felt anxious for Chelvi.

Chelvi then spoke of a counter-play to be staged by her circle, which was under preparation at the University. Chelvi was arrested in August 1991 along with Manoharan and Thillai, who were part of Chelvi's drama circle. A contemporary student leader at the University who had earlier belonged to EROS told us that a month before Manoharan and Chelvi were arrested, the LTTE had arrested three university students, Srinivasan, Govindaraj and Dharshini, for connection with dissident activity. This was about late June 1991. The erstwhile student leader said EROS leader Balakumar had them released. He saw Balakumar as trapped with nowhere to go, and so remained in the LTTE's civil administration arguing that he could use his influence for the good.<sup>81</sup> Balakumar, this former student leader said, was very sympathetic to Manoharan and Chelvi, adding that he confessed to being in agreement with all that Manoharan said, but felt that Manoharan had been unwise to articulate these sentiments strongly in public. The former student leader told us that Chelvi and Manoharan were arrested through the instrumentality of Arunothayan, a student spy, who had their

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<sup>81</sup> Balakumar gave himself over to the Sri Lankan Army on 17<sup>th</sup> May 2009 near Mullivaykkal, and is since missing (Special Report 34 Part IV).

whereabouts noted.<sup>82</sup> He also said that the LTTE's deputy intelligence chief Newton<sup>83</sup> came to the University and told the Vice Chancellor Prof. Thurairajah that the two were arrested on suspicion of having contact with the UTHR(J). Manoharan was seen at the Anaikkoddai torture camp in December 1991. Chelvi, according to this leader, was sent to a punishment camp in Vadamaratchi East where the LTTE reported her as having been killed during aerial bombing by the Air Force. Many are sceptical about this. Chelvi had smuggled out a message in 1992, hopeful of her release, which was consonant with her being sent to a punishment camp (see Ch. 6).<sup>84</sup>

Chelvi, Manoharan and Thillai were all highly critical of the leading accredited dramatist for having sold out to the LTTE. The LTTE aborted their play. In November, for Great Heroes Week, the accredited dramatist staged the *Sandalwood Jungle* (*Santhanakkadu*). Its theme: LTTE cadres acquired their true worth when ground to paste, like sandalwood, so that in their new manifestation, their bodies exuded a scented odour for the benefit of all. This time there was no Chelvi to deliver a critique. She and her two friends had disappeared. The dramatist she had censured too acquired new recognition, to become an academic at the University in Fine Arts.

After May 1991, when the LTTE detained several students from the University of Jaffna, we spoke of a senior academic who warned the students in a meeting summoned by the LTTE at the main auditorium, "*There are... weeds left in the University [who]... will be plucked up and cast away.*" This was communicated to us in what was perhaps the last letter from Manoharan prior to his fatal arrest. The University is committed to historical amnesia and is the last place for any record of this ugly phase. Admission is part of necessary self-appraisal. The University, willingly or else and by its silences and articulations, was co-opted as partner in crime.

The disappearances coincided with the time hundreds of children recruited by the LTTE were literally ground to paste in its failed attempt to capture Elephant Pass. Whispered public criticism drove it to further tighten the screws against dissent. Many had concluded that the LTTE's repression was going to be total. As is usual in totalitarian societies a group of artistes

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<sup>82</sup> Arunothayan was thrown out of the LTTE, perhaps owing to his close ties with Mahattaya, and was driving a tractor in Kilinochchi. Sometime later, he joined the government administration.

<sup>83</sup> Newton disappeared after he left Colombo in a hired car in 2005, at the start of the tit for tat killings shifting from lower to higher levels in a doomed peace process.

<sup>84</sup> As to possibilities, the following incident that happened elsewhere was narrated in our Report No.10: "*The LTTE prison camp at Kachchai was bombed by the air force in August 1990. One bomb hit a bunker where prisoners were kept. The camp leader Kanthi came out from his hiding place once the bombers left, sprayed the inside of the damaged bunker with his submachine gun. The bunker was then covered up. The camp was then moved to Koilakandy.*" Kanthi was active in the LTTE's prison regime as late as 2009 (Special Report No.34, VIII).



with official patronage received sanctioned flattery and reward; some even managed to sell themselves to the outside world as independent spirits and their work as authentic portrayals of the people's experience. They became ideal material for peace groups to sponsor and parade around the world as voices of the oppressed and an index of their success in peace making. Meanwhile, a dwindling group of dissident artistes was struggling to keep the tiny flame of freedom alive against hopeless odds. To give them any praise or solidarity courted as it were disaster for peace-making – and they were best left to suffer the consequences of their folly.

The flame that Rajani carried was that of a movement. For a time it proved that people with diverse beliefs, backgrounds and commitments, both within the University and outside, could work together and support each other for the common good. We all carry the burden and responsibility for those whose lives are cut short, to do our utmost to ensure that they did not die in vain. We must repudiate the conventional wisdom of peacemakers yesterday and today, which dictates surrender, appeasement and the denial of our humanity. To them, steadfastness, honour and loyalty are dispensable like cast off clothes given to beggars.

This chapter is about the LTTE's moves soon after murdering Rajani, to snuff out the remaining embers of dissent at Jaffna University and beyond it. Having terrorised individuals from the elite to submit to the 'law of the mob' in conforming to their dictates, it destroyed them as persons owning any moral or civic responsibility toward their fellows. The LTTE then paraded these persons before visitors to Jaffna as its civil society. This elite society was slowly being moulded into partners who would even justify or be passive partners in the chilling and unacceptable recruitment of children into the ranks of the LTTE (see 5.2 end).

In adopting the path of least resistance, leaders of society and religious leaders turned a blind eye to the fate of children from the poorer classes and were irritated by dissent that addressed such issues. Even as one might find what they comfortably tolerated shocking, one could infer that it represented a mindset inured to caste differences and iniquities that enabled them divide society into people who mattered and those who did not.

Attitudes to killings were illustrative of this mind set. From 1986 the LTTE began eliminating dissenting students, party politicians and local leaders who performed necessary roles in a democratic culture. Its murder of St. John's College Principal and Jaffna Citizens' Committee leader Edwin Anandarajah in May 1985, who resisted LTTE interference in his school, revealed a menace that played itself out in the massacre of TELO cadres a year later and in thousands of killings of civilians in later years. After Rajani, who had served in Jaffna Hospital was killed, its doctors met to discuss a response. We learnt that it resulted in some confusion when some doctors



suggested that the matter was outside their purview since Rajani had been a social worker rather than a doctor, and those who choose that line must accept occupational hazards. However they agreed on a condolence message.

## 5.2 The Undercurrent of Terror at the University

Soon after murdering Rajani, LTTE intelligence was busy sowing terror and arm-twisting the more malleable persons at the University, while keeping dissent under surveillance. Some student leaders such as Chelvi and Manoharan showed an admirable spirit of resistance. Rajani had been instrumental in creating a team spirit enabling the University to respond collectively when individuals were threatened. The LTTE moved quickly to snuff out that space. A well-tryed strategy was to let a marked individual know that he was on the hit list. Inevitably, the individual found a broker to talk to them. The outcome was, normal appearances notwithstanding, the individual being reduced to a walking sepulchre. No one could depend on the trust or loyalty of an erstwhile friend under such circumstances.

The smothering of dissent and shifting alliances of those in positions of authority are well illustrated by a story related to us by Winsles.

Winsles, formerly the secretary of the Science Students Union, succeeded Gnanam as president of the University Students Union (USU). Just before he became president of the USU, Winsles, with several others, was summoned to Mallavi to meet Mahattaya. The time was late 1989, after Rajani's assassination, when the Indian Army was beginning its pull out. The meeting was arranged by Arunothayan, the spy who was only nominally a student. He was closely monitoring the University after the assassination and intimidating students who wanted to commemorate Rajani. Although Arunothayan worked in the shadows, he was known and feared. Once reported by examiners for cheating, the Senate-appointed inquiry committee exonerated him without calling evidence from the examiners. Arunothayan was central to the stifling of dissent at the university. The group bound for Mallavi included persons picked by Arunothayan and included a teacher from St. John's College, Jaffna.

The group taken to meet Mahattaya first went to Dinesh Camp in Vavuniya. (Dinesh was then Tamilchelvan's *nom de guerre*.) They were then driven by night to Mahattaya's HQ in Mallavi. When ushered into Mahattaya's presence, Winsles told him, "*The opinion among the students is that the LTTE killed Rajani Thiranagama. What do you have to say?*" Mahattaya flatly denied that they killed Rajani, but then went on to give reasons justifying the killing: that her writings and *The Broken Palmyra* had done them much damage. In the catalogue of her faults he recited blandly, was her wearing western dress. Rajani usually wore sari to work.

Winsles continued to challenge Mahattya at meetings over the LTTE's interference in student matters. One such issue was the *Marumalarchi Kalaham* (MMK) office. The MMK had been a cultural and literary organisation at Jaffna University. Once the LTTE began eliminating other groups in 1986, it virtually took over the MMK with its office. The office remained locked up after the Indian Army arrived in October 1987. When university employees opened it after two months, during which it rained, they found much of the documents damaged or destroyed by white ants. The university authorities asked the labourers to shift the surviving documents to another place and to destroy the documents badly affected. They handed the office over to the University Students Union.

In the first meeting at Mallavi in 1989, Mahattaya claimed that a valuable document of theirs from the MMK office had gone into the possession of Prof. N. Balakrishnan, Dean of Arts. Subsequently in 1990 after the pullout of the Indian Army, Mahattaya made his first visit to Jaffna as the head of the PFLT (Political Front of the Liberation Tigers). He asked Winsles and other student leaders to meet him at the *Kanthan Karunai* office in Nallur. Just prior to this meeting, Arunothayan had demanded that Winsles hand over the keys of the former MMK office to him. Winsles told him that he should ask the university authorities responsible. The next day, Winsles discovered that the MMK had taken over the office, put up their board and moved the Students Union documents elsewhere. Thoroughly upset, Winsles voiced his objection to Mahattaya. Taken aback by this defiance, Mahattaya went to some pains to explain that they did things according to the rules and it was Dean Bala who gave them the key. The spare key was kept with the Dean. Arunothayan had gone to the hapless man's home in the night, removed the office key from him and moved the MMK into the office.

Mahattaya returned to the mysterious missing document he first mentioned at Mallavi, and claimed that Dean Balakrishnan had taken the document, while the Dean, on the other hand, said that it was destroyed when the Indian Army moved in. Mahattaya then asked about the Students Union leader Gnanam whom Winsles succeeded. Evidently, the LTTE suspected that Gnanam removed the document and gave it to Dean Balakrishnan whom he was close to.

Mahattaya then dropped a bombshell. He told Winsles that Dean Balakrishnan was on the LTTE's hit list, but the decision had been put on hold temporarily. Alarmed by this turn of events, Winsles told the Vice Chancellor, Prof. A. Thurairajah, about the threat to Dean Balakrishnan, as soon as he returned to the University. Prof. Thurairajah was shocked and asked Winsles whether he had heard correctly. When Winsles affirmed that he undoubtedly had, Thurairajah confessed that he too was afraid for himself.



Thuraiajah then gave Winsles some very remarkable advice: *"If you see one person running, you must look carefully before following. But when all are running, you must simply follow with no further ado. That is the way to survive."* Thuraiajah was the figurehead of education in Jaffna and the civic responsibility that goes with it. Thuraiajah must have found his dilemma acute enough to unburden himself to a student in this fashion. To many in such positions surrender would have appeared wise and necessary

Dean Balakrishnan, who probably received the chilling tidings from Thuraiajah, asked Winsles if the report of his predicament was correct. Winsles confirmed it. Other students told Winsles that the LTTE suspected Balakrishnan of having close contact with his erstwhile student in Economics and colleague on the staff, as well as their opponent, Chief Minister Varadarajaperumal of the North-East Provincial Council.

Equally revealing is the case of Gnanam, the former Students Union president. Gnanam was not considered a bad guy, nor was he political. Many of the apolitical student leaders wanted to participate in the march through the city and make the commemoration in protest against killing Rajani a success; but found Gnanam sitting on the fence, while Arunothayan was using his weight to try to sabotage any protest. Students later noticed that Gnanam was hanging about closely with Arunothayan. In September 1990, the LTTE sent teams to abduct Dr. Sritharan of the UTHR(J). Tipped off, he went underground. Meanwhile, owing to shelling around Jaffna, Rajani's sister Vasuki and her parents moved to the house near the University where Rajani had formerly lived. An LTTE team searched the house the day after Sritharan visited it. Gnanam also called there on three separate occasions asking after Sritharan and trying to make conversation with Vasuki, who hardly knew him. Vasuki found it rather disconcerting. It was the style of Arunothayan to intimidate or arm-twist students and send them on missions to spy on others.

The death sentence on Dean Balakrishnan was in time rescinded, but not before he was taken to the dreaded LTTE office in Neervely and some senior dons amenable to the LTTE had pleaded for his release. This was the LTTE's style. Make a threat, scare a person out of his wits, and make him accede to their terms. The killing of two campus security officers Felix Anthony and Thevathas following by days the murder of Rajani was a chilling message to the University to come to terms. We also learnt from employees that as a sequel to the intimidation of Dean Bala, one person was recruited to the Faculty of Humanities at the LTTE's behest. Another senior colleague added that Dean Balakrishnan agreed to the appointment after the pistol packing Arunothayan personally threatened the Dean. In time the abuse worked both ways as part of the perks of surrender. A dismissed physics teacher from the Faculty of Science sought reinstatement through the LTTE-administered courts. The Professor of



Mathematics who supported the appeal was astonished to discover that the files disappeared from the courts following, as he learnt from senior justice officials whom he confronted, a request from the Vice Chancellor to the LTTE leader.

We may recall that Mahattaya, knowing full well Rajani's opposition to the LTTE, had wanted to meet her after her return from England in early 1987, and she had refused. While Rajani was active, the norm observed whenever a member of the university community was threatened or intimidated was to deal with it collectively. No one should meet the Indian Army or an armed group alone. By killing Rajani the LTTE broke that resolve by targeting individuals. It turned the University into a place of seething distrust. The situations in which Thurairajah, Dean Balakrishnan and Gnanam operated represent just a few among a host of instances on how the LTTE handled the University, and turned the place into one of dread and deceit. The killing of the campus security officers was hardly talked about.

The weaker ones succumbed fast; the stronger ones were kept under observation until an opportune moment came to silence or detain them. Winsles kept his independence and quietly defied the LTTE. In September 1990, Mahattaya told Winsles that as the Students Union they should issue a statement of support for the LTTE and hinted that their failure to do so marked them out as traitors. Winsles asked him for time. In early October the LTTE briefly lifted the exit pass requirement. Winsles quickly fled Jaffna. During this short period of 'respite', Sritharan also escaped. Several students, including Manoharan and Chelvi were arrested and they disappeared in LTTE prisons. The University effectively disowned them.

In the wider society, too, the LTTE line was observed. The late John Merritt of the *London Observer* was in Jaffna around New Year 1990 to do a story on Rajani (*London Observer Magazine*, 20<sup>th</sup> April 1990).<sup>85</sup> Merritt, who was a Roman Catholic, asked Bishop Deogupillai of the Roman Catholic Diocese of Jaffna, "Who killed Rajani?" Merritt later told us that the Bishop replied that the people had told him it was the Indian Army or

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<sup>85</sup> John Merritt was the *Sunday Observer's* leading investigative journalist who in his journalism fought for fair play in all parts of the world and for asylum seekers in Britain who were turned back to face persecution at home. On 10<sup>th</sup> September 1989, eleven days before Rajani was killed, Merritt revealed in *Europe's Guilty Secret* the "hidden scandal" of the Greek island of Leros which, only an hour's flight from Athens, was used "as a dumping ground for those the world wishes to forget". It was about the horrific psychiatric colony which was also used as a political prison by the Greek Junta and forced the European Community to act. It was Liz Phillipson who attended Rajani's commemoration in November who suggested to Merritt that he do a story on Rajani. A few months later in 1990 Merritt was admitted to Hammersmith Hospital with leukemia. He continued to write: *Scud firm's cash to bolster the Tory cause* (14 Apr.1991) and *Bomb victims [of Lockerbie] accuse Pan Am of dirty tricks* (26 Apr.1992). He decided to stop chemotherapy and died suddenly in August 1992, like Rajani, at the age of 35.

its allies. Merritt then asked, "Whom do you say killed Rajani?" The Bishop answered, "I must believe what the people tell me!"<sup>86</sup> Merritt gave a very dreary picture of what was happening to Jaffna:

*"Recruiting posters appealing to 14-year-olds assert 'Tigers Don't Cry'. LTTE officials maintain that there is a 13 or 14-year-old age limit for political and military training, but one section commander, faithfully recording his troops manoeuvres in a 'Monitor's Exercise Book' with school, date, name and subject spaces on the cover, was happy to show off the 12-year-old cubs who can strip down a Kalashnikov faster than most children can turn a Biro into a pea-shooter.*

*"A shopkeeper tells how he is doing a good trade in some dubious balm for the boys' feet, blistered by their new boots. He starts to talk with bitterness of his own 13-year-old who has recently joined the ranks, but falls silent as a Tiger pack passes. They are 40 yards away, out of earshot, but he shakes hands and says, 'Sorry'...*

*"When night falls only the children venture on to the streets, in big, awkward boots and army fatigues. With grenades threaded at their waists and assault rifles in their skinny arms they follow a piper called the Liberation Tigers of Tamil Eelam. **It is a liberation that chains every boy with a regulation cyanide capsule on a string around his neck, a freedom fight that has made an enemy of the young woman in the picture on the wall.**"*

The last reference was to posters of Rajani put up by students and sympathisers for November's commemoration still prominent on the walls of Jaffna City more than a month after the event, when the LTTE was in virtual control as Merritt's report indicates. For the LTTE to pull them down would have amounted to a virtual admission of guilt.

When we highlighted the issue of child soldiers it placed Rajani and UTHR(J) on a collision course with the LTTE. The harrowing fate of these children a few months later in August 1990, described below, is a severe indictment on the society's elite. The LTTE recklessly threw in many of these children in its attempt to overrun the Army position in Jaffna Fort. Many of them were traumatised, maimed or killed in the operation. The following is taken from UTHR(J) Report No.6 of early 1991, following whose publication

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<sup>86</sup> The Roman Catholic Church seemed to take the view that the Church could coexist with a state, however delinquent, if they do not interfere in each other's agreed prerogatives. According to a report at that time the LTTE wanted all churches and temples to ring their bells on Martyrs' Day in the LTTE calendar. Bishop Deogupillai, according to the report, ordered the priests not to ring their bells. The LTTE's Yogi, approached the Bishop to get him reverse his decision. The Bishop, the report said, showed Yogi the portion on the Canon Law regulating the ringing of bells. The LTTE did not press the matter further.



the University Council, out of anger or to curry favour, moved against members of the UTHR(J) with unprecedented harshness:

*"A large number of girls and children were recruited and flung into battle in reckless fashion with little understanding of the purpose and lack of maturity to come to terms with blown limbs and permanent physical disability. Once the original boyish sense of adventure evaporated with injury, children often bitterly cursed the movement and even attempted suicide. Others talk about the experience in a dazed matter of fact manner. The two attacks on the Fort and the attack on Mankulam resulted in a large number of such casualties..."*

*"The ward in Manipay hospital just after the attack on Jaffna Fort on 5<sup>th</sup> August, was full of injured girls. A woman major in military uniform with her hands on her hips walked from bed to bed, mechanically repeating, "Do not be sad. We will liberate our soil."...Some [injured] had even hesitantly tried to commit suicide with cyanide capsules. One girl with a leg blown off and a slit mouth nonchalantly related her experience: "We surrounded the Fort and announced that unless they surrendered, we would attack in 10 minutes. The planes arrived and we were getting missiles from the air as well as from the Fort. We ran. There was an explosion and I fell down. I tried to move my leg to get up. But nothing happened. I then noticed that my trouser leg was hanging, and my foot was somewhere behind. Then an 'anna' (elder brother) carried me. After he went a few paces, there was another explosion. The 'anna' who carried me collapsed dead. As I fell, I saw Mathangi. She too was dead. I lay on the ground for 20 minutes while shells flew over me. One exploding shell split my mouth."*

*Another girl with a head injury was at Manthikai hospital. The place reeked with blood. The tractor in which her party had been travelling in Karainagar had caught a shell when they tried to attack the naval base. After being injured, the girl held on to her gun as instructed until someone collected it. Asked how she felt before the attack, she said that it was the most exhilarating experience. They were simply thrilled as they had a cup of tea before setting off. Then she became anxious. She asked the lady close by, "akka (elder sister) will you stay with me tonight?" Later in her sleep she cried, "Amma (mother), amma, come and stay close to me!" Then: "Drive the tractor slowly, my head hurts... I asked the akka to stay with me, I don't know if she is here."*

If our memory serves us correctly, it was Manoharan who sent us this report. It was in the very nature of the emerging regime that Rajani, Chelvi and Manoharan, who would have wept with these children, had to be taken away.

When the report above received wide publicity, the University Council moved to punish the two academics associated with it, arbitrarily reversing an earlier decision to treat their absence from Jaffna as a special case, by serving them



with notices of vacation of post. Vice Chancellor Prof. Thurairajah and Dean Bala quietly went along. Following representations made by the Federation of University Teachers' Associations the University Grants Commission appointed a one-man committee headed by Prof. Karl Gunawardena to examine the matter. Prof. Gunawardena's report of June 2000 held that the University's action in dismissing the academics was '*unjustified*' and appears to have been guided by an element of '*pique, anger and even bad faith*'. To this day the University has not responded.

### **5.3 Transience of Success and Diminishing Returns of Incurability**

In Chapter 4 we argued that the need to suppress internal developments that threatened Prabhakaran and his cohort was the main reason that the LTTE behaved as it did in the 1990 peace talks, even though the peace talks held out considerable bonuses for the leadership. The logic of the top leadership's decisions would have been equally puzzling to insiders, such as leaders like Kumarappa when he was ordered to swallow cyanide just after he had married and hoped to enjoy the peace of 1987.

In 1990, many Western governments and peace groups fully backed Premadasa's peace efforts with the LTTE. They hoped, notwithstanding its unreliability, they could pull it off. William Clarence, who represented the UNHCR in Colombo, expressed as much in a conversation many years later. The LTTE seemed to have so much to gain, to want to throw it away.

The attempt by the top LTTE leadership to maintain its own power and control at all costs internally as well as externally can also be seen in the LTTE's breaking off peace talks in 1995 and even more clearly in 2004 – 2006. The 1995 peace talks occurred only two years after the crackdown on Mahattaya. There were still senior leaders who had been close to Mahattaya and several pockets of discontent – such as Puthukkudiyiruppu, Mahattaya's wife's birthplace. The LTTE's lack of political vision, absence of internal democracy and its inability to resolve internal problems by less damaging methods pushed it inexorably towards breakup. Several Mahattaya remnants who joined the services of the Sri Lankan forces are reputed to have done the LTTE enormous damage.

The LTTE's end game began when its timid and cautious Spokesman Anton Balasingam agreed to a federal settlement at the Oslo Summit of December 2002. He had the support of some of the LTTE leaders eager for a settled life rather than one spent in permanent warfare. It led to Karuna's splitting off in March 2004. Karuna, whose career began in the LTTE's ruthless Intelligence Wing during Prabhakaran's Madras days, evidently feared becoming another Mahattaya. Though greatly extolled as a military leader at Elephant Pass in 2000, many of his Batticaloa cadres had been killed in the megalomania of an entity that knew no limits. Down to

conscripting ten to thirteen year olds to recoup his cadre strength, Karuna's reality was if the leadership spurned the Oslo deal his game was up.

Military fortunes of victory and defeat are mirages. The Government's Vanni operation from 1996 – 1999, although in its outcome a military fiasco, was what broke the LTTE's back. We may judge in retrospect that Anton Balasingam understood this. After Karuna split off from the LTTE, the Government made him a minister. Faced with criticism over human rights abuses, the Government found him and Devananda useful scapegoats on whom to pile the security forces' mounting crimes.

For the LTTE, the 2004 Karuna-split became the cue for another round of rashness attempting to show that the split made no difference. Played once too often, Prabhakaran's game of obduracy followed the law of diminishing returns. The blame was not the LTTE's alone; it was an illusion of invincibility fostered by elites who identified with the LTTE. By massacring the TELO in May 1986 and decimating the other groups the LTTE enabled the Sri Lankan Army to overrun within a year almost all the territory held by diverse Tamil groups. Many among the elite treated the May 1986 watershed as the triumph of LTTE's uncompromising separatism over its rivals who were ready for compromise, knowing fully well the inevitability of eventual compromise.<sup>87</sup> The bloodletting was in reality the end of the liberation struggle, played out excruciatingly over 23 years.

Balasingam's merits as a scholar fitted him for a routine academic career. Having joined the LTTE he hit it off with Prabhakaran and his counsel is likely to have been critical for Prabhakaran to move away from the TELO of Kuttimani and Thangathurai after the 1981 Neervely Bank robbery, and revive the LTTE in 1982 after murdering Sundaram of PLOTE.<sup>88</sup>

Balasingam understood the destructive direction of the LTTE. In 1984, he first agreed to join a group of members, including Nirmala and Nithyanandan who had planned to quit and at the eleventh hour changed

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<sup>87</sup> From Vol. 1 Ch.5 of the *Broken Palmyra* on the May 1986 watershed: "The *Morning Star*, the journal of the Jaffna Diocese of the Church of South India (C.S.I.) commented editorially in a piece under the title, The Merry Month of May, that it had been held that the militant cause had been weakened by [the brutal fratricidal attack on TELO]. It went on to allude that this was not necessarily the case as was proven by the militants' success in repulsing the subsequent Sri Lankan offensive. Moreover it said that the people had stood shoulder to shoulder with the 'militants' during the subsequent bombing of Jaffna.

<sup>88</sup> During 1981 Sri Sabaratnam who later became TELO leader worked closely with Prabhakaran. That year Sabaratnam spent several nights in the home of Nirmala and Nithy. After the killing of Sundaram in January 1982, Sabaratnam had accompanied LTTE members in Madras to threaten Padmanabha of the EPRLF and Iyer, who issued a statement condemning the murder of Sundaram. (Iyer and Sundaram were among the majority who split with Prabhakaran in 1979. They demanded internal democracy.) Sri Sabaratnam was in the aftermath of the LTTE's massacre of TELO in 1986, shot dead on Prabhakaran's orders as he offered to surrender.



his mind. He later explained, "*They [LTTE] will not let you do anything from outside; they will destroy you.*" Whether Balasingam went through the motions of wanting to quit, merely to spy on others, we cannot tell. In a passing reference to the matter many years later, he said that Mahattaya too was among those wanting to quit. This he said in conversation to make the point that Mahattaya was not always trustworthy, but did not substantiate the charges of dire treachery made against him in 1993 by his rivals.

Those who quit led fugitive lives in India. They were followed, harassed and had many narrow escapes. Many of them eventually escaped to the West, but even there they felt the long arm of terror so keenly. Hardly anyone dared to challenge the LTTE for many years. Rajani was perhaps the only exception; she quit the LTTE and challenged it on its own turf.

Sources close to Balasingam affirm that he came to know of the LTTE's plans to kill former Indian Prime Minister Rajiv Gandhi only after the event. The same, they contend, applies to President Premadasa. Balasingam regarded the President as having held out to the LTTE the best deal suited to its temper – untrammelled control within its recognised patch. However, the LTTE's brand of narrow nationalism was exemplified in Balasingam playing to a gallery of London's expatriate Tamils, who filled the LTTE's coffers in return for gladiatorial thrills. Just before the 2001 December parliamentary elections in Lanka, he boasted to a gleeful audience that [their] young boys eagerly awaited EPDP leader Devananda – who had survived several LTTE attempts – to garland him. The garland referred to the fatal garlanding of Rajiv Gandhi by a suicide bomber. Balasingam's London performance was in the barbaric tradition of threats to 'traitors' in nationalist election politics. The rational Balasingam, however, recognised in the Rajiv murder a calamity they would pay for dearly.

Having taken the LTTE into the Norway-brokered peace process at the peak of its military fame, Balasingam established good rapport with the Norwegians, who no doubt told him bluntly the consequences of the LTTE reneging on its commitments. He tried hard to get the LTTE to settle. He went beyond his brief in committing the LTTE to a federal settlement at the Oslo Summit in December 2002. Back in Lanka, he ironically took the risk of praising the political settlement drafted largely by Neelan Thiruchelvam; who was killed by the LTTE for steering a prudent course for the Tamil people. Following Neelan's assassination, the LTTE threatened the TULF (predecessor of the LTTE-forged TNA) not to vote for the settlement when it was placed before Parliament in August 2000. The LTTE leader sidelined Balasingam after his acceptance of federalism at Oslo.



A close associate of Balasingam pointed out to us that at the Indian-sponsored negotiations at Thimpu in 1985, several participating Tamil groups put forward the following demands, known as the Thimpu Principles, which can also be seen on a signboard at the Jaffna University campus erected during the Oslo Process:

Recognition of the Tamils of Ceylon as a nation

Recognition of the existence of an identified homeland for the Tamils of Ceylon

Recognition of the right to self-determination of the Tamil nation

Recognition of the right to citizenship and the fundamental rights of all Tamils of Ceylon

The Sri Lankan government accepted only the fourth, which concerned the resolution of the Hill Country Tamil issue. The Indo-Lanka Accord accepted the first two of the three rejected demands. The Oslo Accord went further and secured also the third, the right to self-determination. He said Balasingam felt he had done the needful for the LTTE leaders to cast away battle fatigues and become *verti-clad* politicians. During this period, the associate met LTTE's spokesman Tamilchelvan as a large contingent of Western diplomats headed for the Vanni. While the associate cautioned Tamilchelvan to use this opportunity for dialogue with care, the latter was boastful and perceived the occasion as homage paid by the West to the Supremo on account of his military genius. The associate was dismayed at Tamilchelvan's want of any sense of reality.

There was a crucial oversight in the expectations of Balasingam and the peacemakers. How could the LTTE's leader, a man who regularly ordered colleagues and cadres, including women and children, to commit suicide for the unalterable goal of Eelam and shattered many thousands of lives, become a vote-soliciting politician in a federal set-up? He even seemed incapable of the act of suicide he gloried in others doing it at his behest.

#### **5.4 Twilight: The End Beckons All**

About the close of 2005, as the LTTE and the new Rajapakse government steered towards the final breakdown of the stricken peace process, a sickly Balasingam told a forum of leading expatriate Tamils in London that if the LTTE failed to settle down and instead revived the war, several powerful nations would aid the Sri Lankan government to crush them.

Balasingam was perhaps not a moral person, but he was in his own way a good father. Prabhakaran was his political son, an obstreperous one, whom he adopted, moulded and upon whose head he thrust the mantle of national leader. The LTTE was the father's bequest to his son. He had burnt his fingers several times; when his son took it upon himself to murder Rajiv Gandhi, turned upon Premadasa (who gave him lorry loads

of weapons!) and when, on his son's behalf, he put himself out on a limb and accepted federalism at Oslo in December 2002. He tried to stop his son from banning the Tamils from voting at the 2005 presidential elections and failed. The LTTE reportedly figured that Mahinda Rajapakse would win by about 200,000 votes if the Tamils did not vote and Ranil Wickremasinghe would win by a similar margin otherwise.

Balasingam was ill in 2006 as the country slid towards full hostilities. He once more put himself out on a limb and gave an interview to NDTV broadcast on 27<sup>th</sup> June 2006, in which he said: *"As far as that event [the Rajiv Gandhi assassination,] is concerned, I would say it is a great tragedy, a monumental historical tragedy which we deeply regret and we call upon the Government of India and the people of India to be magnanimous to put the past behind and to approach the ethnic question in a different perspective...India has been silent for the last 15 years and adopted a detached role, but now there is the possibility of war emerging, she cannot keep quiet."*

Our well-placed source told us that Balasingam was in friendly contact with India's National Security Advisor M. K. Narayanan. It suggests that the interview was an agreed conciliatory gesture by Balasingam on the LTTE's behalf to enable India to rescue the expiring Oslo process. Instead of building on the overture, the LTTE spokesman Tamilchelvan rebuked Balasingam and reiterated the LTTE's standard denial on Rajiv. Bafflingly, when Prabhakaran was questioned about Rajiv Gandhi at his major press conference on 10<sup>th</sup> April 2002, he fidgeted. Balasingam came to the rescue and offered virtually what he later told NDTV – a veiled admission, which Prabhakaran did not contradict. However, after this second admission in June 2006, Balasingam was kicked out.

Three weeks before his death in December 2006, Balasingam spoke to an erstwhile colleague – with whom he had abortively agreed to leave the LTTE in 1984 – and told him prophetically that the situation within the LTTE was bad, and should Kilinochchi fall, the organisation would flip into a tailspin. This was a colleague who left the LTTE in 1984, whom Balasingam warned that once the dissidents quit, the LTTE would paralyse them. In Jaffna near the 1995 Exodus, Balasingam told Indian journalist Panneerselvam, a mutual acquaintance, to ask this former colleague if he recalled what he predicted in 1984!

About two weeks before his death on 14<sup>th</sup> December 2006, Balasingam had a friend to a meal. Having served the friend, he told him, remembering perhaps his Christian mother, that this was their 'last supper'. The friend did not realise that in two weeks his companion would be dead. Prabhakaran had talked to him twice and inquired after his health, but said nothing further. The friend asked Balasingam what the LTTE would make



of his death. Balasingam reflected with characteristic irony, that death was the material on which the movement was built, and added, "They would use mine too, wouldn't they?"

The organisation was in a bad way. Prabhakaran and those close to him apparently went on believing that they were winning. In November 2008, India once again wanted Prabhakaran to commit himself publicly, along the lines of Balasingam's NDTV interview. Prabhakaran consented and then reneged (Ch.8.1). The illusion that they were invincible was dominant in Prabhakaran's and his advisors' thinking to the very end.

Balasingam left no room for illusions. The TNA and expatriate LTTE supporters, who lied on behalf of the LTTE to the last, knew the dreadful fate of civilians held under duress in the war zone. Undoubtedly some LTTE leaders on the ground kept Balasingam informed. But, none of them dared to check their Leader, or to launch a coup d'état.

### **5.5 The Authoritarian Illusion: Men of Straw as a Bulwark of Strength**

We have had further indirect accounts, confirming what we said in Special Report No.33: Prabhakaran surrendered to the Sri Lankan Army on the morning of 17<sup>th</sup> May 2009. Reports coming from high levels of the Government say that he was brought to Colombo and that his wife Mathivathani was also captured and most shamefully ill-treated. The abject manner of his end - after ravaging thousands of children armed against their will and confining lakhs of civilians under pitiless shell fire to, principally, save himself - speaks volumes. It is the inevitable fate of an ordinary mortal who elevated himself to godhead by the aid of an army of sycophants, by showing no pity towards other mortals.

While there are many stories, our version in Special Report No.33 came from a trusted source with good army contacts and agrees with other independent reports. Whatever one's personal feelings about Prabhakaran, there is one scene where it would be inhuman not to sympathise with him. Our source said that at one point, Prabhakaran, already in great physical pain, was pleading with a former subordinate from Madras days vested with the task of punishing LTTE's detractors, but latterly rewarded for his services to the Government. Prabhakaran begged him that his 12-year-old son Balachandran be spared. The appeal fell on deaf ears. Many of the elite who idolised Prabhakaran and subordinates who tormented his opponents, are today infamously serving the triumphant state.

By contrast, take those who showed the courage of their convictions whom the LTTE destroyed, both civilians and members of other political groups. The latter included dedicated Marxists, unwavering in their humanity, such as Muruganesan and Subathiran.



## 5.6 LTTE Cadres and Elite Peers

It was well known among observant that while the LTTE phenomenon evoked awe and struck terror in the hearts of people, its cadres individually were often men of straw. In the 1980s when the Army tortured suspected militants, many from groups where Left political convictions were implanted, withstood the torture without cracking. LTTE cadres more readily broke down. The large number of ex-LTTE cadres of rank in government pay today bears eloquent testimony to the LTTE's emptiness.

What shaped the LTTE was organisational efficiency and innovativeness along with another crucial ingredient. The LTTE appealed to the Tamil middle class smarting helplessly under the propensity of Sinhalese governments to inflict humiliation through contrived communal violence. Rajani was clear about the malignancy of the LTTE phenomenon having its roots in the ideology of the Tamil elite and their 'moderate' nationalism.

The middle and upper-middle classes were the ones who often intensely espoused ideologically inspired hatred for Sinhalese and Muslims and, to a greater extent, for dissenters in their own community. In late 1987, while we were trying to reopen the University, Rajani was in a discussion with a very senior medical colleague, who defended the LTTE massacres of Sinhalese civilians. Rajani silenced him with the acerbic swipe, "*So you would have my husband and two daughters killed, would you?*" Another senior medical don from Jaffna told an elderly colleague in the South seated next to him at a conference in 2005, "[*Foreign Minister*] Lakshman Kadirgamar deserved to be killed because he was a traitor to the Tamil cause." Such savage uncharitable judgment of Kadirgamar posed no liability for dons who had contacts and could equivocate as needed.

In fact, it was very rarely that one came across such intense hatred among ordinary LTTE cadres. They were for the most part trapped in the organisation to do its bidding. The UTHR(J) has received warning messages from LTTE functionaries – with whom it had no contact whatsoever – that carried understanding rather than hate or abuse. One such message communicated by a senior political leader in Batticaloa in the mid-1990s was, "*Take into consideration the demands of the times (yathartham) when you write.*" It was a call to withhold criticism during their military struggle – tell the truth, but not now. The relationship between Rajani and the students involved in her killing was far from being one of hate. To Bosco, she was merely an assigned target. This is all in sharp contrast to the poisonous hate poured out through pro-LTTE expatriate journals and websites against dissidents.

The LTTE is gone, but the Tamil nationalist politics that gave rise to it remains dominant in Tamil society. With its old ambivalences it claims to be non-violent while capitalising on the afterglow of the LTTE, which

appears nostalgically in the present vacuum as a once strong bulwark of the Tamils. Its influence is all over the Tamil press, telling us that we were betrayed by traitors in our midst; it never takes responsibility for the hatred and intolerance that gave us the LTTE and the ignominy of Mullivaykkal.

An organisation that genuinely represented the people and listened to them would have accepted criticism and correction and been the stronger for it. The LTTE by *fiat* made it treachery to challenge its imposition of serial wars on the people to resolve its internal power play, its conscription of children to make up for a populace disillusioned and bent on escape; and the hideous torture, sadism and mass murder in its prisons, where the humbler suffered most. An organisation boasting of international acclaim felt vulnerable before a handful of people speaking the truth!

Truth hurt despite the LTTE's reputation as an indomitable military force, its mastery of the shipping lanes, its huge overseas network and its access to centres of power in several nations of the industrialised West and the Global South. It was alarmed enough to deploy, besides assassins, a group of academics and churchmen to pour scorn on those who differed.

The LTTE phenomenon was not founded on the strengths of conscientious individuals. It appealed to weaknesses and baser instincts in society. Where they found among the people real strength, real integrity and the courage of convictions to stand alone, they snuffed it out. The result was an autocratic society that found true excellence an anathema and where mediocrity was exalted by pervasive rituals of mutual flattery. The memory of the truly great, worthy examples to coming generations, was devalued or expunged.

## 5.7 The Final Act

Intellectuals lending their services to the LTTE became in effect *dramatis personae* of an epic tragedy. Its raw material was the weaknesses of persons who, had they understood their limitations, might have lived modestly as useful citizens. An articulate professor of Tamil at Jaffna University, a communist, was in 1985 reputedly an advisor to a left group. LTTE men visiting the University left behind hints that they would soon teach him a lesson. Soon after 29<sup>th</sup> April 1986, when the LTTE launched its *Night of the Long Knives* and decimated its rival TELO, the professor adroitly found his way into the LTTE camp. By the early 1990s he was on a platform with the Leader's picture on display. He queried with suppressed irony, "*Where are the communists of yesteryear?*" In a sweeping gesture embracing Prabhakaran's portrait, he gave the answer, "*Here's where they have gone.*" Also in the early 1990s, a Canada-based expatriate professor of political science, who was once close to Jayewardene, used a variation of the same histrionic gesture 'these are our leaders' on a Canadian platform



which had that same portrait. If the author recalls correctly the account was given by a friend to whom the professor had admitted sheepishly that he played to the gallery. It was at a memorial meeting for the late leader, A. Amirthalingam who was killed by the LTTE. In time, however, there were several professors who had no use for nuance, ambiguity or equivocation, essential items in the academic toolkit, in their advocacy of the LTTE.

Sritharan met the communist professor at a seminar in Colombo in late 1995 when conditions were rapidly deteriorating in the North, and asked him, *"So you have come here after setting the stage for young children to be bamboozled and sent with guns to die?"* The professor, a charming man, replied defensively, *"You don't understand. It is not like that..."* The exchange was interrupted and the professor left promising to explain later.

Many intellectuals understand the consequences of failing to check outfits like the LTTE. Meanwhile the brutality and arrogance of the State gives them excuse to muzzle their critical faculties. Then nationalism too has its charm that appeals to sentiments of heritage and identity. When a ruthless force appears the only challenge to a brutal State its claims become compelling; especially to elites distant from the violence.

Thus the dismantling of conscience and the journey from Chelvanayakam to Prabhakaran was eased for several Tamil intellectuals, bishops, senior clergy and professors. Once they had sold their souls to the LTTE no room was left for critical reflection; they were trapped in their act of surrender. The professor in Canada earlier referred to, was unhappy with his position and privately warned a colleague from their University of Ceylon days, not to get involved in a pro-LTTE forum, although he was. The early 1990s was a time when well-heeled Tamil expatriates in the West became apprehensive of the LTTE's ability to strike. On the other hand, a leading scientist in Australia who began his career in the University of Ceylon, described himself on SBS Television as a *'sympathiser'* and *'emotional admirer of the LTTE'*, a movement that emerged, decades earlier, in the legitimate quest for self-determination. Sympathy and emotional admiration are common among elites cut off from ground realities. Even as the cause became untenable, especially in the latter phase, they argued for shutting one's eyes and conscience and sticking with it, whatever the cost to others.

Once set on this road, every prospect of a decent settlement had to be scuttled with provocative thrusts that cost the Tamils dearly. Every Sinhalese who genuinely wanted a settlement for pragmatic or moral reasons, as Premadasa, Kumaratunge and Wickremasinghe did, had to be presented to the Tamils by their intelligentsia and media in the most malign light. Public suspicion and anger against Sinhalese leaders were strengthened by provoking totally unwanted wars.



The LTTE leadership in its escape from reality had to take refuge behind an illusion of invincibility. For intellectuals, the game of supporting the LTTE spawns within them embitterment and hate as the stakes are pushed higher. What does a bishop or an academic do when their public acclaim of a malignant force is challenged by a dissident? Bereft of decency by choice, they have to go public and pour scorn on their opponents.

A Tamil scholar-priest, Dr. Chandrakanthan, with influential contacts in the international circuit said of the forced expulsion and expropriation of Muslims from the North in 1990: *"Those Moslems who live in predominantly Tamil areas had to leave to Moslem villages for [their] safety. But an unfortunate situation developed in the North where in those areas which were under the control of the LTTE, the Moslems were requested by the LTTE to leave the Northern Province stating that their security is in danger."*<sup>89</sup> The writer veils the unprovoked massacres the LTTE inflicted on Muslims in the East and hints at the resulting violence and anarchy as justification for expulsions of Muslims in the North.

Besides the University of Jaffna from which the scholar-priest wrote this research offering in 1994,, he was on the Executive Committee of the Oxford-based International Association for the Study of Forced Migration and is associated with several Canadian universities. Such propaganda was shielded by the politics of international scholarship and funding for research and peacemaking. A result was the isolation of Muslims and Tamil dissent, and a boost for the LTTE, which in its arrogance thought such support would continue indefinitely, despite signs boding the opposite.

Why did the LTTE lose any sense of reality? A former editor of two widely read Tamil newspapers and one who had a ringside view of the LTTE leadership for 25 years told us, *"Having observed Prabhakaran closely over many years, I have to conclude that he was just an ordinary man."* He added, partly as a confession, *"We are all to blame, Tamil intellectuals, journalists, writers and dramatists. We flattered the LTTE, both the leader and Movement so much, that they came to believe that there were no limits to their power and none to tolerance of their transgressions."* What the LTTE-supporting elite did to the people is far more sinister than at first appears.

*An educated, intelligent man who had lived under the LTTE in Kilinochchi told us that when he received news of the LTTE's assassination of Neelan Thiruchelvam in 1999, he felt very disturbed. That night he cried and was sleepless that we had lost a scholar and legal expert, who could have guided us towards a political settlement. Most Tamil papers he saw the*

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<sup>89</sup> Rev. Dr. A.J.V. Chandrakanthan, *An Exodus Sans Destination: Refugees and the Internally Displaced in Sri Lanka*, Colombo: Centre for Society and Religion (Quest 133), p.20, 1994

*following morning conveyed the message that Neelan was a traitor who deserved to be killed. He became almost convinced from the newspapers that this line of thinking was correct.*

Accredited intellectuals, dramatists and expatriate nationalists, imposed upon the people an ordinary man bereft of any sense of reality as their god. They must take responsibility for the final act of the tragedy, the fiery dénouement from Kilinochchi to the killing fields of Mullivaykkal.

The same culture continues in the Tamil intelligentsia in total indifference to the wretched victims of their egotistic nationalism. The damage done to a society that has endured more than a generation of this must be considerable. One may recall these lines from Milton's *Lycidas*:

*The hungry sheep look up and are not fed,  
But swoln with wind, and the rank mist they draw,  
Rot inwardly and foul contagion spread*

The lesson here is that to stifle dissent is tantamount to destroying a people. It teaches us the singular worth of someone like Chelvi, who was dismissed with contempt and maligned in her time by accredited Tamil opinion worldwide. Hers, as Manoharan's and Rajani's, were convictions born of identification with the suffering of ordinary people, who were the same, whether Muslims, Sinhalese or Tamils. Their sane desire for life with peace, dignity and mutual respect should be defended at all cost. From this standpoint solutions are not hard to find. No reasons of state or prerogatives of a revolution should be allowed to transgress these basic rights.

### **5.8 Nostalgia and Despondency (written in 2010)**

Pt. Pedro beach was a favourite leisure spot, familiar to Rajani from her childhood, to which many in the surroundings resorted in the evenings. As darkness advanced the place used to be lit up by vendors roasting fresh *kachan* (peanuts) and providers of betel, ice cream and sweets. On the beach itself the locals used to sit discussing politics, education and other sundry matters of life. It was in 1984 that this leisured glory was last seen.

The Government seems intent on reaping political capital through militarising the North to an even greater extent than the megalomaniacal LTTE which had the excuse of defeating the Sinhalese state. Rather than consolidate victory with generosity, the Sri Lankan state proceeds as though it is at war with the rest of the world.

Recently, a small number of strollers at another part of the beach bemusedly watched Sri Lankan soldiers surveying a part of the beach they seemed intent on taking over. A small group gathered in a solemn, pessimistic frame of mind and a political discussion of sorts ensued, lacking the liveliness and spirit of bygone years.



A middle-aged man, Mathan (not his real name), an old boy of Hartley College in the 1980s and very knowledgeable about local matters, reflected, *"There was a time when we worked to uplift the community. That effort has been desecrated by what the Movement did. We can now only afford to think of uplifting ourselves and our families."*

Once sympathetic to the LTTE, Mathan in time came to take a detached view, but thought little of the politics and norms of the LTTE. Like many intelligent men, he saw justice in the cause, but did not question the means. But he had a good sense of the organisation and kept a distance. Among several of his schoolmates who had joined the LTTE was Thavaratnam Teacher's son. Some who had joined were harsh with those who had not, asking rudely why they had not joined. But Thavaratnam Teacher's son, whose honesty he praised, had told them, *"The allure of the Movement from outside is not what it really is inside. I am now stuck with my mistaken decision. As for you, keep well away and never try to take a peek inside."* Like with most others who joined, his is now a voice from the grave.

Mathan observed in time a steep deterioration in quality of the cadres. He pointed to the earlier strict discipline in the organisation, such as the Sea Tiger cadre Silambarasan committing suicide off the Vadamaratchi coast to avoid capture. He also gave the instance of another cadre sent on a *recce* mission to Palaly base, who was captured and later upon release executed by the LTTE for failing to take cyanide. Kittu, Mathan pointed out, when intercepted at sea by the Indian Navy in January 1993, committed suicide.

By contrast, Mathan said, most of those who joined later saw in the LTTE a means to power and wealth; and latterly hardly any of the leaders committed suicide to avoid capture. An exception was Thamilanban, the Puliyanikulam leader, who blew himself up in Mullivaykkal with the truck on which the LTTE's transmission equipment was mounted. Many LTTE leaders not only surrendered, but betrayed their former comrades. Mathan added with gravity that in its last days the LTTE committed unspeakable crimes on female conscripts, often as a part of the terms for letting them escape. Asked how he knew, Mathan replied that the victims themselves would hardly speak, but folk from the Vanni had pointed out ex-LTTE cadres now in civilian life as persons responsible for such abominations.

LTTE recruitment from Hartley College, according to Mathan, was at its peak during 1988 to 1990, when the Indian Army was present. Questioned about the previous experience under the Sri Lankan Army, especially during the massacres in 1984-1985, when on one occasion nearly 70 persons were killed in Valvettithurai, he explained that the Sri Lankan Army once in a while came out of their camps, misbehaved when provoked and got back, after which life returned to normal. He said that with the



Indian Army (IPKF) present in every village, any attack or provocation by the LTTE meant reprisals – people were often beaten up brutally. The people felt the pain to a degree not done previously.<sup>90</sup>

From Mathan's Advanced Level form of 80 students during the Indian Army period, around 15 joined the LTTE; almost all are now dead. Many of the others, he said, had supported the LTTE and done them some services. Asked if they had reflected on where the politics of the LTTE – which has taken a heavy toll on the community – was taking us; Mathan said they were too young and the violence of the militant groups had less impact than the violence after the Indian Army arrived.

Mathan observed that while there was war, he could say from his own experience that the Sri Lankan Army was scared of the people, but after the war they did not give a damn about what the people say or feel. Pointing to the new stretch along the beach that the Sri Lankan Army was seeking to acquire, he said, *"Who is to tap their shoulders to ask them the whys, rights or wrongs of what they are doing. The end of the war has reduced us to this plight."* Asked if the political passivity he now advances will not aid the Government to Sinhalise the North in 20 years, he answered with a smile, *"If things go that far another generation will resort to bombs."*

## **5.9 India in the Sri Lankan Quagmire**

Finally, there is an object lesson in this for all of us. The Tamil problem will not go away through using the Military as a tool for gerrymandering or by iniquitous legislation using two-thirds majorities. Although a painful experience, India cannot let go of the Tamil problem. India burning its fingers, and raising the fever of domestic dissension by her muddled defence of Sri Lanka's war record in the deadly finale of 2009, at the UN Human Rights Council, are tokens of this. We need to understand clearly the local folly which forced India into Lankan affairs against her wishes and keeps her pinned down.

Today the Lankan leadership is living in denial, denial of the obvious trauma within the Sri Lankan Army, quarrelling about who gets the credit for winning the war, while being blind to the needs of the men who fought. This was evident in the officially sanctioned India-bashing during the release in 2012 of the book *Gota's War*, where President Rajapakse's Secretary claimed that they could have ended 'terrorism' in 1987 but for India's intervention. This is forgetting the reality in 1987; and moreover, in 2000, when Sinhalese extremists were pleading with India to intervene.

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<sup>90</sup> It must be said that Mathan speaks of areas where LTTE provocations aimed at recruitment were calculatedly intense. In urban Jaffna, even in the nights, Indian army patrols encountered on the road usually minded their own business. Similar contrasts could be made of the Sri Lankan Army in the North, between urban and rural areas, in the aftermath of the war in 2009.

President Jayewardene met his commanders in June 1987 and told them of India's intention and wished to know whether they would consider an attempt on taking the rest of Jaffna within 48 hours. Except for commanders Kobbekaduwa and Wimalaratne, the majority view was that it was unwise as the Sri Lankan Army was fatigued and needed rest. Jayewardene called it off (see *Arrogance of Power*).

The Sri Lankan Army too was a victim of tendentious histories that detract from current realities. By June 1987, the *Janatha Vimukthi Peramuna's* plans for a second insurgency had matured. It was only waiting for a pretext. The match to the powder keg that led to that conflagration was supplied by the SLFP's chauvinistic opposition to the Indo-Lanka Accord. In reality it was the presence of Indian troops in the North-East to deal with the LTTE that enabled Jayewardene to concentrate his troops in the South to meet the JVP threat. To this both the UNP and SLFP owe their survival.

To quote Mr. Hector Abhayawardena, a leading member of the LSSP: "*The Indian troops came here at Jayewardene's request. There is absolutely no doubt about that. Jayewardene was unhappy about India pushing him to reach a political solution. But in July 1987 he realised that he could not face problems on three fronts – the SLFP and allies, the JVP and the LTTE. That is why he asked for Indian troops to look after the North-East.*" This was supported by Jayewardene's minister Ronnie de Mel, who said that Jayewardene asked the Indian government for 3000 Indian troops after consulting his service chiefs (*Arrogance of Power* p.225).

The SLFP having failed to ride the JVP insurgency to power became in turn the JVP's targets by early 1989. The SLFP played the human rights card against the UNP government, while using guns and help from the same government to hunt down the JVP. This was the time Mahinda Rajapakse emerged in the now dreaded city of Geneva as one of his subsequent *bete noires* – a human rights champion.

The SLFP once more buries its head in the sand when it accuses the Tamil National Alliance of being mouth-pieces of terrorists. The TNA, it is true, with all their fears and ambivalences, won successive elections by prostrating themselves before the LTTE and riding to victory on its organised electoral malpractice and terror. To quote Ranjan Wijeratne, who ran the UNP's presidential election campaign in 1988: "*The SLFP is mistaken if they think of riding to power by using the JVP against the UNP. If the SLFP came to power that way, the JVP would train their guns on them in six months.*" Was the SLFP in 1988 (until the JVP bade adieu with a bomb attack on Mrs. Sirimavo Bandaranaike's election platform in early 1989) any different from the TNA in 2004?

The Sri Lankan Army paid heavily in lives and impairment for the frivolous political opportunism of their ruling class, their incompetence, corruption and their humiliation of the minorities. Among the reasons why India has always been a loser in Lanka is her evasive approach to human rights questions. The immaturity of the Indian and Sri Lankan elites, underpins their nervousness about international law and their use of national interest as a sacred principle to subvert it.

To place the record straight on India's role in the latter 1980s, the Indian Army with all its blundering and the resulting alienation had got a measure of the LTTE. It had killed most of the well-known gun men the LTTE used in assassinations against civilians by the end of 1989. The LTTE made a deal with the Premadasa government precisely because it felt threatened by the Indian Army's slow progress. The weapons covertly given by the Government to the LTTE made India's job thankless and prolonged the conflict for another 20 years at immense cost. Neither the Government nor the LTTE wanted a political settlement, for which the Indo-Lanka Accord was in itself a promising start. The weight of disruption and killing once the Indian Army established control of the North-East was less than what obtained in the South as the Sri Lankan forces fought the JVP, where disappeared victims after mass arrests were counted by the truck loads.



## Chapter 6

### Rajani's Relevance for Postwar Reconciliation

*Word over all, beautiful as the sky,  
Beautiful that war and all its deeds of carnage must in time be utterly lost,  
That the hands of the sisters Death and Night, incessantly softly wash again, and  
ever again,  
this soil'd world;  
For my enemy is dead, a man divine as myself is dead*

- from *Reconciliation*, by Walt Whitman

#### 6.1 The University and the Defence of Broader Society

Through the years, Rajani's experience as a Tamil, the 1977 communal violence, and her sister Nirmala's experience of the 1983 Welikade prison massacre, impelled her, and many of her contemporaries, to accept the legitimacy of the Tamil liberation struggle. However, Rajani was always an internationalist in outlook: through her exposure to urban and rural southern society; through her study as a medical student in the University of Colombo; through her marriage to Dayapala Thiranagama; and through her empathy for liberation struggles around the world as a result of her activism in the Student Christian Movement (SCM) of the mid-1970s.

When Rajani returned to University of Jaffna in late 1986, she strived hard to make the university a place that would serve the community meaningfully. Rajani had no illusions about the Sri Lankan state or army's discipline in the face of the LTTE's calculated provocations. In May 1987, when it was clear that the Sri Lankan army would try to overrun Jaffna, Rajani, who strongly felt that the University should be an institution that identifies and suffers with the people at a time of crisis, was part of a move by some academics to have the University store provisions, open its doors to refugees, and press the Government to declare it a safe zone for civilians.

But a discussion they had with the Vice Chancellor, some Deans and the Registrar on the proposal was like an episode from the British TV comedy 'Yes Minister'. Through several semantic convolutions, these university bureaucrats stuck to the position that this was not the University's business. At this moment they lost an important opportunity for the University to earn respect and be a voice of the people. The Sri Lankan Army captured Vadammaratchi in May 1987, and the LTTE precipitated a war with the Indian Army. Instead of a protected zone, the University became a battle zone, with its atomised academic body scattered throughout the peninsula, helpless like everyone else, collecting Indian Army handouts.

Perceiving from the Indian Army's offensive in 1987 onwards how various armed parties pulverised the people, Rajani would not remain passive. As part of the initiative to talk to the Indian Army and reopen the University, she strived to make the University a strong base from which to articulate the community's interests, resisting all sources of oppression.

She had returned from England in 1986 disillusioned with the LTTE and determined to challenge them from the ground up. Even as we authored *The Broken Palmyra*, Rajani was clear that our long-term interests lay in keeping criticism of the LTTE political, not personal, in its content.

Her internationalism was at once global in scope and close to the ground. It was impossible for her to be connected to what she considered international without also being deeply involved with the sufferings of the community into which she had been born. From this vantage point, she saw a division of labour between what could be done at broader level and what only local groups could and should do.

Most importantly, she argued that criticism and exposure of groups like the LTTE needed to be done locally. Sinhalese groups doing that would have had little impact, especially when Sinhalese chauvinism and the violence of the State were at the root of the problem. These groups needed to take on the state effectively, while also being clear about the nature of the LTTE.

In the wake of the LTTE provoking a war against the Indian Army, Rajani was confronted by huge misery among the people. She wrote a number of letters and leaflets for immediate attention. These exposed the LTTE's drive to maximise civilian casualties and the Indian Army's callousness in clear and direct terms. She also appealed to several solidarity groups in India. Her approach to the Tamil dilemma can be summarised in the following passages from UTHR(J) Report No.1, composed in late 1988:

*"The logic of the Sri Lankan state's military approach to the Tamil problem was that in the end all Tamils were classed with armed rebels, whose extermination was desired. There is little doubt that, but for international concern, the Sri Lankan government showed few inhibitions against practising genocide.*

*Our experience has also taught us that the community must develop its ability to stand up for values it holds dear, which alone can guarantee its dignity. This raises certain matters specific to our own situation, consequent to the marginalising of all civilian political groups. We have a situation where the gun approach to problems has become the rule rather than the exception and there is no political impetus to question it."*

The Preface concluded: "...with the world so interlinked, no event is an isolated event. What happens in this society has a close relation with its

*interaction with the outside world. By trying to hide what our society really is, we can only deceive ourselves. While exposing what is being done to us, we are also airing the truth about ourselves. This we hope will challenge us to change for the better."*

The shared frailty of mankind and the need for self-criticism and honesty are two dominant themes in *The Broken Palmyra*. The long and destructive conflict shows that both Tamil and Sinhalese societies have failed on both counts – a problem that must be addressed if this country is to be the home of diverse peoples. We will explore this theme of frailty and failure having common threads. One of these threads is closely connected to Rajani's murder, and provides a stark example of how these communities failed to meet their obligations not only to each other, but also to themselves.

## **6.2 The Left in Jaffna: A Missed Opportunity**

Despite its giant strides in education, Jaffna was known as a conservative and backward place.

Yet many left intellectuals – including Rajani – lived in Jaffna in the mid-1980s. The criticism of Jaffna as conservative and backward came principally from the parliamentary Left which was exasperated by its inability since the 1960s to win seats from Jaffna. Such harsh criticism coupled with accusations of ingratitude, gave the Left of the South an excuse to jump on the bandwagon of the SLFP's Sinhalese chauvinism. By this shift, they cast aside the Tamils and the Plantation Labour they had once championed. The bane of left politics in Lanka was its divisiveness, particularly between the Lanka Sama Samaja Party (LSSP) and Communist Party (CP). Given the quirks of the parliamentary game, the prudent course would have been to bury their doctrinal differences and form a Social Democratic Party – something they attempted too late.

Left influence came to Jaffna initially through the Gandhian route of the Jaffna Youth Congress (JYC) in the 1920s. The JYC had been an advocate of egalitarian education, and the advent of free education in the 1940s extended its influence among the rising generation. It sowed the seed that was eventually harvested by the incipient Left.

Several leading left figures could be traced back to schools and principals connected to the JYC. N. Shanmugathan was from Skandavarodhaya of the JYC veteran Orator Subramaniam. Another student of Orator's Skandavarodhaya who made his mark on the Tamil struggle is P. Rajanayagam, founder editor of the London-based *Tamil Times*, which functioned through the crucial years starting from October 1981. Having started in left politics as an LSSP activist, he became an active trade unionist in the 1950s and 1960s. He stood for human rights without partisanship, defying the LTTE which always posed a threat to him.



Other leading JYC principals included Handy Perinpanayagam of Kokkuvil Hindu College and N. Sabaratnam of Hindu College. M. Karthigesan, a founder member and leading intellectual of the Communist Party, succeeded Sabaratnam in 1971 as principal of Jaffna Hindu. By 1956, the Left made a showing in Jaffna that was astounding for newcomers. The 1940s generation that benefited from free education was coming of age.

P. Kandiah of the CP won Pt Pedro in 1956 with 51% of the vote at a time when politics was becoming very nationalistic amidst mounting ethnic polarisation. The combined left vote was high in several rural Jaffna electorates – in Vadamaratchi, Uduvil, and Vaddukkottai. Had the Left been united in 1960, for example, it would have beaten Tamil Congress candidate M. Sivasithamparam in Uduppiddy by 47% to 35%.<sup>91</sup>

Comparing the results of Pt Pedro electorate in 1956 with the two electorates, Pt Pedro and Uduppiddy, into which it was divided in 1960, one sees immediately that Uduppiddy, which includes Prabhakaran's Valvettithurai, was a solid base of the Left. In the mid-1950s, then, the Left had the potential to become the leading political influence in Jaffna, which then had several school principals with progressive views.

Divided, the Left failed to inspire confidence as a motor for change. After the 1947 elections, it took the Left two years to agree on a leader of the opposition. Had the Left inspired confidence, several persons in Jaffna who made their mark in the nationalist camp might have opted for left politics – among them V. Dharmalingam, A. Thiagarajah, V. Anandasangari and arguably A. Amirthalingam who as a student was attracted to the Left.

One could moreover see in the electoral performance of the Left in Jaffna, the impress of caste. But to be a winner, the Left needed more. It had that opportunity while it was seen as a principled and doughty opponent of communalism. Thus the Left's suicidal move to join the Sinhalese extremist camp in the 1960s was a tragedy not only for the Sinhalese, but also for the Tamils, and for the Left as a whole. The Left, though ill-used by President Jayewardene, honourably went to his aid in supporting the Indo-Lanka Accord of 1987, which cast them into the JVP's murderous sights. Several leading members of the Tamil Left were killed by the LTTE; a number of those who remained became mouthpieces for the LTTE's demented nationalism as the price for their survival.

### **6.3 A Wrong Beginning in Tamil Self-Determination**

Mrs. Sirimavo Bandaranaike's 1970 government had more than a two-thirds majority, which left the Federal Party (FP) with no bargaining power to influence government policy. Left helpless in the eyes of its voters, the party, by then the flag bearer of Tamil Nationalism, was confronted with

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<sup>91</sup> [http://en.wikipedia.org/wiki/Udupiddy\\_Electoral\\_District](http://en.wikipedia.org/wiki/Udupiddy_Electoral_District)

eroding support. Its veteran, Dr. E. M. V. Naganathan, who held Nallur with 65% of the vote in 1960, lost to C. Arulampalam in 1970.<sup>92</sup> A. Amirthalingam lost that same year in Vaddukkottai. Another tragedy for the Tamils: the combined Left, which had had a powerful showing of 30% to 51% in several electorates in Jaffna in the latter 1950s, dropped mainly to single digits in 1970. One surprising exception was the Communist candidate V. Ponnambalam's 27% in KKS in 1970 and nearly the same at the 1975 by-election.<sup>93</sup> Had the Left not been so far advanced towards suicide, the Federal Party's showing would have been even weaker.

A. J. Wilson points out that the ruling SLFP's right-winger Felix Dias Bandaranaike (FDB) being extremely antagonistic towards minorities, was goading the Left in the coalition into a similar position. It was clear that the 1972 Constitution then being drafted by the LSSP's Dr. Colvin R. de Silva would concede nothing to the Tamils. The sizeable participation of Tamil intelligentsia in the Left (LSSP and CP) had a significant influence against separatism. It was important that their credibility remained untarnished. Tamils in the Communist Party became worried. A leading Jaffna journalist referred to earlier, the late A.J. Canagaratna, told us that Communist Party leader and minister, Mr. Pieter Keuneman, had arranged for Tamil party members to meet government leaders engaged in the new constitution. They found Mrs. Bandaranaike receptive, but not so Dr. Colvin R. de Silva.

Constitutional lawyer Jayampathy Wickremaratne records that FP MP Mr. V. Dharmalingam offered the Constituent Assembly a compromise: *"If this Government thinks that it does not have a mandate to establish a federal Constitution, it can at least implement the policies of its leader, Mr. S.W.R.D. Bandaranaike, by decentralizing the administration..."* But to no avail. Chelvanayakam had regularly attended sessions of the constituent assembly, but he finally announced that since the party's presence served no purpose, they were quitting: *"By taking this step, we mean no offence to anybody. We only want to safeguard the dignity of our people...We do not wish to stage a demonstration by walking out".*<sup>94</sup>

At this juncture, to recover its declining support, the Federal Party followed in the tracks of history's other nervous nationalists. A. J. Canagaratna described a meeting Chelvanayakam presided over in 1972. At the meeting, speaker Kasi Anandan condemned Mr. Alfred Duraiappah, Mr. M.C. Subramaniam, Mr. C. Arulampalam, and Mr. V. Anandasangari as enemies of the Tamil Nation, and deserving of death at the hands of the youth – sentiments that were editorially echoed by Chelvanayakam's

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<sup>92</sup> [http://en.wikipedia.org/wiki/Nallur\\_Electoral\\_District](http://en.wikipedia.org/wiki/Nallur_Electoral_District)

<sup>93</sup> [http://en.wikipedia.org/wiki/Kankesanthurai\\_Electoral\\_District](http://en.wikipedia.org/wiki/Kankesanthurai_Electoral_District)

<sup>94</sup> <http://kumardavid.com/wp-content/uploads/2011/07/Jayampathj-1972-constitution3.pdf>



paper, *The Suthanthiran*. Duraiappah was hounded and killed by the LTTE in July 1975 (see *The Broken Palmyra* and *Arrogance of Power*).

Prabhakaran, one among the killers, fled the scene of crime to future FP MP Yogeswaran's house, as Mrs. Yogeswaran told the *Sanjeevi* shortly before she was killed. A senior engineer and leftist told the story of how Prabhakaran, upon reaching Yogeswaran's house, entreated him, 'Save me'. Yogeswaran took him by car and got his wound from an ordinary injury dressed. The engineer observed, "*I always knew this man would one day surrender. It is such persons who glory in the vicarious sacrifice of others.*" Mr. and Mrs. Yogeswaran, who were old friends of the writer, were both killed by the LTTE, in respectively 1989 and 1998 respectively.

Learning of Duraiappah's murder, the Communist Party's Jaffna secretary, Mr. I. R. Ariyaratnam, went to his Nallur neighbour, a senior Federal Party leader, and gave vent to his horror. The FP senior answered, "*What else can you do with him?*" Taken aback, Ariyaratnam's prophetic riposte was, "*You watch, one day they will come for you!*" What Ariyaratnam saw in the Federal Party leader was the capacity for savage hatred of dissent one finds in many nationalists of the urbane, educated Tamil middle class – an obsession, as LSSP's theoretician Karalasingham might have put it, with Tamil rights '*to the exclusion of all others*' (*Arrogance of Power*). From the mid-1980s, one was often astonished to encounter this intense hatred in LTTE supporters, who until then one counted as friends.

Mr. N. Sabaratnam of the Youth Congress and later principal of Jaffna Hindu College, told this writer that he made it a point to attend Alfred Duraiappah's funeral and was amazed by the huge crowd, signifying a man whom many really missed. Sabaratnam's purpose in relating this in 1986 was to counter statements like this one, which appeared in A.J. Wilson's book on Chelvanayakam: "*This political killing did not meet with universal abhorrence; on the contrary many Tamils had disapproved of Duraiappah's activities on behalf of the SLFP.*" Wilson says nothing about Chelvanayakam's attitude regarding the Duraiappah murder, but we may take it that neither Chelvanayakam nor other senior party colleagues condemned it. Mr. K. Nesiiah, a member of the Youth Congress who later came to be associated with Chelvanayakam, was among the few who did.

Wilson records that in the period that Duraiappah was killed Chelvanayakam garlanded a statue of Sivakumaran, who was involved in a failed bombing attempt on Duraiappah and later committed suicide after being caught in a failed attempt to kill a police officer. Chelvanayakam's act would have been defensible had he also condemned Duraiappah's murder. Wilson claims that Chelvanayakam adhered to non-violence; further, he suggests age and party opinion as mitigating factors in these troubling episodes involving Chelvanayakam. Neither pretext carries much



conviction. In fact, one may argue that the careers of Sivakumaran and even Prabhakaran received their direction from Kasi Anandan's *fatwa*, issued from a platform over which Chelvanayakam presided. We cannot gloss over these grim early portents of Tamil Nationalism.

During the General Strike of June 1947, the Police shot and killed a man named Kandasamy, whose body was sent to his family in Jaffna by the night mail train. When the coffin arrived, G.G. Ponnambalam told the crowd waiting on the platform of the Jaffna railway station that Kandasamy had been killed by the 'Sinhalese government'. It was still colonial rule. A. J. Canagaratna, who was present, found Tamil nationalist politics questionable from that moment on. Shortly thereafter, Ponnambalam won the next general election, trouncing his opponent with 73% of the Jaffna vote. How soon the sands of time run out on the pretensions of such politics! In 1960, Ponnambalam had been electorally cowed by an unassuming Duraipppah, who was no nationalist and had succeeded by befriending all, and being ready to help even his adversaries.

(A.J. recalled the Jaffna station episode in 1986, when the LTTE displayed outside Nallur Kandasamy Temple the bodies of about ten Sinhalese soldiers killed in battle, in Mannar. He observed, "*Tamil politics has always been corpse politics.*" LTTE politics, A.J. clearly perceived, was a continuation of early Tamil nationalist politics. One might see A.J. as the prophet Jeremiah of the Tamil armed struggle, a Marxist of absolute integrity who saw where it was headed. He died in 2006, during the last and most ignominious phase. The ghost of Alfred Duraipppah, vilified by many nationalists as one who did not deserve to live, continues to haunt us all.)

The FP-TULF's Vaddukkottai resolution of 14<sup>th</sup> May 1976, having described the course of the Tamil liberation struggle, the rejection of reasonable demands and the oppressive 1972 Constitution which dropped the only safeguard they had in Article 29 (2) of the Soulbury Constitution, declared that separation was the only course left open to the Tamil speaking people. The Resolution also lists prominently among its complaints and causes the disenfranchisement of half the Tamil population by the Citizenship Acts. In several respects, the resolution looks reasonable and would have certainly resonated with a vast majority of the Tamils of that time, after their decades-long feeling of acute helplessness.

But at least one senior FP member close to Chelvanayakam was in fact thoroughly alarmed by the separatist resolution. As related to us by A.J.: *M. Tiruchelvam called A. Amirthalingam, who was by then the leader-in-waiting, and asked, "What have you done?" Amirthalingam explained that they had had to adopt separatism to pacify the youth, but that as far as the party was concerned, it was only a negotiating position. That was*

*the truth. But the concurrent nationalist rhetoric about traitors and spilling blood had an unstoppable deadly momentum. The TULF won the 1977 elections resoundingly, and the rulers subsequently let loose communal violence that scarred the country in general and Tamils in particular.*

As Sinhalese sensitive to wrongs on their community's side, Jayampathy Wickremaratne and Nihal Jayawickrema<sup>95</sup> have rightly not taken issue with the Vaddukkottai Resolution. A wronged minority is duty bound to appeal to international laws and covenants. Still, when it does so with its house full of murder and deceit, it may offer the world an unsolvable dilemma. Now that the LTTE is gone, that dilemma becomes more tractable.

#### **6.4 Post War Dilemmas**

The situation at present is laced with ironies that pose very difficult questions for the Tamils. There is no doubt that the people see the remnants of the Federal Party— whose abler men were culled first by the Tigers and in 2006 by government killers – as their representatives. But the Party cannot be open about the LTTE, which stole their nationalist thunder, held them captive for many years, and ran elections for them. Reeling from heavy loss of life and means, heavily traumatised, and forced to cope with military occupation, many in the Vanni have an unshakable belief that Prabhakaran is still alive. Forced to humour the Army and pro-government groups, just to get on with life, many Tamils feel more convinced, than ever before, that they need a country and land to call their own.

#### **Are we serious about reconciliation?**

Rajani never underestimated the gravity of the task she had undertaken. We offer examples of the kind of women Rajani would have befriended today.

Ajanthi is a charming young teacher who always has a smile. When we met, a small boy sought cover behind her saree. We were about to ask if the boy was her son when she told us their story: she was with her larger family at Mullivaykkal when a single explosion killed her sister, Gajanthi; another sister's husband, Sabapathy; and Gajanthi's mother-in-law, who had been cooking. Ajanthi now heads her household, and bears the additional responsibility of three children from her siblings' families. How does she smile in her immense sorrow? *"What is the good of being sad?"* she asked.

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<sup>95</sup> e.g. <http://www.island.lk/2007/07/15/features1.html>, Jayawickrema: "By 1972, all these safeguards [in the Independence Constitution of 1946] had been repealed, and the constitutional settlement had eroded. The subsequent events, both tragic and destructive, are now a matter of history."

Thangam is an elderly lady from Trincomalee who relates a life of sadness and repeated displacement. Her community was displaced from Pankulam in 1983, when J.R. Jayewardene's rogue state dispatched unofficial thugs and security personnel to cleanse several areas of Tamils by means of violence. The Indian Army resettled them, but then the rabid violence of the security forces and the LTTE allowed them safety only in the Vanni. Ultimately, the LTTE settled them in Nathan Kudiyruppu there.

As with the youth driven out of Manal Aru or Weli Oya, many of the Pankulam displaced became intrepid LTTE operatives. Thangam's relative Jeyatheesan, for example, led the sophisticated assassination of foreign minister Lakshman Kadirgamar in August 2005. He was later killed in a navy attack during gun running. Thangam, who survived the Vanni war, fears returning to Pankulam because Sinhalese neighbours would divulge her family's old LTTE connections to the security forces that are prominent in the locality. Thangam smiled warily upon observing that the Army now wants them to change the name of their Pulendran Nursery School.

Pulendran from Trincomalee, of course earned notoriety with his April 1987 massacre of Buddhist pilgrims in Kituluttuwa. The fashioning of such brutal killers among Tamil youth was the obverse of the phenomenal massacres and displacement launched by a deranged state. In the absence of reconciliation, however, trying to make Sinhalese victims understand the evolution into brutality of those like Pulendran is a futile task.

Still such stories legitimising the LTTE's approach persist. A young medical worker in the Vanni said that his 17-year-old sister Saranya was killed by LTTE misfiring in Valaignarmadam in February 2009, when they shot carelessly at would-be escapees. He remarked, *"They became insane in their latter days."* He then joked with his classmate about school days when they poked fun at LTTE recruiters, whose lines were: *"You want to become a doctor? We will make you one. You are studying maths to do engineering? We will make you an engineer. But for now you need not go to the front. We want only your trigonometry. You just sit by the cannon and tell us the angle! We only need you for a year. Then it would all be over."* There was an absence of anger nearing on sympathy.

Yet the LTTE did have a cause that it abused and, where the young are concerned, their schoolmates and kin died for it. On the other hand, all they saw of the State was its sheer brutality. They could see that the LTTE was insane when it held civilians hostage at Putumattalan and Mullivaykkal under shelling, but find it more difficult to see that insanity and callousness were inherent to the sheer intolerance of its politics. This is especially true when, even postwar, they see no return of reason to the State.



The humiliation of existing power relations, too, sends a strong message. In a bid to get it off his chest, a senior educationist related an experience in which the Army summoned him. Before he knew what was in store for him, he was sponged off, powdered, made up, placed before a movie camera, and told to denounce the Channel 4 film on the final round of war. He concluded his anecdote with an embarrassed laugh, adding that he had had no choice. What did he really think of the Channel 4 film and the UNSG's advisory report's estimation of casualties? "*They are possibly quite credible*," he replied cautiously.

This brings us again to Rajani's singular political prescience. She sought to build left political activism that was small, viable, and exemplary. The illusion of a parliamentary road to the revolution proved the undoing of the traditional Left. So imbued had they become with traditional political power that without it, all seemed lost. Following this pragmatic logic, they dropped the Hill Country Tamils when that group's vote was taken away. Then they dropped the Tamils because they were contemptuous of Tamils' apparent conservatism, and because Tamils voted for 'old man' Chelvanayakam and the Federal Party. Finally, their insincere Sinhalese chauvinism left them the abject playthings of the Sinhalese Right.

**Solidarity amongst the oppressed and vulnerable** was an aim close to Rajani's heart, as evident in her writings in the *Broken Palmyra*. She saw clearly that all minority parties were no more serious about politics than making promises and getting votes to bargain with the ruling Sinhalese. They had no sense of responsibility for other minorities and workers.

In 1980, the TULF failed to support the General Strike by the mass of workers facing plummeting standards of living and erosion of workers' rights. The party also responded lackadaisically to President Jayewardene's unconstitutional referendum of 1982, which extended the expiring term of the Parliament without elections. The Tamil leadership missed the opportunity to use a principled stand to win the respect of the Sinhalese masses. Eight months later, in July 1983, it was paid for its favours by Jayewardene unleashing mobs on the Tamils.

The Muslim and Hill Country Tamil leaderships, aiming for Cinderella goodies, long had similar opportunistic records. The Muslim leadership supported the Citizenship Acts in addition to the undemocratic acts of successive governments. Sadly, this includes the 18<sup>th</sup> Amendment, which enabled the President to usurp further unconstitutional powers. But when a mosque was attacked in Anuradhapura in 2010, and when Prime Minister Jayaratne ordered the Dambulla Mosque to be relocated after a mob attack in April 2012, Muslims received crucial solidarity from other communities, mainly Sinhalese, boldly saying enough was enough.

Rajani would have been heartened by this show of support across communities. She believed that each minority must treat the rights of other minorities as sacrosanct, joining in the widest possible solidarity to fight against the infringement of the rights of any person.

To Rajani, the search for popularity presented an entirely wrongheaded ordering of priorities – a parliamentary trap. To her, the chief priority was to be found sincere and faithful among the people whose causes she espoused. This meant one should not become angry with people if they disagreed with or exasperated you. It meant earning their acceptance by being found faithful – an attribute of character. She took great care with every statement which if not explicitly political had political overtones. No criticism of the LTTE should allow misinterpretation that undermines Tamil liberation. Politics was, for her, a demanding commitment.

Intellectual and emotional commitment to politics founded on the people's interests left Rajani little room to be swayed by personal likes or dislikes. Her interest was in maintaining an unsparing commitment to justice. Decades after her death, this still sets her apart from the many Tamils who came to detest the LTTE with good reason, but then heaped uncritical praise on Rajapakse for the LTTE's defeat. By rationalising away the people's experience of war and using self-comforting estimates to minimise civilian casualties, these people lost any capacity to relate to their fellows.

Rajani knew that there was absolutely no point in lecturing to people who had been the victims of the State on the destructive nature of the LTTE. Encouraging them to think for themselves and engaging with them took patience. Reconciliation with the Muslims and Sinhalese had to be pursued through people's networks, even when a perverted state placed enormous barriers in its way. Jeyatheesan, mentioned above, is after all a case of the State's blood-stained stupidity.

Today, even many on the Tamil left who had no truck with Tamil nationalism in the past see strengthening the Federal Party as the Tamils' only hope. Their close observation of the Rajapakse government and its leaders, several of whom are very uncomfortable, but speak to them freely, has driven them to the conclusion that were the Federal Party to fold up, the Tamils would be finished. For many with no high opinion of Federal Party leaders, the party remains an important symbol; it is enough that it does not kowtow to the Government and sticks to the demand for federalism. Could the Party steer away from the suicidal and narrow nationalism of the past to build bridges to the ordinary Sinhalese people?

To avoid needless suffering, such a struggle needs to proceed piecemeal. Immediate objectives must be small and attainable goals. Grand nationalist dreams are the stuff of romance, which too often lead to

immitigable situations in which the words “victims” and “martyrs” lose all meaning.

## 6.5 Victims as Martyrs

Having been through the trauma of a devastating war, we owe it to ourselves to ask where we went wrong and harmed others and ourselves most. The most potent weapon of a totalitarian order is to make people accept lies of comfort. We are made to believe that not to question the orders of the ruling clique, or its version of things, is the surest guarantee of safety. This attitude cost many children their lives and souls. Among the lies that props up this edifice is recasting victims as martyrs. As with the rest of society, it became extremely hard for LTTE cadres, once tainted by their movement’s pernicious enterprise, to say no to orders, however inhuman those orders might have been.

Thileepan and Kumarappa were among LTTE leaders ordered to swallow cyanide as part of a strategy of to provoke war with India in October 1987.<sup>96</sup> These events took Jaffna by storm, and before we had a sense of what was going on, the shells were flying and Rajani was hurtled into two years of defiant activism that ended with her assassination. Thileepan’s and Kumarappa’s deaths are intimately linked to Rajani’s own, and to her driving belief that the truth about every individual death must be told.

Kumarappa and Thileepan stand as examples of the malignancy of an ideology that forces individuals to bury all natural sense of family, community, and friendship, and to become blind killers. It was bound to break them if they were not already broken.

The LTTE leadership ordered Thileepan to fast to death in mid-September 1987, with the aim of arm-twisting India into granting them a virtual monopoly of the Interim Council and to divert attention from their ongoing massacres of Sinhalese civilians and rival militants. Thileepan’s martyrdom provided ‘proof’ of India’s bad faith.

In early 1985, dissidents of the PLOTE’s Theepori group approached Thileepan at Jaffna University. They asked him to provide them with safe passage to India. Thileepan said that he needed to talk to the leadership in Madras<sup>97</sup> and in a friendly chat told them that there were also differences in their group and that they were trying to resolve them. Jaffna University was still, then, a place where different groups interacted. Thileepan’s elder brother Kandeepan was in the PLOTE and many of Thileepan’s

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<sup>96</sup> This was in the wake of the Indo-Lanka Accord, where the LTTE objected to power sharing and demanded from India complete control of the proposed interim council for the North-East. The suicides were meant to heighten the emotional pitch by claiming that India had betrayed them.

<sup>97</sup> The LTTE later declined the request on the grounds that they were not in a position to confront the PLOTE



schoolmates were in other groups. But when the LTTE leadership wanted other groups violently suppressed, Thileepan dutifully conformed.

A short time before his fast to death, Thileepan went with other drunken LTTE-ers to a camp of EROS cadres, who unlike their leader Balakumar had refused to cringe before the LTTE. As Thileepan threatened them, they stood calm, as though they would fight back if force were used. Sensing the defiant mood, Thileepan patted the EROS leader on the shoulder as though it were a joke and withdrew. Thileepan was already a broken man.

Thileepan's 1987 'Gandhian' fast to death on a platform in front of Kandasamy Temple was a massive religious affair, surrounded by mourners hoping that he would be granted a reprieve. The doctors and medical students who monitored him believed that it would be called off once the point about the interim council was made. But the Leader visited him, beamed his benediction and withdrew: there was no reprieve. Thileepan became desperate. Some medical students heard him tell LTTE cadres present not to let him die. At one point when Thileepan rose from his bed and asked for water, supported by pleas from the public, LTTE cadres managing the show sprang at him, pressed him down, and switched off the microphone on the platform.<sup>98</sup> After his death, Thileepan's body was delivered to Rajani to be preserved for the advance of medical science.

Kumarappa was among over a dozen LTTE members detained at sea by the Navy on 2<sup>nd</sup> October 1987, six days after Thileepan's death. His personal and family history is revealing. The LTTE had run into a crisis in late 1979 when several members demanded a civilian-controlled mass movement and protested against Prabhakaran, over internal killings and his abuse of power. The LTTE broke up and ceased to exist; Prabhakaran and Baby Subramaniam joined the TELO. Kumarappa supported the side demanding greater democratisation and continued his campaign in Jaffna. He then went to Europe for technical studies.

The communal atrocities of July 1983, however, convinced Kumarappa and several others to rejoin the refashioned LTTE. They decided to put aside political differences and adopt an all-hands-on-deck approach to check the Government. In 1986, when Batticaloa leader Kadavul refused to carry out Prabhakaran's order to eliminate the TELO by murder, Kumarappa was sent instead to carry out the orders. He did so, ruthlessly. The East had a plural environment, and Tamil groups there knew that the kind of infighting in Jaffna would be fatal. The next year Kumarappa must have been shocked when, just after his marriage, the Leader ordered his suicide.

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<sup>98</sup> A version current among LTTE cadres was that before Thileepan commenced his fast he told them that his resolve may weaken, and should he ask for water, they should decline.

Kumarappa, Savundararaj (Rasupillai) and Raki were children of three daughters of Captain Sabaratnam of Valvettithurai, whose merchant vessel plied between ports in Jaffna and India before such trade was halted in the 1940s owing to wartime rationing. Valvettithurai (VVT) was also Prabhakaran's native place. Kumarappa's cousin Rasupillai succeeded to the leadership of TELO after Thangathurai and Kuttimani (also of Valvettithurai (VVT) were arrested in June 1981. Rasupillai had been closely associated with Prabhakaran until early 1982, according to a left source from VVT. After assuming the mantle of TELO leader, this source said, Rasupillai trained TELO cadres with the aim of breaking his predecessors out of jail. According to the VVT left source, the rescue was thwarted by the LTTE's ambush of the Sri Lankan Army on 23<sup>rd</sup> July 1983. The LTTE killed 13 soldiers, which acted as the ostensible trigger for the pre-planned Welikade prison massacre. (Other observers feel Rasupillai had already lost any sense of leadership and ceased to be a serious figure.)

Kumarappa's other cousin, Raki, joined the LTTE. In 1993, accused of being a Mahattaya supporter and a part of a plot to kill Prabhakaran, he was arrested, and subsequently disappeared. From this one family, we can see that the idea of VVT as a staunchly LTTE base is only an illusion created by terror. The LTTE phenomenon was one that divided families and ultimately brought ruin to a once prosperous city. A deeply suspicious leader like Prabhakaran could not help but feel threatened by Kumarappa's past dissidence and the mixed feelings of older cadres who once had friendly or familial ties to other groups.

Kumarappa was hardly alone in such dissidence. A sudden revelation could trigger in a cadre sharp revulsion for both cause and leader, even when the cadre had earlier followed orders to kill out of blind devotion. Rajani once saved the life of Charles Anthony, also known by the *nom de guerre* Seelan. As a young doctor, she had personally nursed Seelan who suffered an accidental firearm injury in 1982 until he was out of danger. When Seelan was injured again in the Chavakacheri Police Station attack in October 1982, Prabhakaran recalled him from India before all shotgun pellets in his knee were surgically removed. His offence: he had fallen in love with his nurse from Kerala. For his part, Seelan refused to talk to Prabhakaran and bitterly gave vent to anger and regret over his despicable services to the master, such as murdering Sunderam of PLOTE. Seelan later lamented in self-reproach that Sunderam was '*a freedom fighter like me*'. But he kept returning to a safehouse in Chavakacheri he called *Shanthi Illam* (Abode of Peace), despite warnings of danger. Seelan was killed there in an army ambush on 15<sup>th</sup> July 1983. This episode was lost in events triggered by the LTTE attack on an army patrol eight days later.

Seelan was neither first nor the last in a long line of remorseful LTTE youths who found life after executing criminal orders intolerable. Pt. Pedro



area leader Prabha became a trusted assassin, and the leaders deployed him on missions to kill other LTTE members. He took his targets to lonely spots by vehicle on some fictitious pretext and then shot them unawares. He grew deeply disturbed and confided to his aunt, *"Sometimes when I am talking to my father, I feel like putting a bullet into his head and watching him suffer."* In December 1987, he was involved in medical evacuation of cadres injured in fighting the Indian Army from Thumpalai beach to South India. After a hurried dinner of *pittu* made by his mother and a brief rest at home, he drove alone to the beach, where an Indian Army column shot him. Unbeknownst to the LTTE, the column had advanced from the east through fences, avoiding the road where LTTE sentries were posted.

A highly respected lady and senior educationist once found her nephew, Bhavan, an LTTE local leader near Pt. Pedro, crying inconsolably. Upon inquiry, she found that he had executed an alleged informer and was miserable. She counselled him never again to shoot an unarmed person. Thereafter, Bhavan became known for his lack of enthusiasm for violence. He committed acts of sabotage on Indian Army communication networks rather than attack patrols. We included his death in UTHR(J) Report No. 3:

*"In early March (1989), he with a few others approached a house in Puttalai and told the mistress they wished to spend the night there and assured her that they would never shoot from the house and place the inmates in danger. The Indian Army surrounded the house in the early hours of the morning. The young leader and his companions did not resist. They swallowed cyanide and gave up the ghost."*

Rajani used to tell her pro-LTTE students that if they spied and plotted against those around them, they would live to regret it, as had many before them. What was happening within the group was a reflection of its treatment of persons outside it.

## **6.6 The Tiger Gulag**

Rajani's killing on 21<sup>st</sup> September 1989 came on the heels of the Indian government's announcement that it was pulling the IPKF out of Lanka. That too was a fruit of the marriage of convenience between the LTTE and the UNP government of President Premadasa. Despite being a signatory to the Indo-Lanka Accord, the Government became very adventurist in working closely with the LTTE to attack the Indian Army; LTTE units were also involved in search parties in the South to hunt JVP rebels. Under the deal the Government was to give the LTTE virtual control of the North-East. Rajani's killing was the first move to eliminate all local dissent.

After Rajani's murder, I. Shanmugalingam was one of next dissidents to be abducted and slain. In early November 1989, an LTTE cadre known as



Jawan took him from home. A few days later, Shanmugalingam's wife was asked to come to Neervely and collect his bicycle and chain. As a journalist at *Eelanadu*, Shanmugalingam had spoken critically at a meeting of journalists convened by the LTTE soon after their 1986 massacre of TELO cadres. He protested against attempts to control what journalists thought and wrote. The LTTE got the *Eelanadu* management to sack him. Thereafter he suffered financial hardship. (One suspects that had he not belonged to an oppressed caste, Shanmugalingam would have been less vulnerable). After working as a security guard at the Education Office, he joined the journal *Viduthalai* (Freedom), which was close to the EPRLF, as editor. In the journal, he denounced Rajani's killing and also published extracts from *The Broken Palmyra*, which people read with much interest.

But as the Indian Army relinquished control, the LTTE began to arrest Tamil dissidents. And they did so with the active connivance of the Sri Lankan military. In fact, the LTTE arrested persons in Colombo and transported them in regular passenger coaches through army checkpoints, with the prisoners manacled to the buses. The captives were offloaded in Kilinochchi and taken to prisons. Others were driven south from Jaffna through the Elephant Pass checkpoint, where their Tiger captors exchanged jokes and pleasantries with government soldiers. Anyone with moral sense observing this would have known that no good could result from this fake peace; it could only lead to an abominable tragedy.

The honeymoon ended with the resumption of war with the State in June 1990. And it was a war fought with scant regard for human rights or humanitarian law. The Sri Lankan forces subjected civilians to indiscriminate attacks, deployed them as human shields and mine clearers forced to march ahead of troops, and massacred them in large numbers. The fighting displaced over a million people; and all parties enjoyed impunity. The conduct of war in 1990 set a tragic precedent for later phases of the conflict. Victories and defeats in this long and dirty war have no meaning other than shame and deceit – events to weep over rather than to celebrate.

Owing to our association with people working on the ground, UTHR(J) was among the few to highlight (Sec. 4 of Briefing No.1, Reports 5, 6 & 8) the enormity of disappearances under the LTTE and was practically alone in saying that the number of detainees was of the order of 3,000 – 4,000 or more. Our findings in Report No.9 of 1992 and Bulletin No.4 were based on interviews with witnesses. The reports also included accounts of many army atrocities, but prominent media in the South which quoted our reports left these out and gave selective publicity to the LTTE's prisoners.

With renewed efforts at making peace between the Government and the LTTE in the early 1990s, few locally or abroad were keen on pressing the

prisoners' issue. The LTTE countered us with arguments very similar to those used later by the Government to ridicule the UN panel report of the last few months of the war in 2009: they said (wrongly) that we lacked direct evidence from victims. The LTTE similarly attacked our reports on the conduct of war in the 1990s and the treatment of thousands of prisoners. The Rev. Dr. Chandrakanthan of Jaffna University (now a professor at University of Toronto) offered a countering testimonial, saying that he had heard nothing to substantiate our claims and that the LTTE, being obliged to maintain law and order, had prisons for police cases and from his own inquiries he learned of about 250 prisoners, who were well looked after.

In fact, while we had numerous individual reports of persons being taken away by the LTTE, our figures were based on several reports by individuals we judged to be reliable witnesses. They corroborated one another. Around May 1990, the number of prisoners listed by the LTTE at an inquiry office was over 2,000. One escaped prisoner, Samaran, who was called upon by semi-educated LTTE guards to devise a system for keeping account of the prisoners, later reported more than 3,000 in the Thunukkai complex (Report No.9 and Samaran's booklet *Psychopaths*). Samaran also reported another hundred in another part of the compound who were held in deep pits. Those in the pits included prominent figures like Muruganesan (Muhunthan), People's Bank Manager Ganeshasundaram, and TULF candidate Nadesu, as well as several Muslims taken for ransom.

Samaran reported about 1,500 prisoners in each of two paddy stores, each measuring 250 feet by 150 feet. We confirmed this several years later, from a restaurant owner in Jaffna town who told us that there were just under 1,500 detainees in the store where he was held. Each captive was assigned one of the small rectangles into which the floor space was divided. Periodically groups of prisoners were called out by their numbers, told they were being released, and taken out. The restaurant owner was among the last 400 or so remaining prisoners, whom the LTTE released. As years went by, the restaurant owner realised that none of those taken out earlier in joyful anticipation of release, was alive. Many had been transported into the jungle and executed *en masse* (Hoole, *Arrogance of Power* p.424).

Samaran's is the single most important report that gives us an idea of the numbers. He was at Thunukkai around April or May 1990 when the prison complex functioned on money, materials, and logistics supplied generously by the Sri Lankan government. While Thunukkai had 3,000 detainees, mainly from Jaffna, the turnover of prisoners was large, all going to their deaths, to further detention, or to release. Their fate depended on the reports of torturers and interrogators. Prison terms lasted from six months to a year. Of the 1,000 held at Charles Camp Chavakacheri, Samaran was among the 600 to be sent to Thunukkai in lorries after being promised



release. There were two other big camps in Chavakacheri, Bosco Camp and the Women's Camp (UTHR(J) Bull. No.4). The LTTE used harsh sentencing to make room for new prisoners. When war erupted again in June 1990 many of those sentenced to prison terms were sent to the front lines to dig bunkers, and were killed by army fire or air-force bombing.

The LTTE continued to arrest hundreds in the months after the war began again in June. These spates of arrest intensified from time to time, when particular events resulting in unjustifiable death on a large scale led to public murmurs against the LTTE. One such occasion arose soon after the LTTE lost many child soldiers in a military debacle at Elephant Pass in July 1991. At that point, the LTTE detained several university students, including Manoharan and Chelvi. By this time, most detainees in Jaffna were held in the peninsula itself, as our cases suggest, since the logistics of transport to Thunukkai had become difficult. The cost of criticism was widely known: in September 1990, the LTTE read out the names of five hundred executed detainees to anxious relatives in Tinnevely. In October 1991, 30 to 40 persons were executed in public places in Jaffna after brief confessions. The practice of detaining dissenters and others the LTTE thought a threat continued until the group's very end, although in greater secrecy after it attracted undesired international attention. As late as early 2009, the LTTE had over 1,000 detainees (Ch. VIII of Special Report 34). Thus we must take Samaran's number – 3,000 in one camp, Thunukkai in May 1990 – as just the thin end of a much larger wedge, pointing to thousands more over two decades, a large number of whom were killed.<sup>99</sup>

An obsession with killing actual and potential dissent on their own side, as opposed to persons in social groups identified with the enemy, is not unique to the LTTE and is often a feature of authoritarian entities seeking a monopoly of power. Writing on the Algerian War, Alistair Horne in his *Savage War for Peace* (Macmillan, 1978), places the *Front de Liberation Nationale* (FLN) as having killed from November 1954 to May 1957, 6352 fellow Algerians and 1035 Europeans. The LTTE was distinguished by its predilection for killing fellow militants in rival groups, instead of trying to forge a common front, so jeopardising the final outcome of the struggle.

## 6.7 The Implications of the Gulag

The middle class placed a premium on security, morality aside. How, then, did such a large number of their rank subscribe for so long to the insecurity imposed by the LTTE? During the war years, this mystery puzzled many.

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<sup>99</sup> In 1990, the population of the North was of the order of 1.2 million, about 0.8 million in Jaffna. The LTTE had an experienced core of over 2000, but had been inducting in many very young recruits, a significant number of whom were posted to the prisons.



The LTTE's internationalism was confined to adapting the deplorable achievements of others. These, the LTTE reinvented and adapted to its own conditions and purposes. The tortures included rolling heavy weights on a prisoner as he screamed while his bones cracked, driving long needles below a prisoner's finger nails, beating with whips made of barbed wire, pressing parts of a prisoner's body with a red hot iron, and electric shocks through the genitals. The Sri Lankan authorities' use of similar sadistic methods against individual suspects (e.g. Special Report No.12), made the sum of damage that much more devastating to the Tamil people.

A partial answer to the enigma, then: the stakes of many members of the middle class were centred not on peace at home, but on their sons, whom they had dispatched to the West for asylum at great expense. To this end, Tiger politics that dictated a perpetual state of war was seen as the best bet. By contrast, Jaffna's poor and those from rural areas for whom there was no prospect of migration suffered immensely from the war, with no sign of hope. Both past and present state repression and past Tiger repression have produced their own crops of eminently deserving asylum seekers.

So, nearly all the prison camp cadres were semi-literate persons; often children, from the deprived classes. What the camps lacked in methodical cruelty, they made up for in arbitrary brutality. In the early days of mass imprisonment according to Samaran, Charles was a camp warden who could not sleep unless he broke the heads of ten prisoners a day – a task that also broke several clubs. Prisoners who consequently lost their sanity were simply taken into the jungle and shot. Given time and stability, and the dehumanising nature of Tiger ideology with its significant following among elite professionals, it is not going too far to suggest that the cruelty of the prison regime likely became more scientific and organised with time.

Samaran notes the contrast between professors of the University presiding over Tiger-sponsored *Muththamil Vilas* (Threefold-Tamil festivals) – celebrating Tamil knowledge, Tamil literature, and the richness of the language – and the atrocious state of language and culture in the Gulag.

There has been little effort in mainstream Tamil society to face up to this legacy, which also dictated Rajani's assassination. It is closely connected to articulate Tamils' silence about themselves, paired with their attempt to cast all blame on the Sinhalese. The Tamil community has no claim to innocence, considering the atrocities of the Gulag – no more than the ordinary Germans' claim of innocence during the Nazi era. But peacemakers turned conveniently turned a blind eye to the Gulag episode, which ironically explains why the Tigers had to self-destruct rather than reach out and work towards a viable peace.

**Muruganesan:** The story of Muruganesan is one among many of committed, able and ethical persons destroyed by ideological intolerance,

leaving the Tamils facing a vast emptiness today. An assistant lecturer in the Agriculture Faculty in Peradeniya, he invented a seed-planting machine. Committed to socialism, he joined the EPRLF and his scientific curiosity, whether in government prison or militant camps in India, impelled him to read deeply to enhance knowledge and to constant empirical observation of his environment. When his group fell into bad times after the LTTE banned it in December 1986, Muruganesan worked hard to uphold morale. When indiscipline became rife in the EPRLF, while it functioned alongside the Indian Army, he tried hard to uphold discipline and a sense of purpose.

While in Vavuniya, his fiancée came to see him, and he told her with a heavy heart that owing to his responsibilities, he could not enter into conjugal life just yet. As the Indian Army pulled out in 1990, EPRLF cadres fled to India in boats with their families. With the Sri Lankan government colluding with the LTTE and providing them intelligence, and the Indian government washing its hands of their erstwhile allies, the LTTE had a free run massacring the fugitives at sea. The Palk Strait became then, another Red Sea. Muruganesan was among the last to attempt the crossing, and was detained by the LTTE after a failed attempt to shoot himself.

One of the last appearances of Muruganesan was at Charles Camp, named after another tortured soul, Charles Anthony. Samaran records: *Salim*, one of the leading torturers, ordered Muruganesan to address a group of new detainees. He had been tortured monstrously, sapping his resolve. He said in a banal speech that the Tigers are the only surviving group and we have no choice but to cooperate with them. He was then ordered to identify members of other groups among prisoners and he identified just a few. An enraged *Salim* picked up a baton and thrashed the prisoner until the baton broke; his rage unabated, he picked up a chair and thrashed Muruganesan on the face and head and left him bleeding profusely.

## **6.8 The Tamil Nationalist Record**

The lies of Tamil nationalists spawned the LTTE. Prabhakaran's career was set in motion in 1972, when Federal Party youth leader Kasi Anandan delivered his infamous call for the youth to kill putative traitors from a Federal Party Platform with senior sexagenarian and septuagenarian leaders including S.J.V. Chelvanayakam on the dais. It was rhetoric of which the purveyors themselves became prisoners. In the end no one was safe.

By the year 2000, most of the nationalist survivors, with exceptions like V. Anandasangari, had walked tamely into the Tamil National Alliance, an LTTE brainchild, as penitent 'traitors'. The parliamentarians were joined by ex-militants like Suresh Premachandran of the EPRLF and Adaikkalanathan of TELO, who betrayed their comrades and victims of



LTTE terror, to fall at Prabhakaran's feet in the service of his intelligence chief Pottu Amman, for use against their more honourable erstwhile colleagues, who refused to have anything to do with the LTTE.

From then on LTTE lies became surreal. They denied or dissimulated about forced conscription of children in Batticaloa starting in September 2001, forced conscription in the Vanni starting in 2006, and finally, lied about holding hostage hundreds of thousands of Vanni civilians. Even though these lies were daily contradicted by stories of escapees, they confused matters and delayed decisive action in early 2009 on behalf of the trapped people. Meanwhile, the LTTE lobby's conflation of civilians with the LTTE provided pretext for the Government to shell areas heavily populated by those whom they should have protected – their own citizens.

Thoroughly alienated by the Government's conduct, the people vote tactically for the TNA as the only means of showing meaningful opposition. However, the TNA is too compromised and divided to offer the people moral and political leadership. It gets away with reciting the same slogans that doomed the Tamils in the first place. The chauvinism of the South ensures the dominance of its mirror image in the North, paralysing political movement that would allow peoples to see common humanity in one another. At its root lies the refusal to face inconvenient truths.

## **6.9 An Ideology for Disunity**

The years of LTTE dominance are not the whole story. During that period, vice chancellors and senior professors praised the LTTE and spoke on their platforms. At least one of these figures, Dr. Balasundaram, openly threatened those who opposed the LTTE. Correspondingly, there was a necessity to hide the true story of the University, of dissident students and staff who suffered varying degrees of persecution. The University had harboured in its bosom, killers who spewed poisonous rhetoric, acted as agent provocateurs using the students as fodder for their political ambitions under covers such as 'International Tamil Students Federation'. They remain at large in our political life. The long rope the State gives these provocateurs, compared with its brutal treatment of the Frontline Socialist Party that wanted the Tamils and Sinhalese to work together, points to the devious and shifty role of extreme Tamil nationalists who thrive on the maggots of a discredited era. It reflects the damage being done by the absence of honest soul-searching on the part of the University, which is the last place to find any historical memory of its dedicated members: Rajani, Manoharan, or Chelvi who died for their commitment to humanity.

This brings us to the Tamil ruling class ideology that the University would inevitably be under pressure to project. The success of the LTTE in controlling Tamil society would be hard to explain without a form of



mutual co-optation between the Vellala elite and the LTTE leadership, though this was a stormy marriage fraught with suspicion and recrimination. The LTTE leadership itself came from a non-Vellala caste base that had secured its status through economic advancement, but the co-optation helped to reinforce the fiction that the Tamil people were single-minded in supporting the LTTE.

The alliances of these different groups left out many sections of the populace, including significant caste and sub-caste groups (e.g. the groups known as the Panjamar) and the poorer Vellalas. Many of them experienced the harshness of the LTTE, which included the killing of some of their leaders – like the former Central College principal, Mr. Rajadurai, and Mr. Ramalingam who was briefly Acting GA in 1996 – who were among the relatively few from those groups to become top-rank professionals in their time. Talking to people in these communities, one can see that the anger against the LTTE is very close to the surface.

The LTTE collapsed like a house of cards, but the elite ideological base that sustained it did not and has not. For the elite group, regardless of who was in control, it was a question of securing recognition of their dominance in certain spheres that also connoted social prestige. It was a tradeoff in which the LTTE, like the State in earlier times, provided institutional force and legal legitimacy to sustain this order. The LTTE was replaceable as a patron. Many among the elite who had earlier relied on the LTTE, sung its praises, and reviled its critics, deftly switched custom to the Government and Douglas Devananda's EPDP. The latter moved to fill the LTTE's vacant role of mutual co-opter, much to the consternation of its predominantly oppressed caste base.

The LTTE had wreaked such havoc on dissenters, leaving such a barren intellectual landscape, that in the wake of its defeat there were no people or movements to address the masses and to work towards a more equitable and inclusive social consensus. Instead, today's intelligentsia, in its attempt to re-establish itself in the vacuum left behind by the LTTE's collapse, attempts to hide behind a sectarian blueprint of religious obscurantism. Besides, this intelligentsia's attitudes to Muslims are such that, while thrashing Muslims in the South, the Government seems to enjoy a free hand in its moves to divide the Muslims and Tamils.

From the start, the University had problems with the dominant ideology it either overtly projected or silently acquiesced in. In 1976, the year of the Vaddukkottai resolution, there was a notable incident during the high tide of Tamil nationalism. The University struck a discordant note, with the students electing a left candidate Jayapalan as president for its Students' Union, defeating the Tamil nationalist (TULF) candidate T. Maheswararajah. The nationalists identified the Hill Country students as

being instrumental in causing this defeat by canvassing the votes of the Sinhalese students for the left candidate.

A gang of nationalists, including Thirukumar the son of the TULF MP Jayakody, cornered four Hill Country students and marched them all the way from Kokkuvil railway station through a lane behind the University and beat them with hands and sticks and kicked them, abusing them as '*coolies from the plantation jungles*' and '*sons of harlots*.' The assailants then forced the four to walk on their knees along Palaly Road. No one from the public interfered. Thirukumar was generally regarded as a well-behaved boy, but was according to sources then on the teaching staff, fully involved in this assault incident and campaign against Hill Country students, who were later locked up in a room without food or water for at least a day before being rescued. Maheswararajah, however, distanced himself from the assailants soon afterwards and later joined a left militant group – the EPRLF. Subsequently, other students and staff protested so loudly and persistently that an embarrassed TULF had to plead with them to call off the protest. The Hill Country students so abused were Mookiah, Thevaraj, who became a leading Tamil journalist, Balasubramaniam, a school principal, and Kamalanathan. The latter died in an accident.

The LTTE's takeover of this narrow nationalist ideological framework – which did immense harm to the unity of Tamils – is evident in several instances. Once in the University when a student in the LTTE threatened a Hill-Country student, Rajani intervened sternly to warn the offender. We give an instance communicated to us by a former prisoner of the LTTE:

Veeriah, a Hill Country Tamil from Badulla, came when he was a little boy as part of the migration to the Vanni during the period of starvation which followed the ill-thought-out nationalisation of the estates in the mid-1970s. His family settled in Kilinochchi. He was recruited by the LTTE under the name Raymond and was later, about 1990, placed in charge of 10,000 acres of coconut estates originally belonging to government servants and businessmen from VVT. He was notably cruel to those caught stealing coconuts. Once in Pallai bus stand he hung a man from a tree who talked back to him, scorched him with a flame and tied him before finally releasing him.

Having access to items like petrol which were then in short supply, Raymond, who was dark, short and well-built and about 35 years of age, embarked on a 'side business' of his own. He regularly left barrels of petrol and other items at the home of a woman accomplice in Mattuvil, which were picked up by a surveyor from the Chunnakam area and sold at a huge price. The LTTE found this out and placed him in prison in Kovilakandy. He was in a cell with several others, including Maniam, a senior left political activist. Raymond, under interrogation in 1992, had apparently



given all of them away. One day the lock on the prison door was changed. A few days later, chains of 7, 9 or 11 links were made in the open prison and were meant for shackling prisoners. The inmates became frightened. On some nights Tiger guards would open the door and call people out by their numbers. For those called it meant death, release or transfer to Navatkuli camp. One night Raymond and a PLOTE boy were called out. They were chained, shackled and brought back.

The next day, a contrite Raymond cried and told Maniam, "*Iyah (Sir), this is the last day of my life. Sir, we have been together here for a while. But you don't know how many we have killed.*" That night Maniam slept by the door next to Raymond. At 1.00 AM, Raymond bowed down, held Maniam's feet, and said, "*Poyitru vaaren*" (*Good bye, till we meet again*). Maniam rose and stood by him in silence. The guards who came into the prison unlocked his hands, tied them up, blindfolded him and took him away. That was the last seen of him.

This incident illustrates the continuity with Tamil nationalist ideology, and its feudal attitude to those of a lower social class, who are merely to be used and discarded. There was in the LTTE no thought or intention concerning social emancipation of the alienated classes through education and collective mobilisation to have their voices heard. Instead, they were given power to indulge their worst impulses and feelings arising from alienation in a manner that was useful to the LTTE. They were given a long rope to hang themselves.

The same applies to children of the lower classes who were given guns and encouraged to torture and torment prisoners. Their innocence was completely destroyed. Some, like Kanthi, remained in the torture business till the end. Of those we encountered in the LTTE's torture camps, Bosco (Rajani's killer), a boy from Koyyathottam (Guava Orchard) in Jaffna who died in the 1990s, while Salim and Theepan died near Ananthapuram about two months before the end of war in 2009. Today, the elite –who flattered and used them, and felt important dropping their names – would turn up their noses at any mention of them. They have moved on.

This ties up with another feature of Tamil nationalist ideology, first under the Federal Party/TULF and then the LTTE, concerning the branding of individuals as traitors. This phenomenon often directly or indirectly had a caste connotation. Alfred Duraippah, whom the LTTE killed, commanded a voter base largely of non-Vellalas and Muslims. When the LTTE was fighting groups aligned with the Indian Army in 1988-89, posters put up by its supporters, which it tacitly endorsed, referred to its rival EPRLF as '*Eelatthu Pallar*' – Eelam People's Pallar – Pallar being an oppressed caste. They also made derogatory allusions to the Indian origins of one of its leaders, an able scholar who had risen in life by dint of hard work.



During the period of LTTE dominance, as mentioned, a number of senior persons in the University openly identified with the LTTE, even as it used deception to recruit children, robbed and drove Muslim populace out of Jaffna and the Northern Province, began a series of harrowing massacres of Muslims in the East, and detained and exterminated dissidents, including several from the University.

The oppressed castes are more than conscious that it was largely their youth who died as 'patriots' in the LTTE's war, while the more privileged, especially the higher castes, were much more successful in getting their young out of the country. Is it a mental framework with a worldview dominated by caste that enabled a society to acquiesce to all these abominations, especially the use of the children of the poor as torturers and cannon fodder? Is this the mentality that complacently goes on without any remorse or desire for self-examination? After all this where did it end? The children were armed, and condemned to a living death, or to a searing end. In this the silence of the University and of the wider society is deafening.

This class and caste-based separation is not unique to the Tamils. Tamil and Sinhalese societies, in fact, are mirror images of one another. The soldiers who suffered and died in the Sinhalese army were also largely from the rural and economically deprived sections of the community, while those who supported the war with fervent patriotic zeal were from urban and privileged sections. Many of the children of the latter group studied abroad or occupied safe positions far from the sounds of war.

Leading lights of Tamil society, both locally and abroad, did a terrible disservice to their people by loudly praising the Emperor's new clothes, and connived to destroy those who spoke the plain truth: that the Emperor was in fact, naked. This class is adept at switching allegiances when convenient, with no sense of social responsibility.

The future of the Tamils in such hands cannot be other than squalid. That is what the University presently represents. There is a pressing need to let in fresh air, discuss matters openly and listen to the views and problems of those outside, particularly the Muslims, Hill Country Tamils and Sinhalese.

That was the reconciliation Rajani worked for. The North-East has been a killing field for nearly 30 years. Mullivaykkal was its culmination, but that gives no warrant for crediting all crimes to the Sinhalese. Thunukkai and the mass killings that went with it are a part of the hidden story of how an entire people were rendered docile zombies, who moved from place to place according to the LTTE's perceptions of military utility. On both sides, crimes that were inimical to the interests and well-being of the people found their justification in ideologies – ideologies sustained by lies.

What Rajani said many times explaining the work of the UTHR(J) may be summarised thus: *"It is not our intention to compile statistics of killings to compare violators quantitatively. Rather, it is our aim to take a cross-section of individual killings, place them in their context along with the motivations of the killers and their qualitative nature. By doing so we portray the role of society in mutilating the truth and perpetuating conditions where ideologically motivated killings remain an expression of the political culture. We thus expose the moral bankruptcy of the killers and urge upon society the need to question itself."*

The last was what she constantly did when regional differences among students took a nasty turn. She went to lengths to check this tendency, as when a Hill Country student had to leave Jaffna for some time after being threatened by a roommate who was an LTTE supporter. She would have been no less pained when one from the Vanni who would have been her student if not for her untimely death, expressed his feelings after the war:

*"I feel very angry when I come to Jaffna and witness the vast excesses of money spent on religious ostentation and fanfare. I don't see any empathy for the fate of the people in the Vanni. A fraction of this wasted money would have gone a long way to aid the battered people."*

From her vantage point in 1988, Rajani predicted the inevitable demise of the Tigers and urged the need for the community to break with this legacy.

### **6.10 Honour of Subathiran**

The course of dissidence is often thorny, especially when moral options are not clear. Dietrich Bonhoeffer, seeing that life itself is encumbered in corruption, saw 'responsible action' as the way out of the dilemma. We take this occasion to remember Thambirajah Subathiran whose honour and self-effacing manner hid his sterling qualities and rare greatness.

The LTTE deprived the Tamil militancy of any moral breathing space. Many dedicated militants were cast upon the dust heap as quislings, traitors and vermin by the LTTE and an elite segment of Tamil society. The Sri Lankan and Indian governments fished in these troubled waters. For many non-LTTE militants with contacts, the solution was to go abroad into an anonymous oblivion. Subathiran made an exacting choice for compassionate reasons, facing up to obloquy and danger at home.

He was in prison in 1986, at the time the Tamil militancy was politically destroyed by the LTTE's treacherous decimation of other militant groups. Imprisonment in Welikade by the Sri Lankan state was a mixed blessing. In April 1987, just after the Pettah bomb blast, Sinhalese prisoners tried once more to attack Tamil prisoners who were separated from them by a wall. The attackers made a breach in the wall, where the Tamil political prisoners fought them off. The latter found that security officials who came



there fired tear gas to weaken the defence rather than to check the attackers. At this point Fr. Singarayar, who was found praying in a corner during the 1983 prison massacre, actively aided the defence by handing wet cloths to withstand the tear gas. Unable to get through the breach, the attackers made a second attempt. H.G. Dharmadasa, who was then Commissioner of Prisons rushed in and stood against a breach with his arms stretched out. He was bodily carried away by the attackers, but the attempt on the Tamil prisoners stopped. The Government also did not want another massacre.

Released after the Indo-Lanka Accord with no means, the ex-detainees went to Captain's Garden Temple in Colombo. Subathiran, who earned respect and established himself as a leader in prison, went about the task of finding food for all and money for those who felt able to go home. Though belonging to the EPRLF, Subathiran helped all ex-prisoners without favour. For those facing imminent danger from the LTTE, he arranged to go abroad. In this endeavour, the lawyer Kumar Ponnambalam was extremely helpful to the ex-prisoners, many of whom he had defended in court.

Once the Indian Army operations began, the EPRLF leadership in India was confronted with reports of atrocities from their support base in Jaffna. At the same time their allies in the Southern Left who confronted the JVP's terror with the aid of the State, advised them to work with India, citing the precedent of the Left in Fascist Germany. Some EPRLF leaders close to Subathiran had many differences with the leadership on working alongside the Indian Army. One whom Subathiran identified with closely was thrown out of the central committee.

Subathiran eventually made his decision. His friend and prison comrade told us that although Subathiran's family wanted him to join them in Canada, Subathiran felt that he had brought many into the movement, who would be lost without him; he added that he would live in the movement until death parted him. That was precisely what he did; he never married. His friend said that Subathiran always did things in such a way that no one was needlessly hurt. His influence was evident in the EPRLF's decision not to oppose the LTTE as an armed entity after the Indian Army left in 1990.

Though cruelly deprived of the opportunity to do greater things for his people, Subathiran's courage and his services to the Jaffna Municipal Council as a firm and clear democratic voice will be remembered. He advocated constructive cooperation with the TULF dominated Council.

During his period as councillor, two mayors, Sarojini Yogeswaran and Sivapalan, were murdered by the LTTE. Subathiran played a leading role in defying the LTTE's threats and giving his fellow councillors the heart to carry on. Those who knew Subathiran were deeply struck by his large



humanity and readiness to cast aside narrow loyalties for the greater welfare of the people. This was part of the Marxist inspiration the group's pioneers had imbibed. Subathiran was a pillar of strength to the mayor, Mr. Sellan Kandaiyan, in standing up to the LTTE's intimidation and attempts to take over the functions of the Council. This brought him into direct confrontation with the LTTE and its agents who were at large during the ceasefire. He confronted them firmly in his polite voice of reason.

At dawn, on 14<sup>th</sup> June 2003, Subathiran was killed by an LTTE sniper. The party had found itself in deep crisis in 1999 when its General Secretary Suresh Premachandran made a deal with the LTTE and walked out with nearly all the party's money and property held by him in trust. At this time the LTTE's terror too became more intense. But most members of the group stayed with Subathiran. It then fell to Subathiran to go around the North-East and visit party offices, in which local members lived under siege, to keep up their spirits, as he had done in 1987 at Captain's Garden Temple. His was a life given to the highest calling of responsibility for his fellows and to humanity in general.

## Chapter 7

### Militarisation of Justice

Cabinet Minister William Harbottle: *"Will you please carry on at once and shoot the dog?"*

Major Awdry: *"With the greatest respect sir, I am not responsible to you, but to my battalion commander. I don't intend to shoot the dog and I will tell my battalion commander my reasons at the first opportunity."*

– From *Plague Dogs* by Richard Adams

#### 7.1 Norms of 1972: Muddling Command Chains, Licensing Impunity

How did this weak and fragile phenomenon of the LTTE, with its base in a small largely unwilling ethnic minority, hold a relatively powerful state to ransom for decades? The short answer is political stupidity and barbarity in place of clemency. The State's victory is hollow; its triumphal monuments demonstrate a refusal to learn the conflict's real and poignant lessons.

Rajani's labours during her latter years were directed at correcting a misdirected Tamil struggle from within by strengthening the people, not undermining them or denying the struggle's validity. As an internationalist, she also urged others, particularly the Sinhalese, to play a reforming role within their societies. She would have been horrified if the Sinhalese praised her for standing up to the LTTE while failing to question themselves and take responsibility for their own role in the tragedy – a role deeply tied to uncritical support of the Sri Lankan Army, as well as obscurement of the depth and breadth of its violations of civilian rights.

Bosco, our suspect in Rajani's killing, had been a regular visitor at Bharathy Community Centre near Pungankulam Junction. People of the area told us about the intimate links of the Sri Lankan Army detachment encamped there with the spate of impunity during 1996. The most documented among these is the tragedy of Krishanthi Kumarasamy, an A. Level student, who was detained by Corporal Rajapakse at the Chemmani army checkpoint while cycling home to Kaithady at noon on 7<sup>th</sup> September 1996. At 2 PM Rajapakse asked Police Constable Samarawickrema, who spoke Tamil, to get some information from an LTTE activist.

Samarawickrema saw a girl in the bunker with her hands tied and her mouth taped. When questioned after removing the tape, she gave her name as Krishanthi Kumarasamy, student at Chundikuli Girls' College. Corporal Rajapakse ordered her to shut up as her voice could be heard by those on the road passing the check point. At 3.00 PM Krishanthi's mother Rasammah (59), who heard of Krishanthi's arrest from a witness went to

the Chemmani Check point with her son Pranavan (16) and neighbour Kirubamoorthy (35). The three were detained and murdered in the night; Krishanthi was killed after she was gang raped. The fallout from the incident led to the Sri Lankan Army's severe humiliation in 1999.

Krishanthi Kumarasamy's terrible ordeal followed in the wake of a culture given concomitant expression by the Constitutions of 1972 and 1978. These had the effect of fossilising the degradation of law and politics brought about by the Citizenship Acts and the Sinhala Only Act. The norm before the 1972 Constitution, as Nihal Jayawickrema points out (*Island* 15 Jul.2007), was for the minister to lay down only 'general directions' of policy. To these alone was his permanent secretary subject in his function of implementation. By the omission of one pivotal word, the 1972 Constitution changed 'general directions' to 'directions', which gave the minister untrammelled freedom to interfere directly in the implementation of policy. The once independent permanent secretary was reduced to a lackey and the ministry and its resources became the property of the minister, his cronies and family, to use with scant regard for rules.

The change meant that the administration that had been relatively independent and uncorrupted would in time become hopelessly corrupt once secretaries became cronies of ministers, all the way up to the Central Bank governor. Further, it is not hard to see how these new norms would affect the Sri Lankan Army and in time, the Judiciary.

Originally, the standard practice when a security task was involved was for the country's chief executive to consult the Army Commander, who after conferring with his officers gave the executive in writing an 'Appreciation of Situation'. It was then that the executive issued 'general directions' to the Army Commander. The replacement of 'general directions' with 'directions' enabled the political executive to make the Army Commander redundant, through issuing orders directly to subordinates. In turn it meant a breakdown of command responsibility and lax discipline particularly in tense situations most critical for the civilians.

**The day had dawned when the political authority could handpick men from within the Sri Lankan Army or one or more of the services to function as killer squads and issue orders directly to them, bypassing commanders. We have lived through that.**

It is fair to say that though Mrs. Bandaranaike was against these doctrinaire changes brought by Dr. Colvin R. de Silva, she hardly concerned herself with the security forces when much damage was done by the change of policy. The man who made disastrous use of the change was her successor, Prime Minister and then President, J.R. Jayewardene. When he became prime minister upon the UNP's election victory in July 1977, the Inspector General of Police was Stanley Senanayake, through whom the



news of the planned coup of 1962, which had the backing of some key UNP figures, leaked to Mrs. Bandaranaike's government.<sup>100</sup> During the anti-opposition violence of the new regime and the communal violence that followed in August 1977, the Inspector General was conspicuous by his inaction.

On 17<sup>th</sup> August 1977 a malicious message was sent out on the official police radio network from Jaffna Police Station, spreading word that there was rioting in Jaffna with the Buddhist temple in town under attack and crowds collecting at the railway station to attack incoming [Sinhalese] passengers. The cue was given for island-wide communal violence (Hoole, *Arrogance of Power*). Later Mr. Leslie Bartlett, attorney-at-law, told the Sansoni Commission of Inquiry: "*There is no doubt that the false message was transmitted with the complicity of the DIG Mr. Ana Seneviratne, the SP Mr. A.S. Seneviratne and HQI Mr. Gunasekera who were at their stations at the time it was transmitted.*" Justice Sansoni stated that he was unable to decide on responsibility for the false message. Jayewardene later made Ana Seneviratne IGP. The matter is quite clear. During the JVP Sinhalese youth insurgency of 1971, a saga notorious for its high level of impunity, A.S. Seneviratne is reputed to have killed a hundred in Polonnaruwa.<sup>101</sup>

Ana Seneviratne epitomised the politicisation of the Police by officers handpicked for unethical undertakings. In early 1966 Ana Seneviratne SP, who was Director CID, led the inquiry into the alleged Bathroom Coup, under J.R. Jayewardene, then Minister of Home Affairs. The police version that 'suspects' Corporal Tilekewardene, who was a guard at the 'suspect' Army Commander Richard Udugama's house and Dodampe Mudalali committed suicide by jumping out of the infamous Fourth Floor. Another witness testified to having seen the naked body of the Mudalali on the floor after interrogation by SP Seneviratne, who ordered the body to be thrown out. Chief Justice Victor Tennekoon in September 1969 acquitted all the suspects and was highly critical of the inquests into the deaths.<sup>102</sup>

The prosecution in the Bathroom Coup case had relied on confessions made before a Magistrate. Under Section 134 of the Criminal Procedure Code, not only facts preceding a confession, but also facts which immediately followed the making of it are relevant for it to be accepted as free and voluntary. The defence was convincingly able to demolish the

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<sup>100</sup> [http://www.sundaytimes.lk/120129/Plus/plus\\_05.html](http://www.sundaytimes.lk/120129/Plus/plus_05.html)

<sup>101</sup> By the 6<sup>th</sup> [April 1971] morning several police stations were overrun...with Polonnaruwa [successfully defended] by young ASP A.S. Seneviratne excelling, killing more than 100 attackers, in a clever move. As the battle developed [IGP] Senanayake had to withdraw ASP Leo Perera, who had done well at Kurunegala and SP Ana Seneviratne from Kegalle – DIG Gamini Gunawardene, *Sunday Times* 28. Nov. 2010.

<sup>102</sup> K.K.S. Perera, *The Bathroom Coup of 1966*, *The Nation*, 19. May.2013

Government's case. Jayewardene took the lessons from the Bathroom Coup fiasco to heart when, ten years later in 1979, as president, he piloted the Prevention of Terrorism Act (PTA). The PTA diluted these safeguards by enabling persons to be detained on the order of a minister rather than a judicial officer and allowing confessions under custody to police officers.

Even so in the coming years judges who took a stricter view of voluntariness dismissed many of the cases under the PTA, even though persons tried had been detained arbitrarily for unconscionably long periods. The full effects of the PTA were not realised under Jayewardene, but after judicial independence had taken a severe hammering over the coming decades, in the Tissanayagam case of 2006 and the subjective bias in the judgment against Sarath Fonseka (see below). Impunity, when it affects judicial independence, contributes to a deadly culture that spreads arbitrariness into all walks of life.

In 1979, following the passage of the Prevention of Terrorism Act, President Jayewardene bypassed the Army Commander Denis Perera and issued an order to his relative, Brigadier Weeratunge, to rid the North of terrorism in six months. Jayewardene, having credited the 'operation' a success, made Weeratunge army commander, overriding outgoing commander Denis Perera's choice of Justus Rodrigo. Major General H.V. Athukorale later wrote (*Sunday Times*, 10.9.95), "*There were many things that were achieved during this 'operation'. The Army was politicised and political commissars emerged. The Army Commander's powers were usurped by those political commissars to carry out acts of state terrorism and torture against innocent civilians.*"

Jayantha Jayaratne, an officer who served in Jaffna under Weeratunge during the 'operation,' told his commander, General Denis Perera, a man of the old school, that he was very unhappy with what the Sri Lankan Army was doing in Jaffna. Denis Perera told him that if he was unhappy he should not be there and took him out of Jaffna. Further consequences of the Sri Lankan Army's politicisation came during Weeratunge's command. For example, the Sri Lankan Army was complicit in the Welikade prison massacres that followed the outbreak of the July 1983 riots, during which it also went berserk in Jaffna, killing over a hundred civilians.

Denis Perera had recommended Justus Rodrigo to succeed him, as he judged him '*a straight man who had the confidence of the men*' (personal communication, see *Arrogance of Power*). The difference could be seen in 1983 when violence broke out. Rodrigo was GA Gampaha, having left the Sri Lankan Army. In Gampaha, he took the lead, went out with policemen and got them to fire at mobs attacking Tamils. As a civil administrator, Rodrigo kept to the old school training on how a conscientious officer should conduct himself.



Brigadier Jayaratne was in command of Jaffna after the Indo-Lanka Accord, when on 3<sup>rd</sup> October 1987, 17 members of the LTTE coming from India were arrested at sea by the Navy on a technicality, and handed over to the Sri Lankan Army at Palaly. On 5<sup>th</sup> October, National Security Minister Lalith Athulathmudali, who had opposed the Accord mainly because it affected his personal prospects, told Jayaratne that he had sent a plane to Palaly and ordered the LTTE prisoners to be transferred to Colombo.

This illegitimate order was notable for having come from a politician exceeding his remit, bypassing the army commander General Don Granville Nalin Seneviratne, brother of Ana Seneviratne. Jayaratne, who like the Indian Ambassador J.N. Dixit, sensed that all hell would break loose if the cadres were transported, protested in the interest of common sense. In breach of his authority, Athulathmudali, who had been under Jayaratne's command in the school Cadet Corps at Royal College, threatened to strip Jayaratne of his rank and bring him to Colombo under arrest. Years under such political conditioning of the Army to take improper orders from politicians had left Jayaratne feeling lost. Would his commander back him if he stood for correct procedure? When an attempt was made to transport them, the cadres committed suicide under orders from the Leader, delivered to them with lunch parcels containing concealed cyanide capsules. The rest is history. Instead of attacking the Sri Lankan Army, the LTTE attacked the Indian Army, which stood in between.

How the Sri Lankan Army functioned contrasted with the Indian Army, also then at Palaly. When Ambassador Dixit told the Indian commander Maj. Gen. Harkirat Singh to stop the transfer, Singh asked Dixit to use the proper channels. Jayaratne had more political sense than Singh. Nevertheless, the Indian Army tried in a limited way to stop the transfer. The experience broke Jayaratne, who died the following year. The huge crowd of soldiers at his funeral was a token of the respect he enjoyed as one who placed the interests of the men above his own (*Arrogance of Power*).

Jayaratne's personal tragedy, amidst a disastrously premature outbreak of war with an unprepared Indian Army, illustrates the adverse effects of politicisation and the annulment of the command structure. The war lasted another 19 years after the Indians pulled out, at great cost to the Sri Lankan Army, and even greater cost to the civilians.

In the present Sri Lankan Army, the harbouring of killer groups in its bosom is part and parcel of its deep politicisation facilitating their use against political dissent. Tens of thousands of soldiers died in the war, many showing supreme heroism, as did the Tamil militants. But, it must also be remembered that the main cause of their death is a lawless state



that lost its way in murderous anarchy (*Arrogance of Power*). In retrospect we can see more clearly the significance of Gen. Athukorale's words about political commissars quoted above. The Presidential abrogation of the chain of command practically eliminated the basis for command responsibility. We will return to misdeeds at Pungankulam.

## 7.2 Pungankulam Camp

Among the continuing failures of Sinhalese society is not to acknowledge the character of the Sri Lankan Army, which they have bred by default, as a result of their own chauvinism, tolerance of impunity, and failure to find a political settlement. Sinhalese chauvinism prolonged a conflict that should have been nipped in the bud thirty years earlier and inflicted enormous losses on the people, beside the Army itself.

An LTTE suicide bomber killed Jaffna's Brigadier Hamangoda on 4<sup>th</sup> July 1996 and subsequently the LTTE overran the Sri Lankan Army's Mullaitivu Camp on 25<sup>th</sup> July. The Sri Lankan Army responded with a huge spate of arbitrary arrests (UTHR(J) Special Report No.7). Hundreds of the youths arrested disappeared after hideous torture, as came to be known later. As a result, Pungankulam Camp acquired a particular notoriety.

The officer in charge at Pungankulam Camp was Captain Lalith Hewa, a fair, short and smart-looking man. Hewa was by day an amiable man whom residents found hard to reconcile with the tortured screams heard by night.

We quote from UTHR(J) Special Report 12 of April 1999, dealing with the broader implications of the trial for Krishanthi Kumarasamy's rape and multiple murders by a group led by Corporal Somaratne Rajapakse:

*"Pungankulam Army Camp was a main camp east of Jaffna City that controlled Chemmani point where the murder took place. Persons detained over a large area were first brought to Pungankulam camp, where a decision was taken what to do with them. Many were then sent to the Intelligence Camp in Ariyalai East, which is quite near Chemmani, the whole comprising a largely uninhabited area. Here the prisoners were tortured, and we are yet to hear of survivors. On regular occasions the men at Chemmani point would be alerted during the night. The naked corpses of detainees tortured and killed at the Intelligence Camp were then taken to Chemmani in a vehicle, for the men at that point to assist in the burial. This context behind the Krishanthi Kumarasamy murder trial was staring at us from behind a thin veil, which no one dared to rend. The defence attorneys prevented the men on trial from testifying, forcing them to wait till the end.*

*It for example came out during the trial that a complaint had been lodged at Pungankulam Camp the very next morning after Krishanthi's*

abduction. On 16<sup>th</sup> September, just after the matter was raised in Parliament, the Brigadier commanding Jaffna Town had asked the Police to investigate, surely, suggesting a cover-up. There was indeed more than this particular crime involved. To those who knew the operation at Pungankulam, everything was plain."

Corporal Rajapakse testified before Magistrate Ilancheliyan on 16<sup>th</sup> June 1999, after the report above, forcing a reluctant Government to agree to exhumations in Chemmani:

"I was at the Ariyalai Army Camp looking after civil administration...Once I was given a list of names, whom Captain Lalith Hewa and Lieutenant Wijesiriwardena said were Tiger suspects...Major Weerakkody and Major Gunasekara brought those people before two [masked] informants... The ones they identified were separated from the others. Then these people, about 50 of them, were brought to a camp. Some were kept in a school building. The orders were given by Captain Lalith Hewa, Lieutenant Wijesiriwardena and Lieutenant Thudugala.

One day they arrested... Selvaratnam, who worked at the education department... The next day his wife came and asked me if I had seen Selvaratnam. Although I did not know where Selvaratnam was held at the time, when I later went to the building, which was used to torture people, Selvaratnam was among 25 others who were tortured there. Selvaratnam's legs were tied. He pleaded with me, saying he didn't have any Tiger connections. I asked Captain Hewa to release him. He agreed. But that same night he was killed. The next morning I saw 10 dead bodies there.

The next day another man, one Udayakumar, was arrested and brought to the camp. Later his family came and pleaded with me for his release. I went to Captain Jayawardena and asked him to release Udayakumar. That afternoon he was transferred to another camp. When I went there, the officers in charge of that camp got a radio message to release Udayakumar. By that time he was hanging from his feet inside the camp and his body was cut with razor blades. They could not release him in that condition. He was killed later by a bullet. I know the weapons they used to torture people, and I think even now I can show them in that building.

One day I was asked to bring a mammoty (a type of spade) by Captain Lalith Hewa. When I took it to him he was with a woman who had no clothes on. This woman and her husband were brought to the camp earlier that day. Lalith Hewa had raped the woman and later attacked her and her husband with the mammoty I brought him. Both of them

died. Lalith Hewa tried to bury them there himself, but he couldn't do it..."<sup>103</sup>

Rajapakse, then serving a death sentence from High Court for Krishanthi Kumarasamy's rape and murder, was widely regarded a traitor, not for his terrible crime, but for his 'betrayal' in exhibiting the rot in an institution important for the self-image of the Sinhalese. Rajapakse's devastating testimony demolished the mood of self-congratulation in the South, founded on the presumption that the State upheld the law impartially and removed the few bad apples that gave the Sri Lankan Army a bad name.

Rajapakse's testimony had its weaknesses, as he was also trying to protect himself; but for the doggedness of the families of the disappeared, the appointment under pressure of a Human Rights Commission (HRC) in the sequel, and not least, the activism of the slain lawyer Maheswary Velautham, the matter might have ended as an interesting footnote.<sup>104</sup> Maheswary, who was associated with a pro-government party, would have grieved that her supposed allies killed several innocent persons near her home in retaliation, soon after the LTTE murdered her (Appendix 3).

In the wake of the peace process begun by Prime Minister Ranil Wickremasinghe, the HRC appointed a committee, chaired by Devanesan Nesiiah with Camillus Fernando and Jezima Ismail, to look into the lists of disappeared furnished by the HRC office in Jaffna and other organisations. The secretary, Mr. M.C.M. Iqbal, played a pivotal role.

### **7.3 Report of the Committee on Disappearances, Jaffna Region**

The Committee inquired into 281 out of the 321 complaints sent on 15<sup>th</sup> December 2002 by the Regional Office, Jaffna, including cases of 25 Muslims taken by the LTTE from 1990. It was mandated to compile: *"The evidence available for identifying the person or persons responsible for these alleged disappearances and the findings based on such evidence"*. In the latter respect this report broke new ground by going further than previous official commission reports in identifying army officers responsible and tabulating their names against incidents of disappearance. Its conclusions were correspondingly stronger:

*"...it appears that the rules have been flouted with devastating consequences. It appears that thousands of innocent persons could be arrested and indefinitely detained, tortured, raped and killed, and their*

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<sup>103</sup> World Socialist Web Site, 26<sup>th</sup> June 1999

<sup>104</sup> Trusted observers who have continually followed the matter are absolutely certain that the LTTE were the killers of Maheswary on 13<sup>th</sup> May 2008. According to these sources she was visiting her parental home in Nelliady secretly. But it was her anxiety to participate in a local temple festival that made her presence more widely known.



*bodies disposed of with no information provided to anyone and without any records being kept...*

*That indiscriminate killings, torture, rape and other abuses of civilians were taking place was public knowledge. That service personnel, camps and vehicles were engaged in these activities was also public knowledge. The scale of disappearances and other human rights abuses over the years has been such that service institutions cannot disclaim responsibility. These were not stray instances resulting from the actions of a few errant service personnel but part of a definite pattern. These could not have taken place on such a scale without the complicity of many at the middle levels of the hierarchy. At the higher levels if there was no direct complicity there was indifference and inefficiency in imposing discipline, as well as complicity in the cover up (pp29&32)."*

The report, along with Rajapakse's testimony, provided ample confirmation of what the public said about goings on at the Pungankulam Camp and of the many things spoken of in rural areas, but hardly ever reported. These include arrests motivated by loot, particularly jewellery, of persons just returned from abroad with savings, and arrests of men to gain access to their womenfolk (e.g. C. Concey disappeared after being taken by Captain Dedigama of Gurunagar Camp on 25<sup>th</sup> July 1996). The report observes that in almost every instance of arrest, the person's possessions such as cash, wristlets, jewellery, vehicles etc. also disappeared and the practice appears to have been tolerated by the hierarchy of the services. The report substantiates its claims with several cases.

Neighbours of Pungankulam Camp recall that in the nights the air was frequently rent with the screams of tortured victims. These were mostly men, but women were also distinctly heard. Local memory holds that at least a dozen women from the Ariyalai area disappeared in Pungankulam Camp, as evidenced by the screams of women heard in the nights for about a month. The Committee went to extra trouble in meeting soldiers detained in the Krishanthi case, and also obtaining the court files of a case in which soldiers at a home in Ariyalai killed the man and raped the woman. The woman obtained refuge in Germany and was unavailable to the Committee – another reason for the difficulty in tracing victims today.

### **History is also a major casualty of terror.**

Of the 17 persons the report lists as arrested in Ariyalai, there are no women, and Lalith Hewa is associated with five disappearances. It suggests that several disappeared persons, especially women, are not accounted for, and points to the 281 cases inquired into being only a small fraction of the total disappeared. The report shocks not so much because mass disappearances took place in Lanka, but because the abuses were of a widespread and institutional nature. It happened when the Sri Lankan

Army was firmly in control and the Government was one not all together insincerely committed to human rights.

Impunity forged in the North-East led to repercussions in the South.

#### **7.4 Repercussions in the South**

Among the officers to be associated prominently with disappearances in Jaffna was Colonel Duminda Keppetiwala, who was stationed in Navatkuli, which the report also identifies as having been under Major General Janaka Perera. The 17 disappearances for which the colonel was named appear to include all the abuses related to the general practice of disappearance. Victims K. Pushparajah and K. Ketheeswaran had recently returned after five and 14 years in Saudi Arabia, respectively. Ketheeswaran was detained in a group of about hundred on 19<sup>th</sup> July 1996. Of this group, nearly fifty, including a girl, disappeared.

The area had been problematic from the start. We recorded in UTHR(J) Special Report No.7 of August 1996 that on 29<sup>th</sup> April 1996, troops were moving east towards Kachchai from Navatkuli when they stopped near a small peasant settlement. Most of the people had moved away, but a few had not. Some soldiers entered a hut and raped the wife while the husband was chased and stabbed to death. The matter was covered up.

When questioned by the Committee, Keppetiwala got away with complete denial. The situation is reminiscent of the claim before the North-East Disappearance Commission instituted by President Kumaratunge in 1995, by Colonel Sunil Tennekoon. When he was questioned about the scores of disappearance from Plantain Point Camp in Trincomalee during 1990, Tennekoon claimed that the records had been blown up in the fatal LTTE mine attack on his superior Lucky Wijeratne's vehicle.

Keppetiwala's name surfaced again in 2010, in yet another episode in Sri Lanka's political history. This was after several army officers deemed close to ex-army commander Sarath Fonseka were arrested for alleged treason. Among them was his aide, Keppetiwala, whom the Attorney General informed the Supreme Court in writing (28 March 2010) had been involved in the murder of *Sunday Leader* editor Lasantha Wickrematunge on 9<sup>th</sup> January 2009. This conclusion was based on phone records. The records unaccountably surfaced over a year after the murder, in the wake of the falling-out between the Government and Commander Fonseka. But, as is so often the case, the accused, Keppetiwala, was bailed out, and the charge left in the air. In such a high-profile case as the editor's, a brigadier was small fish. It was the establishment that would have suffered the worst from the fallout of a trial.



If one inclines to the view that the Attorney General pointed at Keppetiwalana in jest, the known facts of several cases suggest that the establishment has not only protected those who showed talents similar to Keppetiwalana's, but also used them as assassins who creep out of the establishment's woodwork when their services are needed.

Thus officers answerable for crimes that made world headlines – Senior Superintendent Kapila Jayasekera and STF Inspector V.A.S. Perera in the Five Students case; the perpetrators of the Action Contre la Faim massacre; Commodore Nishantha Koggala for the disappearance of Fr. Jim Brown and by command responsibility for several killings in the same area – are protected by the State, inexorably advancing its decay (Appendices 2 – 4). The next is one of the early historical instances of impunity.

### **7.5 The Living Legacy of Welikade**

Even as army officers have since the early 1980s been expected to carry out criminal orders, those declining were likely to be hounded out. In the Army, court martial hearings are bound to deliver mere political verdicts. Just before Tamil PTA detainees were moved to Welikade prison in April 1983, the press hinted (*Arrogance of Power* Ch.8) that the Sri Lankan Army would be stationed proximately, with powers to shoot at escaping prisoners. It further hinted that in the event of death, bodies might be disposed of without an inquest. The stage seemed set for foul play. Duly, army units were stationed outside the prison with standing orders to prevent the escape of prisoners.

Mahinda Hathurusinghe was in 1983 a young lieutenant who was stationed at Welikade prison during the first massacre of 25<sup>th</sup> July. Presumably acting under orders he did nothing to stop the massacre, which he witnessed at close quarters without lifting a finger to aid Acting Commissioner of Prisons Cutty Jansz and Superintendent Leo de Silva. The latter were covered in blood and sweat trying unsuccessfully to stop the massacre. Hathurusinghe later prevented Jansz and de Silva from taking the injured to hospital, making them suffocate to an excruciating death in the back of a truck at the prison exit.

We quote from the testimony of Superintendent Alexis Leo de Silva's son, Lalanath de Silva (<http://www.uthr.org/SpecialReports/spreport251.htm>):

*"In any event, my father told me that the AG's department counsel called my father outside the room where the inquest was being held and had attempted to persuade my father to go along - his plea was that the truth would place Sri Lanka in a very adverse position internationally. My father refused to cooperate. He wanted it recorded that the Army had been complicit (by commission and omission) in the whole affair, that there were prisoners still alive after the massacre that he wanted sent*



*immediately to the accident service for emergency treatment and that the army had blocked this and that his pleas to higher authorities to move the Tamil detainees away from Welikade even before the massacres had fallen on deaf ears. Of course none of this was recorded!*

*My father was convinced beyond a shadow of doubt that the Army set the prisoners up. Keep in mind this was a response to 13 soldiers being killed in the North by the LTTE. Here was a way to kill "LTTE" personnel right in Colombo. My father believed that by commissions (rousing prisoners to revolt) and omissions (refusing to cooperate to quell the riot and blocking emergency treatment for injured Tamil detainees after the first massacre) the Army was vicariously responsible for the events."*

At the time of the second massacre, the officer in charge was Lt. Nuvolari Seneviratne of the Field Engineering Unit. He received intelligence from his men that known underworld elements were being transported into the prison in official vehicles. When he heard the first disturbance 20 minutes before the actual massacre, he informed his immediate superior. When the massacre had begun, he asked the same officer for permission to intervene and stop the massacre. The officer gave him a number in Sri Lankan Army HQ. When he got through by means of a coin phone, the officer refused to let him talk to the Army Commander and ordered him to stick to standing orders or face court martial. After the massacre, Nuvolari felt very angry and insisted on telling the truth at the inquest, while the Army wanted him to say that the murdered prisoners attempted to escape. He refused. The rest of his army career was very unpleasant.

We recall the words of General Athukorale as to what happened to the Sri Lankan Army once Tissa Weeratunge became army commander: *'The Army Commander's powers were usurped by those political commissars to carry out acts of state terrorism and torture against innocent civilians'*. Weeratunge may not have been directly responsible for the massacres in prison or in Jaffna as reprisals for the ambush of 13 soldiers.

The same could be said of Hathurusinghe. He accepted the moral cost of a successful army career. He did tell Deputy Commissioner Cutty Jansz after the massacre, *"It was a dirty thing to do."*

Leo de Silva suffered the State's persecution for his integrity, while officers complicit in crimes in obedience to unlawful orders have been *de facto* elevated to judicial office on court martial boards. Just as these norms reduced the Sri Lankan Army to the lawless and brutal political outlook of the regime, it did the same to the prison service.

## **7.6 Nimalaruban and Dilrukshan: The Past Lives on**

Ganeshan Nimalaruban, then 25, was arrested in Vavuniya as a terrorist suspect on 5<sup>th</sup> November 2009, months after the war, and detained for

nearly three years without any evidence being produced. His mother took food to him daily. On 29<sup>th</sup> June 2012, at the prison where Nimalaruban was being held, there was a routine protest by prisoners who had been similarly detained; they were further anxious about colleagues transferred to Anuradhapura. Three prison guards were taken hostage. Other arms of the security forces were called into the prison and, for several hours, they mercilessly attacked the prisoners. One hundred and twenty-two prisoners were then transferred to Anuradhapura; 22 of those badly injured, Nimalaruban and Mariadas Dilrukshan among them, were moved to Mahara Prison. Reports suggest that those sent to Anuradhapura prison were severely ill-treated by the authorities.

Subsequently, Nimalaruban's parents saw their son's body at Ragama Hospital. His chest was bloodied and injured, his hands and legs broken, and for some unknown reason, his legs were tied. He had not been moved urgently to Ragama Hospital as had been recommended by the Mahara prison doctor. He died the following morning, on 4<sup>th</sup> July. The Government was quick to claim that he was a leading LTTE-er who died of angina. The proceedings are reminiscent of the Welikade prison massacre 29 years earlier. The Ragama Magistrate cited reasons of national security for refusing to hand over Nimalaruban's body to his parents, forcing them to go to a higher court, which ordered the body to be given.

We quote from the intensely moving speech made by Nimalaruban's mother at her son's funeral. It is a warning to the oppressor from the lowly and helpless that justice would prevail, reminiscent of Kannaki's oration before the unjust Pandyan king:

*"In which article of law is it written that you may beat a person to death? Where? I am not afraid of any mortal. I don't care who you are. Come and shoot me. People need justice and the truth. The people who beat my son up are beasts. My heart burns. Those who killed my son will suffer the same fate. I didn't teach my son to steal or kill. My son's father worked hard to raise my son. No good would come to them. Shoot me, I am not afraid. Bullets may pierce my heart and cause me pain. But I am not afraid. I conceived my son after twelve years of waiting. I relished bringing him up. If my child had done wrong, he should have been charged in court and punished. But what law has decreed that my child must be tortured and killed? My son was killed in secret by cowards who must remain anonymous. If you had killed my son before me, you would comprehend who I am. Now they have surrounded my house with thousands of guns. I have nothing. Come, if you dare. The hand that nourished you son, now place's in your mouth parting grains of rice. Take me too, my son. My god, take me too to oblivion (Groundviews)."*



Dilrukshan, 36, arrested about the same time as Nimalaruban, succumbed on 8<sup>th</sup> August 2012 (*Virakesari*) after being in a coma. The body, including marks on the head, showed signs of brutal assault on a person already unconscious. At the time of the 1983 Welikade Prison massacre, one could still see the flame of judicial integrity struggling to burn. The Magistrate's report, however flawed, enabled us to reconstruct what had happened (*Arrogance of Power*). With Nimalaruban, in 2012, there was no forensic evidence in the public domain except the mother's testimony.

It is primarily the same class that through cynicism or the lethargy of the justice system is, without trial, shut up in the squalor of remand prisons packed to three times capacity for months and years. This was among the causes of the riot in Welikade prison on 24<sup>th</sup> January 2012. The second prison riot on 9<sup>th</sup> November 2012 began when the STF was brought in to search for contraband and assaulted a prisoner over an argument. It led to over two dozen prisoner deaths. According to testimony from prisoners several of them were taken out and individually executed in the night, long after the riot had ended.

If one takes away the ethnic element from the fates of Nimalaruban and Dilrukshan, and the Chief Justice's 'personal knowledge' that Nimalaruban was a terrorist, their cases have close similarities to what happened to Sinhalese prisoners in Welikade. They all belong to the same class. Aggressive government propaganda starting in 2006 has prevented media assessments of what soldiers from this underclass really went through in 2006-2009; the official army casualty figure (6,500 army dead against 23,000 LTTE) appears a gross understatement. For the state media to abuse those killed in these prison incidents as criminals or LTTE, to justify murder, brings the Government dangerously in line with the same LTTE and its system of justice.

### **7.7 General Fonseka Pays the Price of Falling out with Patrons**

One ironic victim of this institutional decay is Sarath Fonseka. He was convicted of contravening procurement procedures while he was commander, in what under the circumstances was a political court martial. The Supreme Court recognised Fonseka's court martial conviction as by a duly constituted court. Such recognition presupposes that the army officers appointed to a court martial board represent a law-abiding institution.

In the Welikade Prison case, we saw that the Sri Lankan Army, corrupted by the new norms, threatened Lt. Nuvolari Seneviratne with court martial to ensure that the second prison massacre went on long enough. Twenty-eight years later, Major General Hathurusinghe (see 7.5 above) was on the court martial board that convicted Sarath Fonseka.



Fonseka fared no better in the High Court case against him brought by the State for having told the *Sunday Leader* editor (13<sup>th</sup> December 2009), that from what he had heard from two journalists, several LTTE leaders surrendering under a white flag were killed by General Shavendra Silva on orders from the Defence Secretary (White Flag Story). In November 2011, the High Court found Fonseka guilty of 'propagating a false rumour,' in violation of emergency regulations and the Criminal Procedure Code.

**The charge of 'false rumour' arises from the court having determined that the White Flag Story was false, but it gave no indication that it had examined the considerable evidence for the story mounting in the international domain.** Further evidence of witnesses supporting the White Flag Story has been given in Frances Harrison's book *'Still Counting the Dead: Survivors of Sri Lanka's Hidden War'*. The Sri Lankan state and its justice system treat this evidence dismissively. Even the local Lessons Learnt and Reconciliation Commission has recorded evidence from relatives stating that LTTE functionaries, who surrendered to the Sri Lankan Army in their presence, including Balakumar, are now missing.

Importantly, Fonseka is not central to the White Flag Story; it originated seven months earlier from the late Marie Colvin's report in the *Times of London* at the war's end in May 2009. It gave significant circumstantial evidence implicating the Sri Lankan Army in the disappearance of surrendered LTTE cadres. Crucial parts of Colvin's reporting have recently been corroborated by the UN's Vijay Nambiar to Matthew Russell Lee of *Inner City Press* whom the Government prevented from going with then-U.S. Ambassador Robert Blake to witness the surrender.<sup>105</sup> There is a case to answer, far beyond the testimony of witnesses lead before the High Court.

Among the criteria the court advanced to decide that the White Flag Story is false were the following: Fonseka's subsequent denial of the story and his supposed grudges and the testimony of two persons implicated – Defence Secretary Gotabhaya Rajapakse and General Silva.<sup>106</sup> When a serious charge is laid in the international domain, a mere denial by the accused cannot count in a determination of truth. If the White Flag Story were false it is not Fonseka who is responsible for propagating a false rumour: it is the *Times of London*, the *Independent* and the *Guardian*. The world formed its opinion well in advance and independent of any claim by Fonseka. Hardly any were surprised by what he told the newspaper, only that he said it.

<sup>105</sup> <http://www.innereitypress.com/nambiar1colsri022412.html>,

<http://www.thesundayleader.lk/2012/02/25/nambiar-reveals-white-flag-incident/>

<sup>106</sup> Dictum attributed by Francis Bacon to Queen Elizabeth I, as one who made no 'windowes into mens hartes & secret thoughtes'.

Rather than examine the material facts behind the deaths of LTTE leaders and the disappearance of several others who surrendered, the judgment weighed heavily on marginal matters such as reading Fonseka's mind and feelings (e.g. having a grudge) against the President and Defence Secretary.<sup>107</sup> It is highly plausible that Fonseka based his conclusions on Colvin's report and some insider knowledge for verification. The truth must be determined entirely independently of these actors.

### **Determining the cause of a material occurrence is different from analysing motives for statements about it.**

By their very nature, repressive laws that base their validity on subjective criteria like bringing the government to disrepute and arousing the feelings of the people, invite mind-reading judgments. **The determination in the judgment that Fonseka had a grudge against the President and his brother has evidently been allowed to influence the conclusion that the White Flag Story is false:** *"Therefore the accused had an intention of bringing the government into disrepute and to instil fear into [people] during the Presidential election."* Repressive legislation such as the Prevention of Terrorism Act should not stay on the statute book because they become workable only by forcing judges into such subjective exercises as mind reading; leading in turn to an abrogation of the cardinal principle that the court shall **'pronounce sentence according to the law and in the evidence given'** (Governor North's Proclamation, 1799).

### **Wrong Case at the Wrong Time**

Fonseka is an ironic victim because the practices above, which result from a license for impunity, are passed on to younger officers from their peers and immediate superiors. Colonel Sarath Fonseka's stint in Akkaraipattu and Kalmunai in 1990 (UTHR(J) Special Report No.3), left behind the misery of mass arrests torture, and murder later witnessed in Jaffna.

Colonel Fonseka's and Major Gotabhaya Rajapakse's stint in Mandaitivu and surroundings commencing on 22<sup>nd</sup> August 1990 also saw numerous violations of the same kind recorded in UTHR(J)'s Special Report No.2. We observed, giving several cases, *"The islands were sparsely populated. The resistance was minimal in comparison with what had been expected. In spite of these factors conducive to a smooth operation, about 125 civilians were killed. This is a large figure when compared with the same army's Operation Liberation in 1987, a full-scale fiercely fought operation in comparatively populated areas."* The report was based largely on

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<sup>107</sup> The presiding judge, Deepani Wijesundara, who was party to the majority verdict, had two years earlier prompted widespread criticism when she plumped a 20-year jail sentence on journalist J.S. Tissainayagam, based on a supposed confession to a police officer over alleged terrorist funding for a magazine. After the Fonseka verdict she was made judge of the Appeal Court.



Division concerned. It turned out that covering up of misdeeds was routine from the lowest levels upward. Westmoreland never equivocated on the moral responsibility of those in command for failing to prevent and later covering up a massacre. Against President Nixon's wishes he saw to it that there was a proper investigation and trial. **Was Westmoreland less guilty of the charge on which Homma and Yamashita were executed**, namely that "they failed to provide effective control of [their] troops as was required by the circumstances"? Were they in receipt of anything more than 'routine reports'? The question of culpability is more involved although the commanders' ignorance of their subordinates' doings is hardly credible.

Following the experience of several ad hoc tribunals, Article 28 (a) of the Rome Statute of the International Criminal Court in 1998 formulated the knowledge aspect of individual responsibility of a commander for crimes committed by forces under his effective command if they 'either knew or, owing to the circumstances at the time, **should have known** that the forces were committing or about to commit such crimes'. Of the many in Lanka, of particular interest are the 1990 mass disappearances from refugee camps where detailed information was available (as in 2009):

On 5<sup>th</sup> September 1990, the Sri Lankan Army entered the **Eastern University** and took away 159 civilians, including children; an eleven-year-old disappeared after being taken with his father. The officers present were Brigadiers P.A. Karunatileke and A.M.U. Seneviratne. All of those taken disappeared. On 8<sup>th</sup> September, General Gerry de Silva, then commanding the East, asked when he visited the Eastern University refugee camp about those taken, contended they were all guilty. The following day 184 persons were massacred at Sathurukondan nearby. A lone survivor testified to the Batticaloa Peace Committee: *"50 commandos walked about 150 of us to the Sathurukondan army camp, which we reached about 7.00 or 8.00 p.m. Four were separated from the rest, attacked with swords and kris knives and were pulled away out of the camp. All were then taken to one place, attacked and burnt with tires."* (UTHR(J) Reports 7 & 8).

Where do the officers above stand in respect of the Rome Statute? Section 28 (b) holds superiors criminally responsible if they (i) knew or consciously disregarded information of their subordinates committing or about to commit such crimes, (ii) the crimes concerned were within their effective responsibility and (iii) the superior officer failed to take necessary and reasonable measures for prevention of the crimes or failed to submit the matter to competent authorities for investigation and prosecution. The Disappearance Commission of 1995, unlike the Jaffna Disappearances Report, had very little to say on the culpability of superior officers.



Impunity can never be reconciled with a peaceful or prosperous Lanka. It erodes trust within the armed forces and leads to loss of public credibility: General Kobbekaduwe's death from a stray LTTE mine in 1992 exploded in the public sphere as an internal conspiracy, which dogged President Premadasa to the very end. The recent Grease Devil fiasco and distrust among minorities, impelled the latter to mobilise for their own protection.

### **7.9 Grease Devils in Militarisation: Arm-twisting the Judiciary**

The alleged spotting of some grease devils<sup>108</sup> in Navanthurai, about 8.00 PM, on 22<sup>nd</sup> August 2011, led to a fracas. The people gathered at the local army detachment and demanded that the grease men seen going into the camp be produced. At about 1.00 AM that same night, uniformed men – army or STF – went into several houses and indiscriminately beat up men and boys who were then handed over to the Police. The authorities, including General Hathurusinghe, commander Jaffna, dismissed grease devil allegations as fabricated by mischief makers – the standard line against villagers who testified to intruders escaping into camps of the security forces. We turn to a judge who sought to do an honest job.

Judge Premshankar did a site inspection in Navanthurai the very next morning, with ASP Jayalath, CI Saman Chickera, IP Waidyaratne, and IP Gunasekera. He went to a house the people said was visited by an intruder. The judge recorded that the police officers were against the site inspection. The judge found a pistol stuck to the roof of the house as though its owner, seeing villagers in hot pursuit, stuck it there to avoid being caught with it. The judge asked the police officers who would use weapons of this kind? The officers replied that it was the security forces. He put their testimony down on record and ordered the weapon to be placed in court custody.

The Sri Lankan Army later asked the Police to arrange a hearing with the judge for them to dispute the identification of the weapon as belonging to the security forces. The judge turned this down and resisted pressures to transmit the weapon to the Government Analyst for his opinion.

The Police, who, in the experience of judges particularly in the North-East usually look for ways to subvert orders from judges to act against security personnel, wanted the judge in this instance to detain Tamils handed over by their attackers against whom there was no evidence of crime except that they were victims of a military rampage in their own homes. The ASP wanted the men detained for unlawful assembly and prevented medical care for those with fractures. Seeing the judge's dilemma, a high court commissioner too joined in and dispatched the victims to Jaffna Hospital.

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<sup>108</sup> Evidence points to grease devils being government paramilitaries used as poltergeists to create panic in the civilian population. In Kasangeni, near Oluvil, the grease devil scare was used to chase away Muslim villagers from an area the Army wanted acquire.

Three police officers reportedly made a complaint against the District Judge and Commissioner accusing them of interference in releasing those they wanted locked up. Those higher up in the judiciary should have thrown out the complaint as disingenuous. If the judges did cut corners it was only to get out of an impossible situation in which the Police had clearly acted with malice. The ongoing inquiry against the judges was then felt to be the reason to delay the District Judge's promotion. The Commissioner was confined to civil cases. Meanwhile, the Grease Devil case was frozen. Subsequently the District Judge was promoted and moved to a station out of Jaffna, which took him off the Grease Devil case.

The hearing of the Police case against those arrested and later released against the Police's wishes was repeatedly put off for the want of instructions from the Attorney General on how to proceed. The State was evidently anxious for the Grease Devil affair to be kept out of court. On every date given, above a hundred people wasted a day in court. The victims of assault and arrest meanwhile filed a fundamental rights appeal in the Supreme Court, for which the leave to proceed came in May 2012.

Very responsible persons in the North with forensic minds are convinced that the Defence Ministry is behind the grease devil saga. There has been at least one instance in Vadamaratchy where the intruder was caught and given to the Sri Lankan Army, which did not deny to a leading civilian official that the person was one of theirs. In Chavakacheri, within a week of the Navanthurai incident, people complained of such a phenomenon and were convinced of security forces' involvement. The Police in a bid to discredit the allegation caught a psychiatric patient, beat him up, and dumped him in hospital. His relations immediately protested the absurdity of this sick man being a grease devil. The Sri Lankan Army then issued a statement exonerating the patient. For confirmation, we turn to Nintavur.

**November 2013, Nintavur:** After a break of two years the state-sponsored poltergeists resumed their activity in the Muslim village of Nintavur, four miles south of Kalmunai in the East. Amidst general panic, some got together and cornered eight of the poltergeist unit, despite its being armed. When the people contacted the Police, the young Sammanthurai OIC, Dahanayake, risked his career and tried to enforce the law. Meanwhile, the STF arrived in a cavalcade of vehicles and told Dahanayake that the poltergeists were theirs. Dahanayake insisted that he would first take them to the station, record their statements and then release them. The STF fired threateningly into the ground and air, forcing the police to take cover, arrested some of the civilians who defended their village and went away with the poltergeists. According to village sources the STF in the area had not known about the poltergeist operation as it was ordered from higher up. The detained civilians were later released. This



and the Navanthurai incident confirm grease devils as a high level paramilitary operation.

It is easy to see how this trend connects to earlier instances of debasement of the legal process as in the transfer of magistrates in the ACF and Jim Brown cases and in the bullet recovered from a victim in the former.<sup>109</sup>

**Many of these abuses result from the Judiciary falling prey to chauvinism.** In 2005 the Supreme Court exonerated the police officers the High Court had convicted of murdering Tamil detainees at Bindunuwewa Rehabilitation Camp in 2000. It also instructed the Attorney General to desist from the case of the illegal Buddha statue in Trincomalee Town, which was erected with the connivance of the Navy. The latter incident created a precedent for the security forces to flood the North with Buddha statues postwar (UTHR (J) Special Report No.19 Part I and No.25).

In May 2011 the Supreme Court dismissed without reason petitions contesting compulsory 'Leadership Training' for university entrants. The training was organised by the Defence Ministry in army camps. The Friday Forum, made up of eminent public figures, pointed out that the Court's action was in conflict with an earlier judgment to which Chief Justice Shirani Bandaranayake had been party, which recognised "*the concepts of academic freedom and university autonomy provide the foundation of the teaching and learning environment in universities throughout the Commonwealth*". Apart from the objection in principle to the Defence Ministry's intrusive role in university life, the Friday Forum found problematic "*the content of the module on history and national heritage [given as part of the training]. The topics are, in order, the arrival of the Aryans, foreign invasions, (who the foreigners are, is not clear) and the development of Sinhalese kingdoms.*" (The Island 11<sup>th</sup> June 2011.)

Also at issue is the crassness of forcing Tamil youth into training by the Sri Lankan Army, which has been singularly unaccountable for many flagrant violations. If national unity does not begin at the Supreme Court, where would it? **The function of the Judiciary is to make the armed forces more professional and respectful of the law and liberties of citizens.**

## 7.10 Vicarious Heroism and Fake Victories

While the end of the LTTE is a source of common relief, the demise needs to be remembered with humility and grief: Humility, because while many ordinary people conscripted or recruited into the LTTE faced their deaths with courage, it produced no real leaders, only megalomaniacs who made civilians and fighting men, women, and children pay for their misconceived

<sup>109</sup> Appendices 2,3 & 4 and reports of UTHR(J)



glory; and grief for the huge loss of life and limb, particularly among vulnerable sections that had no stake in the nationalist egotism of the elite.

Painstaking anthropologists, like M.D. Raghavan, who have no emotional stake in the ideological battles dominating the politics of this country, have concluded that the influence of Kerala forms the bedrock of local culture, both Tamil and Sinhalese. But for the elite of this country, especially expatriates who have nothing to lose by local bloodletting, the stakes are hitched to the perennial battle between the mythical Aryans and Dravidians – ancestors of the Sinhalese and Tamils, respectively, as presented even in academic history texts. The resulting 'heroic' deaths are in reality a severe indictment on the cheerleaders and authors of deadly ideological games.

The case of Kalanithy illustrates the grave problem faced by the LTTE in using conscripts. Kalanithy, part of a family with nine children from Elephant Pass, was displaced to Kalmadu in 1990, when she was eight. The LTTE conscripted her on 4<sup>th</sup> February 2007.

Kalanithy, along with other conscripts, was given the full course of training with propaganda. Asked for her dominant feelings about this, she said that she and the other girls did not want to fight and that their dominant feeling was one of sadness at being forcibly separated from their loved ones. Her unit was sent for their first attack a year later, 4<sup>th</sup> February 2008, in Manal Aru (officially renamed Weli Oya). Kalanithy believes that hundreds died, including ten of her close friends. Kalanithy, who was in the rear, was among those who ran away to find their families.

A former LTTE conscript who survived the calamity in the Vanni told us that when they were ordered to advance, watchdog units were stationed behind to shoot those who tried to desert the battlefield. He was certain that the Sri Lankan Army functioned likewise. Whether Sri Lankan soldiers sent to battle were followed by watchdog units or not, they were certainly not far behind LTTE fighters in their plight of paving their peers' way to glory.

A lecturer in political science at Colombo University, a man from rural Gampaha involved in peace research in Japan, told us that his elder brother, a sergeant who had served 20 years in the Sri Lankan Army, was killed in Mulliyavalai in April 2009. He had rejoined the Sri Lankan Army after five years as a deserter. His sole reason for rejoining: poverty. He needed the pay to look after his wife and children. Though not politically sophisticated, he had been surprised by the arid and difficult nature of the Vanni and had asked, "*Why are we fighting these people for this land?*"

The lecturer's brother talked little about the Sri Lankan Army itself, but observed that the advice they gave their superiors about prosecuting the

war was entirely disregarded. He was aware that death confronted subalterns disproportionately. Those recruited into the officer corps were usually boys from the better schools who were conversant in English. The lecturer, who interviewed ex-LTTE youths, found that 80 percent were from oppressed castes – a pattern he found similar to that in the Sri Lankan Army.

The Jaffna disappearance report indicates how class and hierarchy work in the Sri Lankan Army. Corporal Rajapakse has been languishing in prison for nearly 15 years as an object of contempt to the Sinhalese – not because of his criminality, but because he talked too much. Twelve others are on death row. The disappearance committee had wanted to question Captain Lalith Hewa, Captain Wijesiriwardene, Lt. Daulagalla and Lt. Udayakumara, who appear to have gone into hiding abetted by the State. They would never see the inside of a prison. Brigadier Keppetiwalana would evidently have become a major general in a few months had his patron not run into a political storm. Many soldiers would have realised that NCO Rajapakse suffers for crimes his peers had taught them to indulge in.

The history of the thirty-year war is replete with Pyrrhic victories for both sides, emblematic of huge waste. The end of the war is more correctly termed exhaustion. Dominant groups in the South refuse to address the question of whether such an army – bred on impunity and all that it entails – was ever in a position to fight as a professional force.

Rising debasement of national life, indifference to rules, and abuse are visible all over, including in our universities. The Sri Lankan Army has paid a disproportionate price in casualties as part of this national debacle.

### **7.11 Rewards of Incompetence**

As we argue here and in the next section the high price in casualties paid by the Sri Lankan Army is a consequence of military incompetence, indiscipline and the political ineptitude of the state establishment. Instead of downsizing the Army, the same legacy that fed the conflict is being perpetuated by using the Army as an instrument of the rulers' greed and rewarding it with perks from corrupt practices and illegitimate acquisitions.

In the Valikamam high security zone, the Supreme Court order to the Government to give the land back to the owners has been abrogated. Instead the Army resorted to breaking houses in the zone. In October 2013, the Military spokesman likened the acquisitions of land of those shelled out in the North to those for the Southern Expressway and justified them under the rubric of 'security requirements' and therefore legal.



Kishali Pinto Jayawardene, writing in the *Sunday Times* (3. Nov.2013), pointed out that ‘...executive power is...necessarily subject to fundamental rights review in general, and to Article 12(1) of the Constitution in particular, which guarantees equality before the law and the equal protection of the law. The “protection of the law” would include the right to notice and to be heard’; and besides that acquisitions by government bodies are subject to the public trust doctrine and must be used for the specific purpose for which they were acquired and are subject to judicial review. ‘Security requirements’ is part of a dogma that subsumes Sinhalisation under security and leaves no room for a united Lanka. Land so pilfered in North Jaffna now has a presidential palace. A golf course was to follow.

The press in 2011 highlighted the Sri Lankan Army’s active role in the abortive illegal handover of land in Somawathiya Wild Life Reserve to a U.S.-based multinational, Dole. This chased out Sinhalese villagers who had derived a livelihood from the land. When the public protested against the illegality of the deal, Dole apparently pulled out. The Sri Lankan Army is now, only ostensibly, doing the banana planting instead, with ‘advice’ from LetsGrow, the local agent of Dole.<sup>110</sup> This is just the tip of the iceberg, suggesting how the Sinhalese, too, will be affected.

The Security Forces have also been going into entertainment and tourist ventures in a big way. The *Sunday Leader* (12 Feb. 2012) reported, “These ventures include the Eagles’ Golf Links at China Bay and the Marble Beach Air Force Resort, both in Trincomalee, and Heli Tours – a commercial flight operator spearheaded by the Air Force, while the Navy operates the Jetliner nautical cruise, a whale watching cruise and the Light House Galley close to the Galle Face Green.” The report questioned their legality with regard to licenses and taxes. Marble Beach Air Force Resort in Trincomalee is part of large tracts of land assigned in the early 1980s to the Ports Authority, which could not use more than a tiny fraction of it.<sup>111</sup> The State pursues Sinhalisation through just such sleights of hand.

The *Sunday Leader* reports that senior officers, when asked about the ventures, claim that the profits go to welfare funds for the security forces. The Army Commander Jagath Jayasuriya, when opening a ‘wellness resort’ for a selected group of disabled soldiers in January 2012, called for further funds from the public and the business community. He also acknowledged monies generated by the Brave Hearts Fund and the Sri Lankan Army’s

<sup>110</sup> “When asked whether LetsGrow has funded this project, [Army Spokesman] Brig. Hapuarachchi said that other than paying for the workers, the SLA has not sought any financial support from this company” (Nirmala Kannangara, *Sunday Leader*, 12 Feb.2012). See also <http://www.thesundayleader.lk/2011/08/14/illegal-distribution-of-land-in-the-somawathiya-national-park-by-the-sla/>

<sup>111</sup> Appendix III of UTHR(J) Report No.11 of 1993



*Seva Vanitha* Unit. He neither complained about a lack of public generosity nor cited business ventures by the Sri Lankan Army as a source of funding.

In September 2011, Minister Dinesh Gunawardene said Lanka has 23,000 permanently disabled servicemen – Army 21,327, Navy 430 and Police 1,296. Ex-servicemen regularly raise the issue of pension, which they receive only after 12 or more years of service. Those disabled after a short period of service have to find not only money for their families, but also for their medicines.<sup>112</sup> Some of these were partially addressed in 2014.<sup>113</sup>

This problem, the Government can and must solve. It spends Rs.163 billion a year (2015) on the salaries of security personnel, whose numbers are far in excess of postwar needs. Demobilisation would provide more than ample funds to pension off those who badly need help. At Rs. 20,000 a month, it would cost rupees five billion, or 3% of the current salaries bill, to pension off 20,000 disabled men – a marginal increase on the Rs. 16 billion (2015) pensions bill for ex-servicemen footed by the Pensions Dept.

The armed forces are not the only group deserving help. A large number of people were killed in the Vanni (including cadres) in the last phase of the war and a corresponding number were injured. Many also died showing exceptional heroism to protect others, braving heavy weapons fire from their Government, and their liberators shooting at escapees, carrying arms full of children. What has the Government done for these people? From the 1977 communal violence onwards, successive Sri Lankan governments have promised and then failed to deliver compensation. Tamil victims have largely been left to fend for themselves. The evils of army occupation make matters worse, denying people the breathing space they need for recovery. A militarised environment where foreign investors find the courts leaning towards the military (Leadership Training above), acts as a disincentive.

The hypocrisy of the military starting business ventures to ‘help heroes’ is implicit in the Association of Disabled Ex-Service Personnel (ADEP)’s complaint (*Sunday Times* 10 Nov. 2002): *“The problem in many instances... begins with training before reaching the battlefield. This was brought down over the years, from six months of comprehensive, rigorous training to a mere six to 12 weeks of basic training, due to a lack of recruits and time. This was grossly inadequate and one of the main causes for severe injury amongst the soldiers of today.”*

Any factory owner negligent of safety precautions and training is criminally liable. The ADEP’s allegation is an indictment on the army hierarchy,

<sup>112</sup> <http://sundaytimes.lk/021110/plus/3.html&>

<http://www.thesundayleader.lk/2012/02/12/ex-soldiers-seek-a-better-future/>

<sup>113</sup> <http://www.colombopost.net/more-national-news/item/297-disabled-soldiers-protest-lack-of-pensions>

commanders-in-chief, and Parliament for sending recruits into battle woefully unprepared. These soldiers, who are mostly from the underclass, are from the standpoint of the elite, a people who do not matter. It is primarily their class that was slain to suppress two JVP uprisings.

## **7.12 Flawed Analysis of the Conflict: Gota's War and the Cost of Impunity**

Why is the Sinhalese nationalist intelligentsia interested in renewing the futile project of a Line of Sinhala Defence (Ch.10)? Their presumed foe is numerically and otherwise greatly diminished.

But these Sinhalese nationalists feel a pervading sense of inferiority – regardless of the fact that this is without cause or foundation. In C.A. Chandraprema's *Gota's War*, for example, Tamils appear as such sophisticated tricksters that even the Bandaranaike-Chelvanayakam Pact would have, to this mindset, spelt a separate state. This forgets that a pact does not represent absolute agreement, but rather a starting point from which things can evolve as it is put into practice and priorities change.

Paradoxically, in mid-1989 the same political forces in the South (those who had held that the Tamil people could not be trusted with the Bandaranaike-Chelvanayakam Pact) got the Army to deliver arms to the LTTE, for it to attack the Indian Army. They felt clever about this, but in less than a year, in June 1990, the LTTE used the same arms against their benefactors, who let loose their insensate fury on the Tamil people.

Correspondingly, Gota's War describes the 1990s as a 'dark decade' for the Army, marked by reverse after reverse against a foe they far outnumbered. When the LTTE recommenced the war in June 1990, Gotabhaya Rajapakse's battalion was called out from Weli Oya, and sent in a space of six months to Jaffna, Vanni, Trincomalee and back to Weli Oya. His battalion endured many losses and its men were exhausted. Disillusioned with the way his elders were running the war, Gotabhaya Rajapakse resigned from the Army in 1991. He and the author of *Gota's War* viewed this as a pointless Decade of Darkness in a futile war.

But neither Chandraprema nor Lt. Col. Rajapakse raised the crucial question of how the Army fought the war from June to December 1990. Rajani wrote about LTTE strategy in *The Broken Palmyra*: "*The pattern became established – the Tigers would lure, and sometimes kill a few [soldiers]. Then the Indian army would run berserk – shoot, stab, molest and rape. It was unarmed defenceless people who were paying the price.*"

Thus from the time the LTTE restarted the war in June 1990 – by murdering hundreds of surrendered policemen – its pattern was to bait the Army and STF. This provoked severe reprisals, which furnished fertile ground for LTTE recruitment. The LTTE went from being a depleted force,



which many thought would not last two weeks, to growing by several battalions. Affrighted and angry recruits were eager to humiliate the Army. Fortified by these new and very young cadres, the LTTE felt emboldened to attack Elephant Pass, Weli Oya, and Pooneryn. The child soldiers who survived became intrepid fighters.

The Tamil militancy, even at its best, was a miniscule force compared to the Sri Lankan military. The latter was always much better equipped, and its resources dwarfed those of the Tamil militancy. Yet the Sri Lankan state could not capitalise on this advantage to resolve the decades-old ethnic conflict. It was unable to make much use of the deep hatreds and divisions the LTTE engendered among Tamils, and remained indecisive about winning the Tamil community over through a political settlement.

Instead, the State made the basest use of sections alienated by the LTTE as spies and killers. There was no real political content in its approach. Its record of making people disappear, in addition to its reckless use of firepower, enabled the LTTE to force many people, in spite of serious doubts, to support it even as the lesser devil against a 'genocidal' State. The LTTE mobilised the population with a mixture of coercion and propaganda.

The trend goes back to the mid-1980s. The Government's colonisation plans, which began with Manal Aru (Weli Oya), led to tit-for-tat reprisal attacks against Tamil civilians and Sinhalese. The Government used this as a pretext for massacres of Tamil civilians. This had the effect of sending capable, intrepid fighters into militant ranks. Gide (name slightly altered) was 12 years old when the Sri Lankan Army launched a massacre in his village, Thampalakamam, killing four persons as a reprisal to the LTTE's 1984 massacre of Sinhalese prisoners the Government had settled in Manal Aru (see Ch. 20 *Arrogance of Power*). Gide's family, along with several others, fled to Mullaitivu, where Gide joined the LTTE. When they gave him his first gun he was only thirteen years old.

After twelve years of intensive service, which included three in Jaffna, Gide was, at his request, given a conditional release. The LTTE arranged for him to marry a woman cadre, Fowzia. His family, which by 2009 included a twelve-year-old son and a two-year-old daughter, were in Putumattalan safe zone on 20<sup>th</sup> April 2009, when the Sri Lankan Army moved in. As they tried to cross to the Sri Lankan Army's side, an exploding shell killed his wife and both his children before they made it. He suffered a spinal injury. Gide is now a full-time evangelist in the Vanni.

There are a host of examples like Gide's, where the Government by its chauvinist stupidity or suicidal fanaticism, as in July 1983 and with its subsequent agendas of Sinhalisation, built a formidable Tamil insurgency. The Sri Lankan Army saw a major military victory with its 1995 capture of



Jaffna. But what did the State do with this triumph? In the case of Pungankulam, many who returned there after the LTTE-forced exodus fled once more seeing what the Army did. The population in the Vanni swelled.

While LTTE's propaganda to recruit schoolchildren in the Vanni initially met with a poor response, that changed when the Sri Lankan Army's advance in the Vanni came close to success in late 1999. Sounds of war were by now clearly heard in every major population centre of the Vanni. At this juncture, the LTTE launched a determined propaganda campaign using the Krishnanthi Kumarasamy and Jaffna disappearances cases to give the young an especially horrifying picture of what would become of them if the Sri Lankan Army captured the Vanni. Students' fear of an army takeover overcame their severe reluctance to join the LTTE.

Devika (name altered), a schoolgirl studying in Puthukkudiyiruppu in 1999, told us that the Sri Lankan Army had by then come quite near; they could hear the sounds of battle. The situation changed markedly at her school, where students had earlier treated LTTE propaganda and enforced training as a pain to be endured. Only two from Devika's school had joined. But in 1999, at least 10 boys and two girls from her class of 60 joined the LTTE. Only 30 among the 60 eventually sat for their A. Levels. If one extrapolates these numbers to the entire Vanni, it translates into a tremendous surge in recruitment. Its roots: human rights abuses in Jaffna (see Appendix 7).

As the ranks of the LTTE swelled, its cadres rolled back the advances that the Sri Lankan forces had made to capture Elephant Pass in April 2000. The threat of the LTTE capturing the entire Jaffna peninsula grew so serious that the very Sinhalese extremists who had opposed India's intervention in the latter 1980s were begging India to intervene.

By November 1999, the Sri Lankan Army had taken most of the Vanni that the LTTE had held since 1990. In November 1999, in a surprise attack which caused the Army to lose its nerve, the LTTE not only reversed these gains, but by May 2000 had taken a significant portion of the Jaffna Peninsula. It was mainly the LTTE's limited manpower and the benefits of being part of a nation-state with international accreditation that saved the Sri Lankan Army from a complete rout after initially making remarkable advances. While commanders Janaka Perera and Sarath Fonseka stopped the rout by their leadership, one could also infer from the course of events that neither the international community nor India were prepared to have the LTTE running a state. Even though little open support was offered to the Sri Lankan government, there is little doubt that the LTTE was privately warned not to push its luck. It was a telling instance of the Army snatching defeat from the jaws of victory. (Lt. General Srilal Weerasooriya,

who was then army commander, was the Jaffna commander during the hundreds of disappearances four years earlier.)

Against this record, there is nothing to be proud of in the Army's final victory at Mullivaykkal. The fall of Anandapuram in April 2009 had effectively paralysed the LTTE, which by Mullivaykkal found its numbers and resources hopelessly depleted and its leaders hiding behind Tamil civilians. The much-touted move into the narrow strip that became the government-declared no-fire zone was no humanitarian operation, as the State proclaimed; instead, hundreds of thousands of civilians found themselves trapped in a siege with practically indiscriminate artillery fire. **More sensible means to protect the civilians were available.**

The LTTE lost the war when it reneged on the Oslo Accord, undermined the peace process with its warlike behaviour, and forced the Western nations that had sponsored the ceasefire to, one by one, ban it. As the LTTE lost the diplomatic cover it had enjoyed during the peace process, the crackdown caused its supplies to dwindle. The conflict had lasted too long.

The humiliations the Sri Lankan security forces endured were the outcome of contempt for the ordinary Tamil people, whom the author and subject of *Gota's War* did not see as their own countrymen – the same error Tamil nationalism prescribes for ordinary Sinhalese people. **From this standpoint, one can draw one of two conclusions from the Army's fate in 1990: either the failure to safeguard the Tamil people from reprisals was grievously wrong; or they should have ordered the ICRC and humanitarian agencies to clear out and killed Tamils with unchecked abandon. The first alternative does not appear to be the conclusion drawn by the subject of the book – and the second steered us to the war's end in May 2009. Had the Army from the start tried to protect civilians, it would have won a political victory and blunted the LTTE's appeal. If the Army was not interested in that the logical step was to pummel the community and dominate the survivors through terror.**

## Chapter 8

### Mullivaykkal: at War's End

*When he had been consecrated eight years the Beloved of the Gods...conquered Kalinga. A hundred and fifty thousand people were deported, a hundred thousand were killed and many times that number perished...On conquering Kalinga the beloved of the Gods felt remorse, for when an independent country is conquered the slaughter, death and deportation of the people is extremely grievous to the Beloved of the Gods and weighs heavily on his mind. What is even more deplorable to the Beloved of the Gods, is that those who dwell there, whether brahmans, shramans, or those of other sects, or householders who show obedience to their superiors, obedience to mother and father, obedience to their teachers and behave well and devotedly to their friends, acquaintances, colleagues, relatives, slaves and servants – all suffer violence, murder and separation from their loved ones...This participation of all men in suffering weighs heavily on the mind of the Beloved of the Gods.*

- Asoka's Pillar Edict XIII, after the conquest of Kalinga, circa 257 BC, translated by Romila Thapar, from her *Early India*

#### 8.1 Harbingers of Doom

War throughout history has been catastrophic, especially for civilians. No less, the wars of our own time. Yet in many ways the final round of war in the Vanni is without parallel. Events during the last stages of the war have eclipsed scrutiny of earlier atrocities committed in the long history of violence by state and non-state forces. This is due to a combination of factors relating to the Sri Lankan state: the sheer numbers of civilians put directly at risk as the government prosecuted its final offensive; the ejection of international agencies from the Vanni who would have served as witnesses; and the State's open defiance of humanitarian concerns, are chief among the reasons why the world was both interested and able to get a glimpse of the worsening plight of civilians.

Yet, to a large extent the Government has been able to suppress the enormity of the suffering it inflicted on civilians.<sup>114</sup> Despite numerous detailed civilian testimonies from the ground on the use of cluster munitions on civilians (see Ch. 3 of UTHR(J) Special Report No. 34), the

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<sup>114</sup> On the other hand, the LTTE's atrocities in the South were given much more prominence than the violent acts and general trend of military violence against Tamil civilians. (See Ch.7: Jaffna disappearances.) We wrote two detailed reports in 2009 on the end of the war; this chapter will briefly review these events with a view to establishing more certainty on the possible loss of life in January to May 2009.



Government has managed to survive these damaging revelations through citing the absence of legal proof – proof that it largely destroyed. This bodes ill for the unity of the country when most journalists in the South play word games to discredit reports of cluster bomb use, without having talked to even one of the tens of thousands of their fellow countrymen who experienced them. There is no question that civilians densely confined to a government-declared safe zone were under constant missile attack, and survivors were traumatised by having to climb over countless dead bodies.

Two other factors are important. After many years of lobbying and pressure, a number of international agencies acquired a hard-earned presence in the conflict areas. But in the autumn of 2008, they meekly moved out of the Vanni when ordered by the Government, having a good idea of what was in store for the civilians. Their final exasperation with the LTTE – which virtually held the civilians hostage and defeated every humanitarian initiative – was partly of these agencies' making. For over two decades they were uncritically and sometimes arrogantly part of an international club that refused to see the pathological character of the LTTE and treated it with kid gloves as a party essential to a peace settlement.

One individual, Giovanni Porta, working for an international agency, challenged the pusillanimity of the international system by refusing to leave the Vanni, even as the 'independent' press in the South uncritically voiced the Government's claim that Giovanni had joined the LTTE (Part 2 of Special Report No. 31): *"The saddest part of the affair was that none of the INGOs or the UN, individually or otherwise, had a good word for Giovanni. That one or more individuals were attempting to cover themselves by giving Giovanni a bad name is evident in what the Nation (5 Oct. 08) carried: "NGO sources told The Nation that Puerto [sic] had been recognised as a deviant by more reputable organisations including the UN working in the Kilinochchi area..."* This attempt to malign the character of a humanitarian envoy who showed courage in refusing to leave the area belied the UN's own bad conscience about the affair.<sup>115</sup>

Senior persons in the war zone are very critical about the UN and INGOs who left the war zone. They said there was a lot to do and these agencies should have been helping the people. Instead they were shuffling about between Colombo and Vavuniya as observers. Those they left behind in the

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<sup>115</sup> Others remember that Giovanni adopted two stray dogs amidst the chaos. The fortunate canines received coveted Italian visas when Porta eventually left.

war zone sent them detailed information about casualties and dire shortages of medicine and infant food. Instead of firmly acting on it, they made compromises with the Government (e.g. on actual numbers in the zone), resulting in this largely accurate information becoming the subject of debate with far too little being done.

**Attempts to Stop the War:** Following a conference call around mid-November 2008, LTTE spokesman Nadesan, who had Prabhakaran by his side, assured Indian officials that as a condition for their diplomatic intervention Prabhakaran would make certain commitments in his National Heroes Day address (27<sup>th</sup> November 2008), including acceptance of a federal settlement. This Prabhakaran failed to do. Given Prabhakaran's refusal to accept a brokered settlement, and the Government's determination to kill him, extremely high civilian casualties were likely

Within the Government itself one infers that there were concerns about the consequences of an offensive in the Vanni, including its own heavy casualties. In January 2009, we understand from leading church officials that the Roman Catholic Diocese of Jaffna facilitated a Government offer of talks with the LTTE. Prabhakaran, who claimed that the LTTE was winning, gave this short shrift. Those who initiated the offer were, according to our sources, lawyers close to the President. They felt that they might push through a deal despite the defence establishment being anxious to fight to the bitter end. They said that the Sri Lankan Army had hitherto suffered 25,000 fatalities. Another offer in early February by Indian minister Chidambaram too was spurned. The LTTE's behaviour suggests that their rationale for prolonging the war was an expectation that the ongoing humanitarian tragedy would enable their overseas backers to work out a reprieve whose terms were favourable.

The Government decided to move in although victory had been assured with the fall of Kilinochchi. The Tigers were finished; the issue was the trapped civilians. Was the sacrifice of tens of thousands of civilians for the heads of a handful of men who held them hostage necessary or morally defensible? Was it beyond human ingenuity to think of less costly measures?

Going by past experience, from the 1987 Vadammaratchy Operation, the Sri Lankan Army never moved forward without the full complement of artillery and aerial support resulting in large civilian casualties. Even though by early 2009 the LTTE was much weakened, it had been fighting bitterly all the way. The Government had decided to kill the LTTE leadership at any cost as evidenced by its ridiculously low estimates of the civilian population under the LTTE. Besides repeatedly insisting upon these figures, the Government also orchestrated the strategic eviction of the international presence. It felt a need to use the full complement of fire



power to reassure the soldiers over the advance that was bound to cost many of their lives.

After many costly setbacks, the Sri Lankan Army had in reality a healthy respect for the LTTE's military machine, as in the Second World War the Allies well understood the qualitative superiority of the German Army. As to its likely effects on strategy, we quote the war veteran and British military historian Michael Howard: *"We blasted our way into Europe with a minimum of military finesse and a maximum of high explosive, destroying a great deal more than the German Army on the way (TLS 21.Apr.1978)"*.

The Sri Lankan Army's advance saw continuous firing into no fire zones and even hospitals from beginning to end. The claim that they were only returning LTTE fire was highly questionable right from the beginning.

Had the Army succeeded in taking the south-eastern precincts of Puthukkudiyiruppu in early February, it could have provided the civilians with an escape corridor. The attempt appears to have suffered from a hurry to accomplish that end by 4<sup>th</sup> February – Independence Day – and resulted in failure with heavy army casualties. Such an outcome further compromised the civilians, all the way to the end. Talking to people who were in the war zone in the last months, it is clear that the civilian casualties were heavy. An elderly lady from Thunukkai said that in her neighbourhood several entire families are still missing.

Responsible persons who were in the war zone are clear that by February the LTTE cadres had lost the will to fight. This was plain to natives of the Vanni and many extended families were in fact hiding fugitive sons and daughters. Before the very eyes of cadres, exploding shells carried off entire families. Each person knew that the lost families could have been his or her own. This loss of will among cadres was a byproduct of holding civilians hostage. A doctor who was in the war zone told us that the state of the cadres was such that they frequently threw away their weapons and went into hiding, often hidden by friends or family inside private vehicles. Many staying on were conscripting others to evade combat.

Many families in the Vanni bitterly remember that after losing Kilinochchi, the LTTE tried to prolong its survival by conscripting every young person they could lay hands on, and are clear that this contributed to a significant proportion of the deaths. The experience of the family of one woman attached to the staff of Jaffna University is quite typical. In her family of nine, including two parents, eight were caught up in the war. Her father was killed on 26<sup>th</sup> December 2008, when a Kfir bomber struck her home in Paranthan. Her family then joined the masses moving east. Her eldest sister Thevarajani (32) was killed in a government shell attack. The younger siblings then separated from the family and moved with others to



hide from LTTE conscription gangs. Those who survived were scattered among IDP camps and were reunited later. One sister Yogavathani (27) who separated from the family is now missing and nothing is known about her fate. The lady from the University said that over a dozen students caught up in the war came to the University with limbs missing. This reality was regrettably lost on LTTE supporters outside. It sets the fragile state of the LTTE against the excesses of the so-called humanitarian war.

The natural instinct of many Tamils who understood the gravity of the situation was to do everything in their means to stop the war by a deal for cessation or surrender. The Government reacted ferociously to any sign of such moves, as evidenced by the assault and abduction by uniformed persons of N. Vithyatharan, editor of *Sudar Oli*, at a funeral in Colombo on 25<sup>th</sup> February 2009. The Police initially denied any official role in the abduction, but the Media Ministry announced two days later that Vithyatharan was under arrest. Vithyatharan is clear that he owes his life to the prompt intervention of the Indian High Commission. The Government apparently suspected Vithyatharan of mediating between India and the LTTE. The Government had decided to go for the final kill.

The LTTE spokesman Nadesan, we reliably understand, also kept trying to stop the war, as told to us by one who met him in February 2009 and again on 24<sup>th</sup> April. He had regular communication with the Indian government, which wanted from the LTTE leader a commitment to lay down arms. Nadesan confessed that he could make no headway on this with Prabhakaran. Though Nadesan may have failed to persuade Prabhakaran to accept a settlement, the Government was far from justified in killing Nadesan when he tried to surrender on 18<sup>th</sup> May.

## **8.2 From Victory to Overkill**

There is much about the war that we may never know. Though it was clear that the Indian navy had offered tactical and intelligence support to Sri Lanka, stories about some form of Indian presence within the Sri Lankan forces have persisted among former LTTE cadres. A former conscript told us that the LTTE brought to Visuamadu the bodies of about three Indians with their weapons, killed in Kunjuparanthan in December 2008.

The Sri Lankan Army's original plan was apparently to move in quickly and wind up the war by about mid or late February 2009. The Army took Mullaitivu to the south on 25<sup>th</sup> January and Visuamadu to the west on 29<sup>th</sup> January. Throughout, the civilians were subject to intense shelling.

**Child Recruits from Arivuchcholai:** During the last phase of the war, 350 *Arivuchcholai* children were moved from Kepapulavu to the Redd Barna (Save the Children, Norway) scheme in Visuamadu. After the fall of Kilinochchi, when the Sri Lankan Army advanced eastwards from

Tharmapuram in late January 2009, the *Arivuchchola*i children put up white flags on poles and hoped for the best. The LTTE resisted the Sri Lankan Army all the way, and army shelling killed several children. Mick, who was then 13-years-old, is specific that many children were killed by 'rounds' when the Sri Lankan Army opened fire at the children from close range.

The boy whom we call Mick was abandoned as an infant after the army shelling killed his parents in Kilinochchi in the latter 1990s. The LTTE picked him up and brought him up at *Arivuchchola*i (Garden of Wisdom). The children were nurtured under the shadow of the LTTE and their schooling included propaganda and military training. Prabhakaran visited them from time to time. Their future and career were tied-up to the LTTE. They were told that upon finishing their education locally, they would be sent to the West to study and become part of the LTTE machine overseas.

Some officer had the sense to stop the carnage at Redd Barna. Mick told us that 250 of the children were saved and sent for rehabilitation. Mick estimates that shelling killed about 50 of them, and small arms fire killed another 50. Mick is now under civilian care. One of his friends is 'Pat', of about the same age, who lost his father to 'rounds' fired by the Sri Lankan Army into the no-fire zone in Putumattalan on 22<sup>nd</sup> March 2009.

Siva is from a suburb of Puthukkudiyiruppu. He had six sons of whom he lost three in the last round of war. One was taken by the LTTE some years earlier and is missing. One managed to survive without being conscripted. One got chicken pox during the latter stages of the war and died for the lack of adequate medication. The roof of the mud house into which the family had moved collapsed, causing his pregnant wife to abort.

Siva had a 17-year-old son that he kept moving from house to house to prevent the LTTE conscripting him. In February 2009, shrapnel from a shell blast cut his 12-year-old son almost into two just above the left hip, causing his intestines to come out. Another shrapnel from the same blast struck Siva at the bottom of his left foot. With help from others Siva managed to get himself and his 12-year-old son into the hospital at Putumattalan and both were evacuated by ICRC ship. This episode caused Siva to leave his 17-year-old son with his family. Without the father to hide him, he fell prey to an LTTE press gang. Siva believes the son is now dead. The 12-year-old who was shipped by the ICRC now attends school. Siva's left leg is now three inches shorter than the right.

In the same area is Rasika, a girl of eight lives with her sister. Their mother, an uncle and an aunt died in Mullivaykkal. Rasika lives with an aunt and keeps a picture of her father and mother behind the cover of her school bag.



As news about civilian casualties hit international headlines, the Government declared a safe zone around Thevipuram on 21<sup>st</sup> January. The safe zone lay between Puthukkudiyiruppu (PTK) in the east, the last town under the LTTE, and the Army's 58<sup>th</sup> Division on the west. But in the safe zone civilians were shelled from all directions. We quote testimony from Ravi, a young man who was at PTK Hospital when it was shelled:

*In my judgment, although the Army was some distance to the south, the LTTE chose to fire from the surroundings of the hospital, as they felt it afforded them some protection. On 1<sup>st</sup> February the hospital was shelled and in the night, a shell fell into a bunker with families of hospital staff, killing seven persons including the 13-year-old daughter of an ambulance driver. So much were people isolated that we did not know until morning that 12 people in the Hospital had been killed. Fifteen LTTE injured being treated separately in the hospital compound were also killed. An LTTE tank with tracked wheels (chain-block, earlier captured from the Army) was parked just beyond the hospital, within the hospital safe zone. A shell fell on the road near it killing four people.*

Meanwhile, the 58<sup>th</sup> Division diverted a section of its troops to move east along a road north of the safe zone. At the same time the 55<sup>th</sup> Division was moving south along the northeast coast in the direction of the Sea Tiger base at Chalai. At the end of January the Army Command ordered the 59<sup>th</sup> Division at Mullaitivu to move northwesterly from Mulliyavalai, near Mullaitivu, to PTK 10 miles distant, calculating perhaps on taking it by Independence Day, 4<sup>th</sup> February. The spurious consolation offered to the civilians was a two-day ultimatum from the Government on 29<sup>th</sup> January for them to come out. The LTTE attacked the column of the 59<sup>th</sup> Division by a westward thrust crossing Nanthikadal lagoon inflicting large casualties, cutting off the retreat of the advance section.

The army divisions were clearly out of step. The 59<sup>th</sup> Division had its hapless men out on a limb a little south of PTK. The other advancing divisions were too far away to be of any help, except to shell cowering civilians mercilessly. The 55<sup>th</sup> reached Chalai, 7 ½ miles north of PTK on 5<sup>th</sup> February and stayed put. The 58<sup>th</sup> Division was at that time shelling its way into Suthanthirapuram, 7 ½ miles northwest from PTK. Thus the 59<sup>th</sup> Division had been split by the LTTE thrust and left without proximate help. The intensity of the shelling the civilians in the 'safe zone' around Thevipuram experienced suggested that the Sri Lankan Army was angry, with its confidence suffering a temporary setback.

*Inside the Thevipuram 'safe zone', a shell fell a short distance from Chandravathy. She was from Mallavi and harboured worries about her injured husband and son – an LTTE deserter in hiding. The shell caused an injury on the crown of her head resulting in heavy bleeding. Near her*



*she saw that 15 others had died in the blast; children, adults and parents. Chandravathy had her head dressed and just carried on. There was too much at stake.*

Had the 59<sup>th</sup> Division taken PTK, the Sri Lankan Army might have encompassed the civilians' safe zone from three sides, and created corridors for the civilians to move into PTK or Visuamadu, thereby forcing the LTTE to withdraw east into their main base near Anandapuram. This was a juncture where the success of the LTTE was very costly for the civilians. Had the safety of civilians been the foremost consideration, there would have been better planning of the attack and more patience shown in implementing it. The Sri Lankan Army's own disarray is an indication of how little thought was given to the civilians.

The result was that most civilians fled east from the rain of shells in the safe zone to Iranaippalai and Putumattalan. On 12<sup>th</sup> February, the Government declared Putumattalan the new No Fire Zone, where civilians endured the torments of the LTTE and army shelling for a further 95 days. In its desperate move to push the Sri Lankan Army westwards, the LTTE suffered a major defeat at Anandapuram north of PTK in early April. Following the disaster, the LTTE had no significant offensive capacity left. Its cadres withdrew into the No Fire Zone behind civilian cover. The Sri Lankan Army which completed the capture of PTK could have sealed off the zone and used diplomatic means to get the civilians out. But the political prize the Government evidently sought was the extermination of the LTTE leadership. And the government implicitly sanctioned the inevitable heavy toll of civilian life in this quest.

*Suhanthy was vivid in her descriptions of the missiles fired by the Army and falling around them. **She testified to seeing cluster bombs (kotthu kundu) and burn bombs (erikundu) or white phosphorous. What she described as a kotthu kundu fell in the bunker next to theirs, killing the father, mother and four children.** Out of curiosity, she went out of her bunker and peeped, to see a hand burning. She said she had during that time seen people burning.*

On 17<sup>th</sup> March, Suhanthy's younger sister Sumathy (17 years) was conscripted by the LTTE and sent to Anandapuram. The family said that the purpose was, before training, to isolate them in a bunker some distance from any civilian presence as many attempted escape in the early days of conscription. When desperate the LTTE also sent the conscripts to battle after about two days' training in firing a gun. Well over a hundred newly conscripted girls were in a large bunker. A bomb from a Kfir fighter fell into the bunker killing a large number. Sumathy was among the few who survived and ran away and rejoined the family. Probably thinking she was dead, the LTTE did not look for her. **The**

**same day Suhanthy saw many corpses laid out near the hospital. She said Putumattalan had three ambulances disposing human remains, including amputated parts.** The people who had to shelter most of the time in bunkers also suffered many snakebites. Having seen many gruesome scenes, Suhanthy and Sumathy who had narrow escapes fell ill and were laid up for several days.

The result was nothing like the humanitarian operation the Government claimed it was. At best, it was a blundering military operation carried out from behind concentrated shellfire and aerial bombing into civilian zones; at worst, it was a relentless and deliberate targeting of helpless refugees. Advancing army columns were too much out of step to do the civilians much good. It was neither an operation that had anything to boast about nor one to celebrate. We give two testimonies; the first of a family and the second of a man who were in the final ordeal at Mullivaykkal:

*Sebamalai, the mother of a large family, had five girls and four boys, who were in the party with their families. Among the party were her daughters Mrs. Sivarani (Kumudini Acca) Rajendran (43), Vijayarani (38), Amirthalatha (36), Radhika (28) and Ushanthini (Komathy); sons Rajapriyan, Jegan (33) and Vasanthakumar (22); Vijayarani's husband Thiagarajah and children Lahini (15) and Virushita (3); and Amirthalatha's children Yathurshan (12) and Olekson (11); Jegan's wife Nandinithevi; Sivarani's daughters Gishani (12) and Vidusiyani (3).*

*When the family was in Valaignarmadam, Sumathy, a lady from Mallavi, who was married to Thavanesan, was lying down on the floor of their tin hut, breast feeding her seven month old infant, about 2.00 AM. The Army used to fire regularly with their small arms from across Nanthikadal Lagoon. A bullet grazed Sumathy's mother who was outside the hut, pierced the tin sheet and killed Sumathy. She is survived by her two children and husband living in Thavady, Jaffna. Another couple from Mallavi, Jeyanantham and his wife Keerthi, and their four children, were in Vellaimullivaykkal during latter April or early May. A shell attack killed Jeyanantham and their five-year-old daughter. They are survived by Keerthi, two boys and a girl.*

*On 12<sup>th</sup> May the family had moved to Vattuvakkal. Shells were so frequent that the family, upon a shell falling nearby, left the place and the dead bodies there, and moved to another place, also in Vattuvakkal. On this day the family was preparing to move further south in Vattuvakkal, their fifth relocation in the same area. Most of the men moved southward to dig new bunkers and the women stayed behind until the bunkers were ready.*

*Kumudhini Acca who was the boldest, was sitting at the edge of their bunker and packing clothes with Vidushyan (2) on her lap. Her mother Sebamalai was standing six feet away. Sebamalai heard the sounds first*



of two shells being fired from some distance away to the south – according to others present from Vattapalai Amman Kovil near Mullaitivu. She heard one exploding, but was not sure where. Jegan who was lying down behind a tractor heard a shell explosion and a woman's hand sheared off falling near. Two boys sleeping under the tractor were also killed by shrapnel. One was Vasikaran (14), Sebamalai's brother's son. The other killed was a boy of five who was Vasikaran's elder sister's husband's brother (in whose party there were around eight). Vasikaran's mother Vellaiamma had a bad head injury. The boy's father Iyathurai Thavarasa was severely injured.

Another shell exploding nearby decapitated Kumudhini Acca (Sivarani), Sebamalai's daughter. The child Vidusiyan, she had on her lap, remained unhurt. He kept asking for his mother and kept being told that she had gone somewhere. Sebamalai, who was packing six feet away for the next move escaped unhurt. The family, which changed places in Vattuvakkal five times after shelling, left the place and crossed over to army lines on 16<sup>th</sup> May evening, passing and stepping over countless dead bodies on the way.

**Vethanayagam** is a carpenter from Visuamadu, who went into the safe zones in 2009 with his wife and two young boys. His eldest, the girl Thayalini who was studying for her Ordinary Level exams was conscripted in December 2008 with about six class-mates and is since missing. On 12<sup>th</sup> May 2009, his wife, while she was in a bunker during the army advance in Mullivaykkal, was struck by a bullet and died on the spot. Vethanayagam had only a torn piece from a set of playing cards. He borrowed a pen and put his grief into this piece of a card, "Pushparani died 3.45 [PM], 12<sup>th</sup> May 2009", so that if not he, it should survive a memorial to her. He has carried it on his person ever since.

13<sup>th</sup> May was the last day of the Indian elections. Until then army shelling in May was relatively restrained. Exit polls indicated that there would be no change of government. On the night of 12<sup>th</sup> May the Sri Lankan Army commenced intense shelling that went on for three days, leaving the place a mass of corpses and dying people who, under fast deteriorating conditions, were beyond help. On the 13<sup>th</sup> May, with no medicines left, no safety from shelling and the medical staff preoccupied with the safety of their own families, the last hospital in Mullivaykkal ceased operations.

The State continues to protect a reputation which has been tarnished internationally, through repeated denials and most crucially on pushing its own version of the latter stages of the war. The result has been a state of terror where the Government has been lashing out wildly at all evidence of its culpability and has created a culture of fear and surveillance. The victims still fear to speak out, leading to a situation fraught with abuse.



### 8.3 Doctoring Under Fire

While sheer numbers tell us much about the callousness of the war, our understanding of what happened would be compromised if we failed to see another perspective. Once in a lifetime one faces a challenge that demands supreme humanity. Rising to such a challenge, when life is so capricious and each passing day raises fresh questions about the purpose of being left alive, can revolutionise one's view of life and beliefs. A doctor who rushed with volunteers to an area subject to shelling for casualty evacuation, was shocked on his return to find the civilian who directed him to the scene lying dead from a missile attack, struck by shell fragments.

No place guaranteed safety from shells. When Kilinochchi hospital had to be vacated, the doctors used shelter materials left behind by departing INGOs for temporary hospitals elsewhere. Each time they installed a GPSFix, and that should have protected hospitals from shelling. But hospitals at Vallipunam, Mullivaykkal and PTK were hit and the ICRC was wondering if the hospitals would be better off without the device, but the doctors argued that not having the device would be to give an open license to shell.

If a shell fell within 15 feet, the doctors learnt to shrug it off. Provided they were lying on the ground, they considered themselves safe unless the shell fell directly on them. Sivamanoharan, a senior medical student, was killed by a cluster bomb. These bombs were first dropped aerially in Kilinochchi and were later shell-delivered, leaving behind a telltale net. The ICRC was given evidence of cluster bomb and phosphorous bomb use. Two civilians were incinerated by a phosphorous bomb falling near Putumattalan Hospital, which was captured on camera and sent to the ICRC and the UN.

The dead and dying were constantly brought to hospitals. The medical staff accepted death as part of the life in those conditions, and took little interest in body counts. What affected them most was their failure to protect lives that their training and modern medicine had taught them to save.

In a particular instance, a young mother with a two-month-old suckling infant was admitted to hospital with a shell injury on her leg. In those conditions of tenuous medical coverage, this patient suffered from septicaemia. She was admitted on a Friday and the next ICRC ship was on Monday. Under those privations there was little likelihood of the mother surviving. The infant could have been saved, had there been infant food. They had none in this instance. In some cases, they saved an infant by finding a willing surrogate mother among many malnourished mothers. In this instance both the mother and infant died. This was a result of the Government knowingly giving a low estimate of the population and permitting grossly inadequate supplies of essentials.

Doctors in the South would have known about this had they any fraternal ties to their Tamil colleagues. One of the latter had asked a Southern colleague what he could do since he had no Formula 1 infant food, and only a small quantity of Formula 2. The latter told him simply to dilute Formula 2 and use it. The doctors in the South, unless they believed that their Tamil colleagues under fire were inveterate liars, knew of the dire shortage of essential supplies and medicines, but did not try to do anything about it. Nor did they support their colleagues who were detained and humiliated at the end of the war. This contrasted with the Government Medical Officers Association's fraternal interventions in 1987 under Sunil Ratnapriya.

One doctor, who was injured on his right hand and shoulder by a shell while leaving the war zone with other state officers, had to be carried and handed over to the Sri Lankan Army for medical care. He was locked up for eight days like a criminal, initially in a cage, and was not seen by a competent doctor during that time.

Any other country would have acclaimed the exemplary service of government doctors in a war zone under unrelenting fire, especially in the last five months. Instead, the Defence Ministry detained them after the war and humiliated them. They had been coached by a TV producer and exhibited before the media at the Media Centre for National Security, opposite the President's Temple Trees residence on 8<sup>th</sup> July 2009. We understand that the time was fixed so that higher-ups at the Security Council meeting could watch the live broadcast of the exhibition across the road. The higher-ups were reportedly overjoyed at what the doctors said, as useful for the cover up. Yet sadly, this was the first time the doctors lied and that too under duress. At that time the UN was saying very little, and did not give any indication that they would protect those who spoke the truth and had taken immense risks to keep them minutely informed. Under these circumstances, once in government custody, the doctors could not rule out the possibility of their own disappearance.

For state officials to arraign these doctors publicly over their earlier statements on high casualties, and the dire shortage of essential supplies, is to seek blind comfort in refusing to face the harrowing reality hundreds of thousands of their country folk lived through. The doctors did an honest and dedicated job under impossible conditions.

Para 110 of the UN Panel report says, *"No gloves were available and conditions were grossly unhygienic giving rise to a high risk of infections...On many occasions amputations were performed to save the life of a patient, as there was simply no other way to treat wounds...many amputations were performed without anaesthesia. In spite of widespread malnutrition some people continued to donate blood."*



Like every sensible person who had the interest of the people at heart, the doctors wanted, to the extent that lay within their means, to stop the war. They appealed to Tamil church leaders, besides politicians critical of the LTTE. A Tamil minister, after giving the doctors a sympathetic hearing, told them that the Defence Ministry was very angry with them. During March 2009, they sent a message to the UN Human Rights Commissioner's office, saying that if the war were not stopped, the human catastrophe would be ten times worse than the 2004 tsunami. Although accused by the government of being LTTE propaganda, the doctors' letter rather accurately anticipated the order of war casualties. (The UNHCR placed the tsunami dead in the North at around 6,000.)

Any suggestion that the doctors were doing propaganda for the LTTE entirely misrepresents their situation. Spending nearly all their time with septic wounds and mangled casualties, propaganda for the LTTE was the last thing that entered their minds.

Testimonies and the case below suggest that the doctors tried hard to do work with patients impartially, despite LTTE interference in some cases.

*Sivalojan, who as a boy lost his father Sivarasa, a boatman from Kudathanai in 1993 during a Navy massacre of passengers in Jaffna Lagoon, grew up to become a Christian evangelist. The LTTE conscripted him in Putumattalan and tortured him when he protested that violence was contrary to his belief. He escaped and was caught by the LTTE and shot through the back just missing his heart. With his heart pumping out blood, he pleaded with two LTTE men who were nearby to admit him to hospital.*

*An LTTE doctor<sup>116</sup> saw him, read the report from the cadres who brought him, and consigned Sivalojan to lie with the patients who were left to die in a filthy area close to the lavatory pits without any medication. A government doctor later saw him, and left instructions for him to be washed, moved to a bed and to be administered certain injections and saline and later shipped on an ICRC vessel.*

*Another LTTE doctor came later, looked at his record, placed his pen and drew a mark across the record and remarked that Lojan was a traitor who refused to fight and therefore not fit to live. He was sent back to lie with the dying and no medication was given except some small red tablets. He was refused permission to board the ICRC ship. He miraculously survived and on 20<sup>th</sup> April when the people escaped, he*

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<sup>116</sup> Despite the malfeasance of this particular doctor, cadres trained as doctors by the LTTE's medical school are praised by many in the Vanni for their surgical skills and place more confidence in them than in government doctors. Families of persons who are crippled because of particles embedded in places (e.g. near the spine) where surgery risks damaging sensitive nerves, swear that the LTTE doctors would have put it right and give examples.



*mustered the strength to walk across with the escapees and was later admitted to Vavuniya Hospital.*

Saying that the LTTE took some of the food and medicines and that some stocks were found after the LTTE's defeat does not refute the UN panel's charge that the Government used purposefully low estimates to restrict the amount of humanitarian assistance.

What then, was the Government's position on humanitarian assistance? In the war zone there was a crying shortage of essentials. The Consortium for Humanitarian Agencies (CHA) placed on the ICRC ship a consignment of supplies that was to be landed in Mullaitivu on 19<sup>th</sup> April 2009. Since conditions there were disturbed the ship had to return to Trincomalee. The next possible delivery date was the 21<sup>st</sup> at Mullivaykkal. But on orders from the Government the supplies badly needed in the war zone were shipped further north and dropped off in Jaffna. About 150,000 people in the war zone were left with negligible amounts of bare essentials, such as infant food. To many observers the Government's action appeared deliberate: it claimed there were then only 15,000-20,000 people left in the war zone. We turn next to the story of these low numbers, how they were fictionalised by ignoring the government's own available sources of information.

#### **8.4 The Public Servants: To Serve People or Service Government Lies?**

The UN Panel records that doctors and government officers were continually threatened by their superiors not to make their reports available to the outside world. Following his situation report of February, Additional Government Agent (GA) K. Parthipan was told by W.K.K. Kumarasiri, Secretary to the Ministry of Nation Building, that his figure of 330,000 IDPs was 'arbitrary and baseless' and that the Government would be 'reluctantly compelled' to take disciplinary action against him for providing 'wrong information to any source especially in regard to IDP figures.'

Prior to October 2008, when the Government ordered International NGOs to quit the Vanni, the Government Agents (GAs) of Mullaitivu and Kilinochchi Districts placed the population in the Vanni at 429,000 persons (Kilinochchi 205,213 and Mullaitivu 223,846).

In a report on the Internally Displaced Persons controversy in late 2008 as the final military operation was under way, the *Asian Tribune* (4 Nov 2008) reflecting the Government's standpoint in 'Who is lying on the IDP figures in the two Vanni districts – GAs or UN?' stated:

*"S.B. Divaratne - Commissioner General of Essential Services while participating in the meeting held yesterday afternoon in the Ministry of*

*Disaster Management asked how come the UN Agencies referred [sic] that they were supplying food and other essential items to 230,000 people in the two Vanni districts, when the total population in those two districts will not exceed 120,000 people? Sources further said those inflated figures were provided by the two Government Agents, Mullaitivu and Kilinochchi, on the instruction of the Liberation Tigers of Tamil Eelam. They said that Tigers wanted to have additional dry rations provided by the Government for them and for those martyred families. They ordered the GAs to provide inflated figures. They know very well there was no way of checking those figures."*

Yet for years, policy was made based on these same GA figures, making allowance for the peculiarities and uncertainties of a situation fraught with displacement. But as of September 2008 the Government aggressively disregarded the GAs and insisted on their baseless low figures.

The Government so hectorated and bullied UN agencies – which ought to have known better – that they ignored the GAs. A political compromise was struck and the UN settled for a figure of 230, 000 in November 2008. Even though this was far too low in reality, the Government pressed that it was too high.<sup>117</sup> In retrospect, it would appear that the Government expected huge civilian casualties in the sequel, or simply didn't care whether they got sufficient relief. Additional GA K. Parthipan was in charge of the government administration of Mullaitivu. We received through a friend, Parthipan's responses to queries from us:

*"The population in Kilinochchi and Mullaitivu districts was pretty constant until May/ June 2008. After that the IDP population in both Districts was increasing day by day, as many civilians fled other parts of the Vanni near the conflict frontlines to a safer location. I think the actual population at that time in Vanni might have been about 400,000."* He added that many had left the war zone by this time. In the table below, we show that the GAs' figures for the resident or local population in Kilinochchi and Mullaitivu, as indicated by Parthipan, have a high degree of reliability.

**Parthipan's numbers against numbers entering closed IDP camps – the figures in brackets are from matching Parthipan's information with estimates in the Part II of this chapter keeping in mind the severity of the situation:**

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<sup>117</sup> <http://www.hrw.org/sites/default/files/reports/srilanka1208webwcover.pdf>

Date	Addl. GA's Figures	Incremental Decrease	Increase in IDP Camps	Missing
1 Jan 09	380,000 (387,000)			
22 Jan 09	350,000 (GA Mull.)	30,000		
28 Feb 09	330,000 (334,000)	20,000 (53,000)	37,000	13,000 (16,000)
31 Mar 09	305,000 (305,000)	25,000 (29,000)	20,000	5,000 (9,000)
28 Apr 09	165,000 (165,000)	140,000 (140,000)	115,000	25,000 (25,000)
25 May 09	0	165,000 (165,000)	118,000	47,000 (47,000)
<b>Total</b>		<b>380,000 (387,000)</b>	<b>290,000</b>	<b>90,000 (97,000)</b>

Since we know that 290,000 was roughly the number of persons who entered closed IDP camps by the end of May 2009, the most crucial indicator of casualties is the number of civilians in the war zone in early 2009.

Again from Parthipan: *"In December, 2008 and January, 2009, collection of population figures was difficult owing to massive and multiple displacements, and advancement of SLA into Kilinochchi and Mullaitivu Districts and heavy shelling... Gradually, the LTTE area was shrinking and in mid-February 2009 almost all the people that remained in the Vanni had moved inside the 2<sup>nd</sup> No Fire Zone (NFZ) announced on 10<sup>th</sup> February 2009, and to the villages adjoining the NFZ. From the middle of February, we started to count numbers of civilians remaining in the Vanni. Our officers were able to register about 330,000 persons (81,000 families) by the end of February, 2009."* (Situation Report<sup>118</sup> sent to the Government in early March 2009.)<sup>119</sup>

The enumeration above was the basis of the acceptance by many of 380,000 roughly as the civilian population in the war zone in early January 2009. By early March 37,000 had escaped to closed IDP camps and more than 6,000 had been killed (UTHR (J) Special Report No. 34, *Let Them Speak: The Truth about Sri Lanka's Victims of War*). During January and February 2009, which saw the movement of the population from near Tharmapuram to Putumattalan under heavy shelling a casualty count was impractical. Moreover, many attempted escape in this period.

<sup>118</sup> [http://www.sangam.org/2009/03/Letter\\_WFP.pdf](http://www.sangam.org/2009/03/Letter_WFP.pdf)

<sup>119</sup> 4.172 of LLRC Report: "Another Government Official who had been serving in the conflict areas stated that the Government Agent Vavuniya had requested them to conduct a survey of the number of people in the Mathalan, Ampalavanpokkanai, Mullivaykkal area and this was done through the 250 Grama Sevaka divisions which were functioning at the time. The basis of the survey had been the ration cards which had been issued to the people who were regularly given food stamps. Based on this survey he stated that there were about 330,000 people."



Parthipan's figure of 380,000 in January above suggests much higher casualties. He incurred responsibility for the entire displaced population after the GA left the war zone in January. He sent several letters and messages to the Government on the plight of the civilians living under constant shelling with both food and medicine grossly inadequate. The Government, which by then maintained that there were only 100,000 IDPs, was infuriated by Parthipan's revelation. A retrieved copy of a second letter by Parthipan dated 31<sup>st</sup> March 2009 was made available to us. In it he claimed that inside the Putumattalan No Fire Zone there were 305,219 persons in 74,634 families (average family size 4.09). Owing to hostile responses with no additional food or medicine coming from the Government (which by then insisted that there were only 70,000 in the Putumattalan zone), he made no further formal entreaties.

The numbers and the method of estimation by ration cards and food stamp recipients, in both counts above, suggest undercounting of families while the overall population figures are in retrospect, credible. In both cases the family sizes of above 4.0 appear to reflect numbers in ration cards (10,000 dead would have led to a drop of about 0.1 in family size). What we know with fair certainty are the initial and final figures. We adjusted intermediate numbers according to our assessment of the severity of casualties at the time based on UTHR Special Report No.34 and subsequent testimony.

After the first exodus of IDPs during 20<sup>th</sup> - 26<sup>th</sup> April when the Sri Lankan Army took a part of the safe zone, the Government maintained that there were only 15,000 – 20,000 civilians left in the LTTE-controlled southern half. An astonished senior Tamil leader Mr. V. Anandasangari told a colleague that he heard from Parthipan that there were in fact 165,000 left.

Parthipan's superior Mrs. Imelda Sugumar (later the GA of Jaffna) had effectively supported him before the Lessons Learnt and Reconciliation Commission (LLRC) on 4<sup>th</sup> November 2010 by saying that there were nearly 350,000 people from the districts of Kilinochchi, Mannar, Vavuniya and Mullaitivu when she had left PTK on the 22<sup>nd</sup> of January 2009 (4.171 of LLRC Report). The Government has not publicly challenged her.

The missing fall into several categories that will be discussed below. Parthipan's figure of 165,000 for late April, as reported by Anandasangari, cannot be dismissed *a priori*. Witnesses are agreed that the last month was the worst period: hundreds of dead bodies were flung about pretty much everywhere towards the end.

Parthipan's figures cannot be faulted; they are a fair representation of the humanitarian plight of a section of citizens of this country. They formed a reasonable basis on which to provide relief supplies (did anyone insist on an accurate body count before appealing for tsunami assistance in 2004?).

About 165,000 in the beleaguered safe zone in late April was far more credible than the 15,000-20,000 insisted upon by the Government, given that 118,000 survivors had already made it to IDP camps by that time. Parthipan's figures were remarkably close to the mark amidst the debilitating chaos.

No one who was there would disagree with what the Addl. GA told his superiors in Colombo by letter on 31<sup>st</sup> March: *"If the same situation continues a large number of people will die due to starvation and illness."* Addl. GA Parthipan did not mention the gravest menace – government shelling and small arms fire, which makes it difficult, indeed perverse, to read his letter and numbers as LTTE propaganda rather than as desperate appeals to the Government he served. These officials were doing their best in a situation in which the UN and international humanitarian agencies had abandoned the people on the orders of a government that was soon to unleash its enormous killing machine on its own citizens. The ramifications of the UN's desertion of the IDP population would remain an issue of controversy for many years to come. Anyone who viewed the service these government officers rendered under continuous fire, without using an ethnic prism, would have given them a hearty commendation. But Parthipan was harassed as a traitor and forced to flee the country.

### **8.5 Making Sense of Dual Obfuscation**

Civilian deaths occurred owing to the callousness of both sides. Conscripts were civilians forcibly sent to battle lines with the most cursory training. While trying to make numerical sense of it we must also recognise the deeply buried trauma among the survivors, which again is obfuscated by the ideological preoccupations of both sides.

**Conscripts Killed in Combat:** Local persons familiar with the war estimate the number of LTTE conscripts killed at around 15,000 to 20,000, weighted towards Mullaitivu and Kilinochchi districts. In the latter two districts escape was hard. In Mannar District, local sources said that many conscripted youth escaped to Mannar Island by sea. We may also check this number by other reports.

Persons with good LTTE contacts who were in the battle zone (mislabelled as a safe zone) told us that the LTTE was losing on the average 50 combatants a day to which must be added those dying in major confrontations. Taking into account the reckless conscription towards the end, 15,000 over a period of ten months stretching back to 2008 is a reasonable estimate. Several witnesses have told us that when a person was conscripted in the latter stages, frequently the news of either death or desertion followed within three days.

### **The Fate of Badly Injured Cadres and Conscripts**



Testimonies available from the war zone tell us that the LTTE killed an unknown number of injured cadres and conscripts. No doubt some of the cadres in the LTTE would have done it with a heavy heart, seeing it as mercy killing. A school housing maimed and blind LTTE cadres was at Thambirajapuram, Visuamadu. A person of the area told us that when the LTTE was evacuating in January 2009, four buses into which these handicapped persons were loaded for transport were then blasted.

An elderly lady, Vasantheswari, testified that the LTTE buried a large number of disabled cadres alive in the days at Mullivaykkal. She discerned they were alive as she saw several hands waving while the pit was being closed. Our Special Report No. 34 gives other instances.

We record Vasantheswari's story that captures how one could be disabled in an instant during the war:

*In February 2009, as the family was displaced eastwards with the general populace, their son Sibesan was near Puthukkudiyiruppu seated outside on the edge of the bunker as it was very crowded. A shell exploded causing Sibesan a major spinal injury, leaving him at present rather helpless in a medical facility in Mannar. Another shell blast during this time injured their daughter Sinthuja, who has since recovered, but her one-year-old son Sivanujan was killed. Sinthuja's husband Sivakumar was also killed separately.*

Vasantheswari also described what happened to her sister Kohila's daughter. When the LTTE in 2009 came to conscript her son Muhilan (16), her 14-year-old daughter Malarvili accosted them. On learning their purpose, she was so fond of her brother to bear his being taken away that she offered herself. She informed the conscription gang that she would come in her brother's stead. After she was taken and trained, she ran from the camp to escape home. The LTTE went after her and shot her dead.

### **Civilians Killed while Attempting to Escape**

No compelling estimate is possible here without a comprehensive survey of survivors, which may be too sensitive even today. Our main guide is the estimate of 1,500 killed while attempting escape from Putumattalan (Ch. 3 of Special Report No. 34). Witnesses told us that, from February to April 2009, an average of 15 bodies a day were fished out of the lagoon and laid out for inquest. Shooting of escapees began in January and by accounts intensified in the latter Mullivaykkal period. Survivor accounts tell us that in the latter stages when the Army had got close, escapees were liable to be shot at by both sides. Guided also by a small sample, 3,000 killed by the LTTE is a reasonable estimate, taking into consideration the next category.

### **A Grey Area: Those killed in Cross-fire and Missing**

The following story illustrates the problem. Therese is from Puthukkudiyiruppu; she moved to Iranaippalai and the LTTE conscripted



her 15-year-old daughter on 15<sup>th</sup> February 2009. She escaped and returned home. When the family moved to Putumattalan, the girl kept a low profile and hid with her family in their shelter. On 8<sup>th</sup> April, she was killed by a stray bullet. On 15<sup>th</sup> May 2009, her eldest daughter's husband, who tried to escape from Mullivaykkal, was also struck down by a bullet. There is no way to identify whether the bullets were fired by the Sri Lankan Army or the LTTE as there was regular cross-fire. These incidents were relatively fewer than those killed by shelling. But it is a grey area.

### **Controversy over Army Casualties**

Contrary to past experience that suggests a death ratio of one Government soldier for every LTTE cadre; official Government figures posit 6,500 soldiers killed against more than 20,000 slain LTTE cadres. We have referred to the lawyers close to the President who sought the help of the Roman Catholic Church in Jaffna to begin talks with the LTTE and stop the war. The figure they gave for the soldiers killed at that time was 25,000. Whether exact or not, it is of the order one would expect. No stage of the war was a walkover. Even in 2009, battles at Piramanthanaru, Kepapulavu and Anandapuram were fiercely fought.

### **Estimates of Civilian Losses: 97,000 Missing**

The total civilian loss could be fixed with reasonable accuracy by paying special attention to Kilinochchi and Mullaitivu Districts. **The two populations given by the GAs in 2008 had family sizes of 3.82 and 4.08, respectively, which compare well with previous history and corresponding figures for Anuradhapura and Polonnaruwa Districts. For this reason we have no reason to doubt the family sizes given by the GAs' 2008 figures for these rural areas.** We also know the numbers in the survivor population, where the numbers of families are substantially the same as those of 2008, with no evidence of statistically significant migration of entire families out of the North. The strong continuity in numbers of families suggests that most dead combatants were from families resident locally. This is our starting point, which after a little work becomes quite informative. We list below a summary of our estimated **97,900 persons dead or missing** (which includes conscripts killed in 2008) and leave it to the interested reader to look for details and the arguments in Part II of this chapter.

- 1. Deaths of civilians from owing to Sri Lankan security forces' action = 67,600**
- 2. Deaths owing to LTTE conscription and of cadres among Vanni families = 20,000**
- 3. Deaths from unknown causes and missing = 7,000**
- 4. Deaths from shooting by the LTTE of escaping persons = 3,000**

We note that there is no way one could argue away the huge casualty figures. Based simply on survivor families corrected to include those who left the North, present and past family sizes, one would get a rough estimate of 51,000 missing for Kilinochchi and Mullaitivu.

Given the date of the GA's figures, a small fraction of the missing civilians and a larger fraction of the conscripts killed would have to be pushed back to 2008. Civilian casualties were marginal before 2009.

## **8.6 Real Questions about the War**

Anyone who cares can see signs of grievous injury all over the North.

A boy of 17 sustained seven injuries and lost 21 relatives, almost all on his mother's side; a child suffered severe burns from phosphorous munitions and his family could ill-afford the trips to Colombo for skin grafts; persons were rendered immobile by pieces of shrapnel lodged near nerve centres, making them dangerous to remove. The cities of the north are filled with people having missing eyes, limbs, and relatives. Our Special Report No. 34 gives several vivid and detailed cases of injury and suffering. The Government has succeeded in dispersing the human wreckage of its policy of zero civilian casualties. These people must beg or seek charity. Instead of supporting them, the State spends its money on victory and Buddhist monuments, as well as army camps. It has also privileged the military in land acquisitions, hindering the recovery of victims who are denied the use of their properties.

One frequently encounters persons with harrowing experiences from the war. T, a sporadically employed artisan from Iranaipalai, north of PTK, lives in a small house. His first question was, *"Would I get into any trouble for talking to you? I have my wife and four children."* His area had been bombed and shelled from late 2008. His brothers J and T were killed in bombing in December 2008, as were neighbours Jeya's 36-year-old daughter-in-law and a 50 year-old teacher. T recalled, *"They unremittingly bombed and shelled our area thinking perhaps that Prabhakaran was around, but it is us ordinary folk that were hit. We never saw any sign of Prabhakaran. Like you, I saw his picture only in newspapers."*

Asked if things improved when they went to the Putumattalan no-fire-zone, he laughed and said, *"Shelling was so bad that we were mostly in the bunker daring only to sneak out and make rice porridge. We decided that we would all die in the bunker or drown together in an attempt across the lagoon."* His late brother J's son Kay and Suhan from his neighbourhood were killed by shelling in Putumattalan, as was Jeya while collecting medicine. Mullivaykkal experienced a far worse degree of horror. Exploding shells in several instances buried entire families in their bunkers.

The experiences are too widely varied for easy generalisation. Losses occurring as a result of conscription by the LTTE tend to be higher in some villages than deaths from government shelling. A group of 45 from Bharathipuram in Kilinochchi escaped across the lagoon from Putumattalan past LTTE guards. But only 17 made it to the army line. T, quoted above, also told us that two boys, Muhunthan and Atheesan, from his area and aged 17 or 18, were conscripted. The pair's bodies were given back to their families on the third day by the LTTE.

On what grounds can a government subject civilians trapped in safe zones the government itself had declared to frequent and indiscriminate artillery bombing? Is the government justified in using cluster munitions and phosphorous shells? Are these not war crimes? What are the implications of such warfare systematically directed at a minority? Does all this amount to genocide? These are the questions that confront us.

Repression, army cantonments along highways, and transfers of land and economic means to a military class cannot secure unity. Students of Indian history would know that the Cholas of the Middle Ages did the same in trying to control the Pandyas. They came to grief. Asoka's elaborate measures for the defence of his empire could not protect it for even 50 years in the face of internal strife.

### **Surrender and Secret Detention Centre**

Many questions about the war are bound to remain unanswered, especially about persons detained by the security forces under varying circumstances during the war.

An eyewitness account dating to the end of the war gave testimony of a secret detention camp at a former Tamil Rehabilitation Organisation office in Kilinochchi. Office hours were still displayed and the centre was accessed through a lane off the main road. Towards the end of the war female LTTE cadres were brought there. There were other prisoners too, both men and women. Many of them were civilians with no attachment to the LTTE. The number of prisoners at this time was low and the detention camp had cages installed. What is most questionable is that the detainees had no ICRC access. It was easy enough for the security forces to abuse prisoners even when ICRC access was nominally available; prisoners were quickly hid away when ICRC officials appeared. But when access was completely absent anything was possible.

In addition to the notorious "white flag" incident, there are on firm record, several other persons who surrendered to the Sri Lankan Army before witnesses and have not been seen since. We list three such examples.



First, the sickly EROS leader **V. Balakumar** surrendered to the Sri Lankan Army with his 19-year-old non-combatant son Sooriyatheepan on 17<sup>th</sup> May 2009. They have been missing since.

Second, **Vythilingam Shanmuganathan** (54) was a former employee of Lanka Cement Ltd., KKS. He worked for the LTTE's civil administration after the 1995 exodus. On the morning of 18<sup>th</sup> May, the Sri Lankan Army came with informants to a large school in Mullaitivu where civilians who exited from Mullivaykkal were assembled, and Shanmuganathan was among those arrested, as witnessed by his wife and daughter. His son Umayavan (19), a civilian went missing after getting separated from the family; according to a report was seen in Mullivaykkal on 18<sup>th</sup> May after the Sri Lankan Army had gained control. Shanmuganathan is missing to this day.

Likewise, the third, **Elankumaran**, was in charge of the LTTE's Department of Education. He was arrested in Mullaitivu along with his wife and daughter. (Vithiya, a cadre who was working in a rehabilitation centre for the injured, was pregnant at the time of arrest along with her cadre husband.) Nothing more has been heard of these people. A lady, one of whose family was detained, said that several hundred were detained and none has been heard of again, several of them were detained simply as family members who were with an accused. She based this on the fact that persons who were arrested from several groups were made to go out in lines over two days and at least a hundred were arrested from her group; she is also in contact with about 25 families present with her when a family member was detained. None of them has received word. This may be just the tip of the iceberg. We have this enigmatic reflection by Calleigh McRaith (of the Virginia Law School):<sup>120</sup>

**"The number of people in each of the government's internal categories for rehabilitation confirms that the majority of people who went through rehabilitation had been classified as having no involvement in operations or attacks. It is difficult to imagine that the government would be lenient in categorizing, yet by the government's own numbers only 1,351 of the surrenderees were considered leadership or members who took part extensively in operations or attacks. In contrast, over 8,000 surrenderees were classified as either forcibly used or not having taken part in any LTTE operations. It is difficult to see why these citizens, who by the government's own classification had very little connection to the LTTE, deserved to be separated from their families and undergo a full rehabilitation program for months or years."**

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<sup>120</sup> "Arbitrary Detention in Sri Lanka: Interment, Rehabilitation and Surrenderees in the Prison System," Calleigh McRaith, Groundviews, 14 Feb.2012

Out of the 11,982 Tamil IDPs detained by the Government for alleged LTTE links, two-thirds had hardly anything more material than the 'one-minute' involvement with the LTTE. But the Army made surrender for even this mandatory. Keeping 1,351 hard core LTTE members seems a poor reason to hype a rehabilitation programme involving over ten thousand. The rehabilitation programme, as McRaith points out, was mostly farcical. The time spent in vocational training was minimal. Rehabilitation did not deal with trauma or unlearning patterns of violent behaviour. Those who had been forced to cook for the LTTE for a few weeks might then have been forced to cook for the best part of two years as rehabilitation. It was forced labour and illegal detention imposed on thousands who did not break any law. Carrying the loot for an armed robber under duress is not a crime.

The fact that more than 8,000 people were detained for very minimal contact with the LTTE suggests that all or most of the 11,982 detainees referred to above were picked up from IDP camps.

What, then, was the purpose of this drama? To say that it was to cover up the fate of the missing thousands of hard-core LTTE and other innocents taken along with them would not be far from the truth.

### **8.7 The LLRC on Civilian Losses and Military Strategy**

The LLRC report<sup>121</sup> released in November 2011 was designed, in part, to address issues raised by an earlier report from the UN Secretary General's Panel of Experts on Accountability in Sri Lanka<sup>122</sup> (UN Panel), which was issued on 31<sup>st</sup> March 2011. The latter charged the Government with large scale shelling on No Fire Zones - areas the government itself had demarcated as safe zones and encouraged the civilian population to concentrate. The UN Panel also accused the Sri Lankan security forces of continued use of heavy weapons despite promises to the contrary; and of shelling hospitals and UN food distribution lines in spite of notification from its own intelligence systems and other agencies of the potential effects. The UN Panel further said that the Government deprived people in the conflict zone of food and medical supplies, to which end it purposefully underestimated the number of civilians who remained in the conflict zone.

The LLRC Report did not explicitly challenge the Kilinochchi and Mullaitivu GAs' figures (e.g. GA Mullaitivu, in her testimony before the LLRC, in section 4.171, notes that there were 350,000 civilians in the war zone on 22<sup>nd</sup> January 2009); but, it recorded Addl. GA Parthipan's 330,000 at the end of February 2009 alongside UN estimates of 120,000 to 190,000 at the end of March, but made no attempt to clarify these

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<sup>121</sup> <http://slembassyusa.org/downloads/LLRC-REPORT.pdf>

<sup>122</sup> [http://www.un.org/News/dh/infocus/Sri\\_Lanka/POE\\_Report\\_Full.pdf](http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf)



divergent figures. Moreover, the LLRC made no reference to 305,219 for the end of March given in Parthipan's second situation report. Nor did the LLRC seek clarification from the Commissioner General of Essential Services (CGES), Mr. S.B. Divaratne, who, in opposition to the GAs, gave a far lower figure of 120,000 for the population in Kilinochchi and Mullaitivu Districts in late 2008. One takes his lower figure to be arbitrary as the basis was never revealed, and the GAs' figures had hitherto been routinely accepted.

The LLRC does not contradict the contention that there were heavy civilian casualties, but is rather at pains to justify military strategy and practice.

In Section III, the LLRC comments, *"In evaluating the Sri Lanka experience in the context of allegations of violations of IHL (International Humanitarian Law), the Commission is satisfied that the military strategy that was adopted to secure the LTTE held areas was one that was carefully conceived, in which the protection of the civilian population was given the highest priority."*

The Report dwells a good deal on the LTTE's absence of concern for IHL, its callous attitude to civilian casualties, and adds:

*"...it is also incumbent on the Commission to consider the question, while there was no deliberate targeting of civilians by the Security Forces, whether the action of the Security Forces of returning fire into the NFZs (No Fire Zones) was excessive in the context of the Principle of Proportionality. Given the complexity of the situation that presented itself as described above, the Commission after most careful consideration of all aspects, is of the view that the Security Forces were confronted with an unprecedented situation when no other choice was possible and all 'feasible precautions' that were practicable in the circumstances had been taken."*

The LLRC, while not denying enormous civilian losses, attempts to relegate them to collateral damage, unavoidable in fighting an enemy such as the LTTE, which was callous and ruthless besides having cynical disregard for the rules of war. But the facts are not all as the LLRC would have them. It has for instance accepted the official version (LLRC 4.158) that difficulties in supplying civilians were created by the LTTE opening fire at food convoys. However the UN Panel cites testimony that both sides used food convoys as cover to advance their positions.

To demonstrate the care with which the Government demarcated No Fire Zones, the LLRC cited the Army Commander's letter to the ICRC of 19<sup>th</sup> January 2009 on the need to demarcate boundaries so as to keep civilians away from the fighting. The UN Panel points out that the demarcated zone encompassed the LTTE's western and southern defence lines, the latter



only 800 metres north of the advancing troops. On the 24<sup>th</sup>, four days after the zone took effect, massive shelling from army lines hit the NFZ, leaving many dead and mangled in the UN compound at Suthanthirapuram where people collected rations. UAVs provided the Army a view of what they were shelling. Even on the evidence the LLRC presents, it is not wholly true, as it makes out, that the LTTE was preventing people from crossing into government territory. **Government shelling and crossfire were critical determinants of the direction of civilian flight.**

The LLRC muddles the question of the gross inadequacy of essential items sent to civilians. After saying inaccurately that no major concerns were expressed by the international community on this score, it goes by the CGES Mr. Divaratne's new story (4.165) that the lack of landing facilities were the main obstacle to delivery by sea, but 'that the maximum quantities of food supplies, that were possible under the prevailing circumstances had been delivered by the sea route.' The LLRC has thus attempted a semantic shift from 'grossly inadequate' to 'not intolerable'. The US Ambassador Robert Blake's cable on 23<sup>rd</sup> April 2009 suggests that the Government could have done much more to ensure that the ICRC deliveries and evacuations continued regularly.<sup>123</sup> It was continuous shelling of Mullivaykkal by the Army and Navy that stood in the way.<sup>124</sup>

The LLRC cited the UN requirement that each IDP needed 15 kg of food for a month or 1500 MT for 100,000 persons. In his situation report of 31<sup>st</sup> March 2009, Addl. GA Parthipan refers to the need to feed 305,219 persons, for whom the calculated requirement for the month according to UN norms was 4950 MT. The quantity of essential and supplementary received in March was 1095 MT, against 150 MT in February (adequate to provide dry rations for 30,000 persons). The quantity in March, Parthipan said, was sufficient for one week's rations for the 77,526 families. The CGES's figure given to the LLRC was 1650 MT from the Government and 1119 from the World Food Programme – the small print suggests that the first (1650 MT) includes the second. John Holmes<sup>125</sup> in his briefing to the UN Security Council on 26<sup>th</sup> March 2009 backed Parthipan's claim that

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<sup>123</sup> ICRC reported ferry access for medical evacuations was increasingly difficult at the new site. Another 450-500 evacuations were hoped for on April 23, with another trip planned for April 24, with some 1,000 to 1,500 waiting for evacuation. The WFP food ship was loaded and waiting for word from the ICRC ferry on when conditions at landing site would allow food delivery. Constant fire made offloading and delivery of food extremely difficult. The Government Agent for Mullaitivu, who had been inside the NFZ and was instrumental in keeping the evacuations and food shipments running, was reportedly trying to leave the NFZ at the time. (WikiLeaks)

<sup>124</sup> <http://www.uhr.org/SpecialReports/Special%20rep34/Uthr-sp.rp34part4.htm>

<sup>125</sup> Briefing to the Security Council on the humanitarian situation in Sri Lanka: Statement by Mr. John Holmes, Under Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, 27 February 2009

only 1080 MT was delivered in March – the next WFP dispatch was 1000 MT on 3<sup>rd</sup> April, after Holmes' note of urgency.

It is unclear why the Government, which held that the number in the No Fire Zone was 70,000 (Holmes *ibid.*), would send 1650 MT for March (in addition to the WFP ration?), when a total of 1050 MT was sufficient for the arbitrarily low number it claimed? The CGES's claim is at odds with the World Food Programme claim cited by the LLRC<sup>126</sup>: "Since road convoys to Vanni were discontinued in late January 2009 owing to security concerns, WFP, with the support of the Government, has dispatched a total of 2,219 metric tonnes, including this most recent dispatch [of 1000 MT on 3<sup>rd</sup> April]" – against the UN requirement of 4,500 MT for a month.

While the LLRC exonerated the Government on the word of the CGES, who got his original numbers in 2008 scandalously wrong, it failed to address the disparities between his and Parthipan's information. It made no reference to Parthipan's situation report of 31<sup>st</sup> March. The previous one of February quoted the RDHS' Mullaitivu report that 13 persons died of starvation and a severe shortage of medicines, including surgical items and anaesthetic drugs. The one for March adds 3551 injured patients were admitted to Puthumathalan hospital that month, of which 546 died after admission. A doctor told the LLRC, "*Many did not have access to a square meal a day and...water was a hard to get commodity for many.*" Tamil witnesses and sources did not count much before the LLRC. They only made a total cover-up inconvenient.

## 8.8 Debates about the War: Dangers of Forgetting

Government officials and supporters of war who did not like the GAs' statistics for the Vanni in 2008 resorted to name calling its compilers. Rather than studying the information's history, context and continuity they dismissed it by colouring it with Tiger stripes. After all, these numbers come from an interactive mechanism we have had in place for two centuries and, therefore, cannot be entirely arbitrary.

In Para 4.304, the LLRC mystifies the problem of determining the numbers in the NFZ, and uses the involvement of the international agencies ICRC and WFP in providing relief to exonerate the Government from the charge that it deliberately downplayed the number of civilians in the NFZs for the purpose of starving the civilian population as a method of combat. The LLRC has completely ignored the manner in which doctors and officials in the NFZ were threatened and intimidated and harassed after the war. Having gone over the matter at length, we cannot but agree with the UN Panel's assessment that '*the Government had more than*

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<sup>126</sup> <http://www.wfp.org/stories/wfp-dispatches-food-sri-lankan-safe-zone>



sufficient information at its disposal during the final stages of the armed conflict to accurately estimate the number of civilians in the Vanni”.

The LLRC also overstepped its investigative mandate by editorialising in its discussion of the Channel 4 images. Experts enlisted by UN Special Rapporteurs Philip Alston and Christopher Heyns judged the images to be authentic. LLRC experts Chathura de Silva and E. A. Yfantis threw doubt on the authenticity of the images. de Silva concludes, “*The events shown in these footages are staged, manipulated with special digital effects and finally transcoded to a mobile format*”. It is an area too arcane for laymen, not least because subjective elements are already encoded in the video images.

Knowledge of the history of the videos would be more conclusive in enabling one's best judgment. It is widely known among activists that many of the videos came from soldiers who captured images on cell-phone cameras and, often enough, took them directly to media or rights groups. If doctored images came from this social stratum, that would not be hard to expose. Moreover, would the UN, and the hard-nosed businessmen who run Channel 4, be such dupes as to go public with easily detectable fakes?

The MARGA<sup>127</sup> facilitated ‘*Numbers Game: Politics of Retributive Justice*’<sup>128</sup> (*Numbers Game*) has gone beyond the LLRC to give explicitly low casualty estimates.<sup>129</sup> It drives towards a strong conclusion: ‘*the only actual evidence shows war crimes to have been committed by the LTTE*’. It accuses all who have faulted the Government – including the UN Secretary General’s Advisory Panel, ICG, Gordon Weiss, and Frances Harrison – of attempting to present not actual evidence but rather a ‘*smoking gun*’, with the aim of triggering an international inquiry.<sup>130</sup> But is that not a legitimate, if not the primary, way forward when the Government denies access to evidence and witnesses? The Government has no credibility left to plead unfair treatment by the international community after the ham handed way it blocked any credible hearing of cases placed in 2006 before the official committee of inquiry. The International Independent Group of Eminent Persons who were invited were practically insulted and shooed away (see UTHR (J) Reports 30, 33 and 35, the Five Students and ACF).

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<sup>127</sup> MARGA Institute is a think-tank based in Colombo leaning towards the establishment.

<sup>128</sup> <http://www.scribd.com/doc/132499266/The-Numbers-Game-Politics-of-Retributive-Justice>

<sup>129</sup> Up to 15,000 civilians potentially killed, up to 3000 shot or drowned while trying to escape and at least 10,000 LTTE ‘combatants or auxiliaries’ killed. It places about 1000 civilian deaths as owing to natural causes, while neglecting the infants born in the war zone, many of whom died owing to shortages of food and medicine.

<sup>130</sup> *Numbers Game* has accused Bishop Joseph Rayappu of clerical extremism matching ‘the *bhikkus* of the Sinhala Right’. They, like the CID who questioned the Bishop, seem ignorant of the GAs’ 2008 figures that prompted his assessment of missing persons as a figure in need of clarification. Indeed, the GAs’ figures continue to appear in official publications. The two GAs are yet in government service and have not retracted their figures.



*Numbers Game* argues its case thus:

*"High resolution satellite imagery reveals that shells fired by the Sri Lankan Army, whether artillery, rocket or mortar during the months of February to May, mostly avoided the crowded concentrations of civilians in the second and third No-Fire-Zone, and that towards the final weeks there was hardly any artillery use (as distinct from mortars)...Aerial photographs taken by international camera crews support the conclusions reached from studying the satellite images; and reveal that the second and third No-Fire-Zones do not display the visual markers of having been indiscriminately bombarded with heavy artillery or rockets from MBRL's...The [tents] are so densely packed together that if these areas were indeed attacked with artillery and rockets, the resulting fires would have destroyed vast swathes of the tent city."*

The last sentence shows the danger from arguing in a vacuum that spurns human experience and tries to draw conclusions from patches and craters in photographs. Civilians were indeed bombarded with white phosphorous shells and were lethally burnt without causing a forest of tent fires. How much of human experience did these 'high resolution' photographs reveal? Bodies were daily laid out near Putumattalan Hospital. Dismembered limbs of amputees were piled up in large numbers. Bodies were strewn everywhere. Did the photographs capture the agony of people having to sit on bodies? Did they reveal the agony of relying on corpses for cover from shelling? Shelling was their constant companion and large casualties a fact of life. The issue is not the relative density of pockmarks in former civilian concentrations and elsewhere, but rather the reality that civilians were frequently hit. The analysis of satellite imagery by 'Numbers Game' is ironic, because their significance has been widely regarded by international expertise as pointing to heavy civilian casualties caused by the Sri Lankan forces, and even war crimes.<sup>131</sup> No analysis can contemptuously override the experience of the victims.

The *Numbers Game's* golden key to discredit Parthipan's figure of 330,000 in the war zone at the end of February as 'overcooked' is again technology – the estimate made using UNOSAT Quickbird and Worldview satellite

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<sup>131</sup> "Based on analysis of these larger shelling zones, it was concluded that damages to the specific protected sites were, in fact, not the result of isolated or misdirected artillery fire, but part of much larger shelling events, best characterized as area bombardment. Considering the volume of munitions deployed over such large areas and the depleted state of LTTE forces, there was little doubt that only the Sri Lankan army was capable of such heavy and sustained artillery fire. Detailed maps and quantitative figures on these shelling zones were presented to the [UN] Panel for consideration as compelling cases of indiscriminate and disproportionate military force by the Sri Lankan army in areas densely populated with tens of thousands of displaced Tamil civilians." – Joshua Lyons, *Documenting violations of international humanitarian law from space: a critical review of geospatial analysis of satellite imagery during armed conflicts in Gaza (2009), Georgia (2008), and Sri Lanka (2009)*, International Review of the Red Cross, Vol. 94, No.886, Summer 2012)

images. Mainly on the basis of counting tents the UN arrived at the figure of 267,618 persons in the war zone on 28<sup>th</sup> February 2009. *Numbers Game* places much confidence in the fidelity of this figure; which is in any event much closer to Parthipan's 330,000 than the Government's 70,000. **However sophisticated the error analysis leading to this figure, it does not alter the fact that what was counted was the number of tents and not how crowded these tents were or how and where the people really lived.** At that stage many were still staying in Iranaipalai and Anandapuram, outside the NFZ, owing to conditions in the latter.

Indeed, taking their figure of 267,618 and another 34,646 persons in IDP camps (outside the theatre of war) at the end of February as the means to casualty estimates, one gets 12,000 after subtracting 290,000, the final number of persons to reach IDP camps. This 12,000 is close to *Numbers Game's* estimate. How times change: among the Sinhalese intelligentsia at that time, any humanitarian agency estimate going beyond the official 50,000 to 70,000 (in Mid-March 2009) was an unwelcome infringement of sovereignty. Now those same estimates evidently serve to exonerate the Government of war crimes!

The LLRC quotes military officials on the Government's non-use of heavy calibre guns, combat aircraft, and aerial weapons. They claim to have implemented this at considerable tactical and strategic cost to the military operation from 27<sup>th</sup> April 2009. From the weight of civilian testimony otherwise, the LLRC conceded it reasonable that civilian casualties must have occurred when Security Forces returned fire at LTTE positions in the NFZ. This statement was, however, inadequate to convey actual civilian experience as the widespread random shelling that commenced on 12<sup>th</sup> May in the wake of the final army advance.

The UN Panel report says of the Government's claim to shun the use of heavy weapons from 27<sup>th</sup> April: "...satellite images in Annex 3 show the SLA artillery batteries were constantly adjusted to increasingly target the NFZs. The LTTE had fewer heavy weapons left and less space to fire them from." Coupled with civilian testimony, this gives more than a smoking gun. The LLRC dodged this challenge. The makers of *Numbers Game* tried rather to make out that LTTE artillery and firepower were still lethal. It quoted a US Embassy cable of 7<sup>th</sup> May 2009, which cited an army informant: "*Tough resistance continues, likely from hardcore LTTE cadres. The contact reports 'raining' LTTE mortar fires and LTTE artillery.*" Mortars certainly, but by then, the LTTE's area had contracted and fighting was at close quarters. Apart from the difficulty in using cannon in the small area, the LTTE had neither UAVs nor the ability to mount long-range recon patrols to direct fire at distant targets.



## 8.9 LLRC: A Missed Opportunity

The LLRC's argument that the Government had little choice lacks any justification in view of huge losses approaching 100,000. Certainly, there were others to blame: the LTTE for holding the civilians hostage and its foreign supporters for lying to save the LTTE leadership while being indifferent to the people under fire. Of the Tamil nationalists, the TNA and its aspiring rivals were cowardly or cynical in playing along with the line of foreign LTTE lobbies. These people have much to answer for. Among nationalists, only Mr. V. Anandasangari comes out with credit for his criticism of the LTTE and his stout defence of the hostages' interest.

Still, the overwhelming imbalance of firepower favoured the Government. The civilians' testimony too tells us that the Government's discharge of its firepower into the No Fire Zone was the main cause of casualties. The LLRC has been careful in framing its argument and does not claim that the Government observed the Principle of Proportionality or the casualties were few. It rather says that the Security Forces had no choice after all feasible precautions, practicable under the circumstances, were taken.

We have observed that this heavy use of firepower against civilians was far from justified. The LTTE's earlier pullout from Kilinochchi was already an acceptance of defeat, reminiscent of its pullout from Valikamam, Jaffna, in 1995, forcing the civilians along. Then the Vanni was its refuge. In 2009, there was none. We have cited well-founded testimony of the cadres' unwillingness to fight from early 2009. Based on the testimony of those in the war zone, we stated in UTHR(J) Special Report No. 34 that the LTTE had little offensive capacity left after the Anandapuram Disaster of early April 2009. Its stock of artillery shells had almost run out.

The government forces did not need heavy fire power to achieve their military objective of decommissioning the LTTE. Nevertheless they used weapons including cluster munitions and white phosphorous among civilians. Taking into account the LTTE's weakened position there are not many charitable explanations for the Government's conduct.

The LLRC has quoted Dr. Sivapalan who served in the war zone without comment: *"On the verge of a definite victory over the LTTE, the Security Forces very unfortunately were in a difficult situation to differentiate between the civilians and the LTTE and rushed to annihilate the LTTE. It is also true that the State Forces were engaged in an operation to take out the civilians from the clutches of the LTTE, but sadly the civilians got caught in between and suffered immensely."*

We have put it more bluntly: the political prize the Government sought was the extermination of the LTTE leadership, whatever the cost to civilians. This is a point on which the LLRC treads nervously and unconvincingly.



For example, on 18<sup>th</sup> May 2009, several LTTE leaders, who had been asked by the Government to come forward with white flags and surrender, were, as widely credited, summarily killed (now commonly referred to as the white flag incident). The LLRC gave three instances in which persons crossing towards government lines with white flags were treated well or advised to proceed with white flags. It gives one case in which the Navy fired at persons escaping by sea showing white flags and later apologised, citing mistaken identity. It did not tackle the major white flag story – the one at issue (UN Panel on the last stages of the war, para 170).<sup>132</sup>

The bias in the LLRC report stares at the reader through most of its pages. Military and Sinhalese state officials were given much latitude to pour out their platitudes; LLRC commissioners failed to ask obvious questions that would have been awkward and challenging. The LLRC credits the security forces and other authorities with the ‘natural instinct to save lives rather than count bodies’ or foregoing the use of heavy weapons at ‘considerable tactical and strategic cost’. But while the CGES, Mr. Divaratne, was accorded great leeway, Addl. GA Parthipan was given short shrift despite his commendable work. Nothing was said about Parthipan’s or the doctors’ postwar treatment. One way or another, Tamil witnesses were intimidated and inhibited. It is mainly they who seem to have faced cross-questioning (e.g. LLRC 4.356). We give an extract:

**“A civilian [gave] a figure of 200 to 350 casualties. He initially stated this was a daily count, [he] subsequently revised his position stating the incidents occurred about twice or thrice a week when there was heavy fighting.”**

The LLRC also makes assertions that should be matters for political judgment. In 4.376, for example, it makes a strong statement in which it is implicit that thousands of soldiers perished defending the sovereignty of Sri Lanka by fighting ‘cleanly and professionally’ a ruthless terrorist group with minor infractions, if any, by only a few:

“It is also the obligation of the Government to clear the good name and protect the honour and professional reputation of soldiers who defended the territorial integrity of Sri Lanka and particularly the many thousands of soldiers who perished carrying out their combat duties cleanly and professionally against a widely condemned terrorist group who used most inhumane tactics in combat. Offences, if any, of a few cannot be allowed to tarnish the honour of the many who upheld the finest traditions of service.”

The foregoing immediately posits a bias against the honour and interests of the civilian victims. It further delegitimises thousands of Tamil youth from various militant groups who took up arms against the undeniable fact of

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<sup>132</sup> [http://www.un.org/News/dh/infocus/Sri\\_Lanka/POE\\_Report\\_Full.pdf](http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf)

state oppression. The transgressions of the LTTE, and its expatriate backers, do not undo the sacrifices of many ordinary youth. Nor does it justify the State's desecration of their graves. The LLRC has not shown us a common way of mourning the dead. The question will always remain: did the soldiers die for a noble purpose, or because of generations of jaundiced politics that also became the chrysalis of the LTTE?

In 4.302 the LLRC seemed to be embarking in a refreshingly new direction: it adverted to 'the well-recognised requirement that a State faced with difficulties of the type encountered by the Government in providing humanitarian supplies, should seek necessary international assistance to ensure uninterrupted supply of such assistance to affected civilians.' It then quickly rushed to conclude that the State actually did so by enlisting the ICRC and WFP. The reality was that international organisations were wrenching their consciences apart over whether they should pull out of Lanka all together rather than bestow their gloss on a predictably nasty war.

What the LLRC raised and fudged touches on urgent discussions and consultations at that time. By the end of 2008 the LTTE's impending end was evident; the dilemma became how to get the people out of its clutches and then rehabilitate ex-cadres. The consensus was an international effort. International mechanisms had the ability to accomplish this in a manner that would be in the interests of both the State and the trapped civilians. But the Government had ordered the international presence out of the conflict zone, and deliberately underestimated the civilian population as the war's final push began in late 2008. The Government wanted the heads of the LTTE leaders at any cost, and would brook no humanitarian initiative that would palliate the harshness of war. The LLRC and apologists for the war have sought cover in hammering into us a superfluous catalogue of the LTTE's sins, not seeing beyond its ongoing sure and self-inflicted demise.

The LLRC was an opportunity lost for some enlightened members of the Sinhalese ruling class to show that they could resist political pressures and be fair to one of the country's minorities. Instead, the LLRC became a farce. **There is a point at which the kind of subjectivism shown by the LLRC becomes an instrument of racism. Racism may not be a conscious choice, but when choices to dispense with truth and protect particular interests are dictated by inherent bias in legal frameworks and mechanisms, government commissions dealing with a minority easily become instruments of state racism.**

We find ourselves in an ironical parody of reconciliation. Tamil GAs who did a very difficult job at the height of the war have been disgraced and sidelined, or have to bow and scrape to the military and to Mr. Divaratne.



The latter as secretary to the Presidential Task Force (PTF), functions as a martinet over his Tamil counterparts, who showed greater professionalism and competence during the war than he. This illustrates the true meaning of Sinhalisation. The PTF acts as the advance guard of military-backed theft, deprivation, and repression in captured areas.

However, the extraordinary number of those missing demands a thorough re-examination of questions on culpability. The truth is the least damaging way forward. We have examined the LLRC Report, whose purpose was ostensibly the pursuit of reconciliation. Continuing trends in postwar developments are the final measure of whether the Government seeks reconciliation or a veiled pursuit of war.

### **8.10 Commons, Military Colonisation and Sinhalisation: Military Abuse of the Commons as “Development”**

Sampoor highlights the tragedy of military capture of an area. The declaration of a high security zone over 56.4 square miles (146 sq. km) of villages and commons was followed by the leasing of land to crony capitalists. The Government gave 37.5 square miles (97 sq. km) of land on a 99-year lease for a zone of heavy industries to Gateway Industries (SLGI). The owner of SLGI, Prabath Nanayakkara, previously a modest tea estate owner had a meteoric rise to stardom under Rajapakse patronage.<sup>133</sup> Prabath Nanayakkara came into the charmed circle of businessmen as an associate of Dilshan Wickremasinghe - the son of the First Lady's brother.<sup>134</sup> He would eventually dabble in projects worth billions of US dollars (the Sampoor project is to cost 4 billion USD<sup>135</sup>).

Writing in *China's Forays in Sri Lanka*, Rajeev Sharma says, “Prabath's and Dilshan's hand has become omnipresent with several projects that span the entire spectrum from highways to expressways and from roads and bridges to buildings<sup>136</sup>...As local agent, [the commission earned by his Asset Holdings] depends on the value of the project negotiated. Generally, it is said to range between 10 and 15 percent of the contract value. Sometimes, it can be a little more depending upon the circumstances of the deal like, for instance, competition.”<sup>137</sup>

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<sup>133</sup> [http://www.china.org.cn/world/Off\\_the\\_Wire/2013-06/21/content\\_29192380.htm](http://www.china.org.cn/world/Off_the_Wire/2013-06/21/content_29192380.htm)

<sup>134</sup> <http://www.thesundayleader.lk/archive/20070715/spotlight.htm>

<sup>135</sup> <http://www.sundaytimes.lk/130616/news/us-4b-heavy-industry-zone-in-sampur-49055.html>

<sup>136</sup> Prabath's Asset Holdings represent Metallurgical Construction Co. (MCC), China Harbour Engineering Co. (CHEC), Sinohydro Corp, China National Machinery & Equipment (CMEC), and China Huanqiu Contracting & Engineering Corporation (HQCEC) are the main Chinese players in Sri Lanka. These companies are doing virtually all the Chinese funded projects in the country. It is said that the tie-up with CMEC isn't exclusive.

<sup>137</sup> <http://www.southasiananalysis.org/node/1022>



The Chairman of SLGI claims that the land in Sampoor was crown land and dismisses as forgeries the deeds more than a hundred years old produced by the locals. M.M.C. Ferdinando, the Chairman of the Board of Investment who leased the land to Gateway told the *Sunday Leader*, “even if these lands had been used for farming in the past, we must look at the investments such a project will bring to the country. The development will see over 20,000 jobs created, and will help improve the standard of living of the locals.” This tries to present Sinhalaisation and the robbery of Tamil lands as a blessing for the local Tamils.<sup>138</sup> And who are these men to make high handed claims over the heads of the victims, except they act at the behest of an occupying army and a lawless state? Colonial rule with a fairly independent judiciary could not have been worse for the people.

The proposed Indian coal power plant in Sampoor eventually required 500 acres of land (*Island*, 7<sup>th</sup> August 2011), but the high security zone status over the entire area was maintained and the displaced were prevented from accessing their lands. On 21<sup>st</sup> October 2011, in answer to a question raised by R. Sampanthan MP, Basil Rajapakse responded that “any land that is not necessary and which will not be acquired for the construction of the power plant will be given back to these people and they will be resettled.” The Indian Embassy told the locals several years ago that the power plant needs only 500 of the 12,000 acres acquired. The Indian government’s present silence is deafening, although the Sri Lankan government uses the power plant as the pretext to deny access to the displaced locals.

The Chairman of SLGI and head of the project, the *Sunday Leader* reported (22 Jul.2012), denied that the land which is to be developed was inhabited by anyone. “I am aware of the court case going on and our lawyers have requested that we be named as respondents so we can clear our names. The land is owned by the state and is leased by the Board of Investment (BOI); in turn we have leased the land from the BOI. These people who claim it is their land have produced false deeds before the court.”<sup>139</sup>

The latter claim was hotly denied in Parliament by M. Sumanthiran MP, who asserted that the deeds were genuine, dating back over a hundred years. Contrary to pledges made six years earlier, this adds another increment to robbery and Sinhalaisation in Mutur. The livelihoods and lands of the Sampoor folk have been sacrificed to the greed of Presidential cronies.

The British practice used to take over Kandyan commons by declaring them unoccupied state lands, was terrible, but it is far more obscene to watch governments of independent Lanka do the same to a minority who have

<sup>138</sup> <http://www.uthr.org/bulletins/Bul45.htm>, <http://www.uthr.org/SpecialReports/spreport26.htm>

<sup>139</sup> <http://www.thesundayleader.lk/2012/07/22/development-ousts-tamil-families-from-sampoor/>  
[http://www.priu.gov.lk/news\\_update/Current\\_Affairs/ca201306/20130620special\\_zone\\_heavy\\_indus](http://www.priu.gov.lk/news_update/Current_Affairs/ca201306/20130620special_zone_heavy_indus)  
[tries\\_at\\_sampur\\_proceed.htm](tries_at_sampur_proceed.htm)

suffered no less grievously than the Kandyan peasantry during the 1818 rebellion. The similarities in the practice are ironical. The State used the Army to get the Sampoor folk out of their lands and to keep them out.

The people were forced to flee Sampoor under military shelling and bombing in August 2006. The President said on 4<sup>th</sup> September 2006 that they recaptured Sampoor “*purely for the benefit of the people*”. Speaking to the *Daily Mirror* (5<sup>th</sup> September 2006), the Military Spokesman Brigadier Prasad Samarasinghe categorically stated that “***the threat posed by the LTTE to the Trincomalee harbour and the adjoining naval base was no more following the successful operation involving the three forces.***” Once the area was cleared, he added, the civilians could resettle in the next few days. That did not happen.

In March 2007, these displaced persons were forcibly moved from Batticaloa, where they had become too visible an embarrassment to the Government, to Killiveddy. The Ministry of Defence claimed that this was a “*transitional arrangement to facilitate a brief rehabilitation program*” before being resettled by April 2007. The very next month, the President by Gazette Notification (30<sup>th</sup> May 2007) made the entire area a High Security Zone for unspecified “development plans”. It became clear that the displaced were to be forced into inhospitable areas prone to floods or with endemic water problems. Forcing Tamils into enclaves they did not want after imposing a virtual racial bar against their entering their homes from birth was, in effect, a policy of Apartheid.

This was Government looting, Weli Oya-style.

Referring to 1,227 Sampoor families to be resettled outside the Economic Zone for the Sampoor Coal Power Plant, a Rehabilitation Ministry official told the *Daily News* (29<sup>th</sup> November 2011), “*Every resettled family will get a basic home and a toilet in addition to being given water and other facilities.*” It is so easy for an official in Colombo patronisingly to justify this blatant robbery! Resettlement is still in the offing after eight years; and many IDPs disappear, unable to bear the delay and deceit. A people who had access to many acres of farmland, irrigation tanks, clean water, forests and common lands would be confined to 20 to 40 perches with no livelihood in sight. This is a military driven project under the pretext of a High Security Zone, without any local consultation or participation in decision-making. Moreover, it is also evident that the Government has no plans of uplifting a community battered by military action, terror and disappearance.

**Mullikulam**, south of Mannar, was a prosperous village having both fishing and agriculture. The entire village evacuated in the wake of the Sri Lankan Army advance on 9<sup>th</sup> September 2007. Having no major stake, the Tigers withdrew without a fight.



The evacuation took place after Bishop Rayappu Joseph wrote to the President about their plight. The military promised that they could return in a matter of days. However, in August 2011 the Defence Secretary opened a sprawling naval complex in Mullikulam, robbing the village and country of its productive resources, comprising, apart from their homes, 2000 acres of agricultural land and its fisheries. The villagers became refugees in Mannar Island. After waiting for many years, the people eventually accepted the crumbs of the masters who rule by the gun. Resettlement has become a word to cover up outright theft.

The enormous money the Government spends on military edifices and bases, contrasts sharply with its abject treatment of the civilians mauled by its cannon, whose relief should have been the first priority of any self-respecting government. The Defence Ministry's approach is to look for trouble where there is none: *"There is no doubt [that] the remnants of the LTTE in foreign countries are making fresh efforts to resort to terrorism again in Sri Lanka by smuggling arms and ammunition to the country."*<sup>140</sup>

### **Other instances of theft in years after the end of war**

14<sup>th</sup> Mile Post is a Muslim village of about 18 families near Pulmoddai. The Navy, which had occupied the area during the war, pulled out once it ended. The civilians went back, cleaned and resettled in the area. Four years later, in 2103, the Navy returned, chased off the people and built a camp there.

In Kokkupudaiyan near Silavatturai, following the end of war in 2009, the Sri Lankan Navy took over the jetty used by local fisher folk. The jetty provided safe anchorage. The people of the village were simply commanded to seek out another location; they are now without a place to anchor their fishing fleet. The same attitude is evident with regard to land previously cultivated by locals. Only small extents of cultivated lands have titles of ownership. Most of the cultivation was done on crown lands under permit, and sometimes without permits where applications had frequently been pending. During the war people had to abandon land for reasons of insecurity, and in instances where cultivators were absent, the LTTE also took over land and cultivated it.

Similarly, in Anthoniarpuram, close to Illuppaikkadavai, the owners of Kalaivani Farm left for Colombo. The LTTE gave the land to local fisher folk to cultivate. They could fish only during the North-East Monsoon and this cultivation provided them with badly needed work during the lean months. After the Sri Lankan Army took over the area, they were barred from cultivation on government orders, based on the policy that any land the LTTE administered is at the Defence Ministry's disposal.

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<sup>140</sup> Land in the Northern Province, Bhavani Fonseka and Mirak Raheem, Centre for Policy Alternatives, Dec. 2011 and <http://www.navy.lk/index.php?id=2547>



In the village of Kalliady, in the northern parts of Mannar District, the Sri Lankan Army destroyed five houses in the process of securing land for a camp. In Kuruvilvan, a village adjoining Giant's Tank, local resident named Pedurupillai had developed 30 acres of land through much hardship. The investment was quite costly but profitable. He was forced to abandon it after war broke out in 1990. Wild elephants roamed freely in the village after other residents also departed because of army shelling. His attempts at reclaiming his property since 2009 have failed. The Sri Lankan Army has taken over. Though an able entrepreneur, he is a local Tamil *wallah* not having the right connections. The Police questioned Pedurupillai's son as though he had worked the land for the LTTE.

Recently, in Chettiar Kaddai-Adampan, the Government settled around 41 Sinhalese families secretly. Under army patronage roads were speedily built and electricity was supplied for these families. They have been promised housing soon, presumably under the Indian scheme. The whole venture was strikingly different from the lethargic and shoddy treatment of Tamil war victims. The Sinhalese settlement is located near a feeder canal from Giant's Tank, indicating that these families will soon receive water to the detriment of Tamil farmers further downstream. It appears that rather than providing more land or water, the government will promise Sinhalese a better life by facilitating their encroachment on the limited resources available to war-affected Tamils.

There is no need to move civilians out of their land: there is enough vacant land for the armed forces, if it were just a matter of building bases. Mullikulam and Sampoor could easily have been given back. Despite promises, displaced civilians have been given nothing. Their homes - unscathed by war - have been levelled and materials, even iron reinforcement used in buildings, have been looted and moved out in lorries. The Government's insistence on a dubious policy of equating security with Sinhalisation is bound to keep the victims in a state of uncertainty for a long time. The Government destroyed and looted, and its priority is to invest in new security bases.<sup>141</sup>

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<sup>141</sup> The firing range in Thevipuram offers another example of military encroachment on the commons. Thevipuram was a village badly affected during the war and has a high proportion of women-headed families. The Army had set up a firing range in a nearby area situated on top of farm land used for the livelihoods of several families. Much of the range is owned by a widow who now lives in Jaffna. For a few days each month, the people were ordered to move out so that the Army could use the range. During the practices, stray bullets have hit two houses. Families were barred from farming during practice sessions, which, considering that two days of neglect is enough to destroy crops, takes a heavy toll. One man in Thevipuram, having become heavily indebted in restarting life with no means to pay in the event of crop failure, continued to water his fields in defiance of the Army, with shots whizzing around him. While this situation is bound to change, if it has not already, it illustrates the Army's attitude to civilian recovery. The recovery of the displaced would have been much quicker if after the end of the war, when the displaced Tamil civilians were confined in Vavuniya, the Government had taken the trouble to protect their property. Many of them left behind items such as motorboats, bicycles, buses, agricultural equipment and other vehicles during the 2009 displacements. After the war, the vehicles were collected and stored along a 1 ¼ mile stretch of road in Mullaitivu by

### 8.11 Without Truth, War has No End and Peace No Beginning

The Sri Lankan state continues to protect an internationally tarnished image through repeated denials and pushing its own version of the latter stages of the war. The result was an atmosphere of terror, where the Government has been lashing out wildly at all evidence of its culpability. The victims still fear to speak out, leading to a situation fraught with abuse, as illustrated by the arrests of human rights defenders during the 2014 March UNCHR sessions in Geneva. The arrests centred on Jeyakumary Balendran (51), a widow. Mrs. Balendran who has a 13-year-old daughter to look after, was undoubtedly among the most closely watched persons in Vanni owing to her public campaign for the disappeared, including that of her 15-year-old son Mahindan, whom she surrendered to the Army after the war. Two elder sons died in the war. Mahindan was subsequently sighted and photographed at Ambepussa Rehabilitation Camp, which photo she carries.<sup>142</sup> The State incarcerated Mrs. Balendran for allegedly harbouring an agent called Gopi with plans to revive the LTTE in her house. Ambassador Aryasinha told a baffled UNHRC audience that a Menelab mine detector was recovered from Jayakumary's residence.

Jeyakumary's arrest was followed by detention under the PTA for two days of human rights defender Ruki Fernando, widely credited for his impartiality, along with Fr. Praveen, who went to the area to inquire after Jeyakumary's arrest. Jeyakumary is only the tip of the iceberg.

The following is Jeyakumary's side of the story of her arrest as obtained from people close to her: 'After having lunch at about 3.30 PM on 13<sup>th</sup> March 2014 when her 13-year-old daughter Vibushika was at the door, a stranger wearing maroon-colour T shirt and black trousers, and carrying a back pack, stormed into the house saying, "If you shout I will strangle your neck". Both mother and daughter came out of the house shouting for help. Just then, 4-5 men in uniform came through the gate and the women told these persons that there is a stranger inside. One of the uniformed men went inside and after a while they heard a gunshot. The uniformed man came outside with the stranger without any injury and without any apparent hurry. Thereafter two other uniformed men went inside. It was then that mother and daughter became aware that a large force of armed security personnel had surrounded their house.' According to an eye-witness, security men tortured Jeyakumary

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the military, which have since gathered rust or been removed with army connivance.<sup>141</sup> Such assets would have been of considerable assistance in their present economic conditions. One man found his bus he had to abandon in the war zone at a garage in Vavuniya. On his telling the GA, the latter said he would try to retrieve it, but later said that nothing could be done.

<sup>142</sup> The photograph of the son Jeyakumary carries, we learnt, was taken by a European photographer at the Ambepussa Rehabilitation Camp.



for six hours, pulling her hair and kicking her with their boots on, to extract a signed confession in Sinhalese.<sup>143</sup>

The fugitive man, according to the official story, shot and injured a police officer from inside Jeyakumary's house. The wounded officer, the official account goes, was moved to Kilinochchi Hospital by ambulance.<sup>144</sup> This claim has not been corroborated by the Kilinochchi or Vavuniya hospitals that our sources checked. Nor has it been explained how the gunman clean escaped through the security cordon around Jeyakumary's house.

At this time hundreds were being detained by the TID without respect for age or sex in humiliating and utterly wretched conditions, including elderly women and wives detained as hostages. Most of the detentions in Boosa in March 2014 were under very facile pretexts.

Our sources said that the security forces ostensibly on the lookout for a former LTTE cadre Gobi who had evaded rehabilitation, took into custody a pregnant woman Sharmila (26) and her mother-in-law Selvanayakam Rasamalar (62) from Trincomalee, although they insisted that their husband/son was in fact a Kajeepan. Also detained was the mother's helper Puvaneswary Kulasingam (52). Three days after being detained, Sharmila miscarried her foetus of three months. She experienced severe pain and anguish after she was threatened with being pushed out of the notorious fourth floor, and forced to sign a confession in Sinhalese. In the room she was taken to she had seen around nine tortured men with bloodstains and severe injuries. Also detained was Kanapathipillai Yogarani (61), who was supported by her expatriate sons sending money to her account. Another detainee was Mrs. Loganathan whose husband was tortured by the TID. A female detainee in Boosa, a widow by the name Ravinthiran Vathani, was a mental wreck denied medical and psychiatric care. Ten employees in a bakery in Dehiwala from the Vanni were detained because the owner had prospered and come into possession of a chain of bakeries and hence suspected of getting his capital from Tamil expatriate sources.

The most sensational revelations about the alleged LTTE resurgence, in the lead up to the crucial vote in the UNHRC, came from leaks by security sources to just one journalist, a Tamil. Others merely reproduced these while generously commending his expertise. The *Daily Mirror* published a report on Jeyakumary's arrest and alleged culpability on the 22<sup>nd</sup> March. This was followed up with another report linking those detained from the Dehiwala bakery with a plot to assassinate the President and his Defence Secretary brother. However, most of the bakery detainees were quietly released after the histrionics lost their utility.

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<sup>143</sup> See Women's Action Network Statement, April 8, 2014

<sup>144</sup> <http://www.dailymirror.lk/opinion/dbsjeyaraj-column/44821-tharmapuram-shooting.html>



Police spokesman Ajith Rohana told the state-controlled *Daily News* (4<sup>th</sup> April 2014) that Kajeepan alias Gopi and his accomplices were tasked to revive the LTTE in the North and LTTE diaspora communities in many countries including Germany, Switzerland and New Zealand have adopted 'subtle manoeuvres to sow the seeds of terrorism in the country [by] sending money to women folk who supported them in the North'.

In its attempts to present the world with the incarnation of the roaring Tiger, the defence establishment produced as evidence a few dozen tortured mice. These included elderly and young women, cringing in Boosa Camp having suffered various degrees of torture. The Gazette notification of 21<sup>st</sup> March 2014 proscribing several expatriate Tamil organisations and persons in the West functioning within the law, opens the door to further stereotyping of Tamils. It threatens arbitrary action against individuals and NGOs receiving expatriate money. In raising the spectre of a highly organised LTTE network in the West trying to resurrect the organisation locally through financial assistance, defence authorities turned elderly women into Tiger suspects and potential torture victims. If indeed there is an active LTTE network operating globally, the countries that have every reason to be concerned of have said absolutely nothing.

Persons in Jeyakumary's neighbourhood who have been consistently critical of the LTTE for many years roundly dismiss any suggestion that Jeyakumary was complicit in reviving the LTTE. Other sources are broadly in agreement. The whole affair of arbitrary arrests and hostage taking took place in the wake of critical UNHRC sessions in Geneva. The Government was clamouring for attention alleging an incipient terrorist revival, the standard pretext for repressive measures.

On 9<sup>th</sup> April 2014, *Uthayan* reported that Kajeepan had been arrested by the TID the previous day. However, the police spokesman could not be reached for comment. That Kajeepan was missing from January raises further questions. In a live briefing on 11<sup>th</sup> April, the military spokesman Ruwan Wanigasooriya claimed<sup>145</sup> "that in the early hours of 11<sup>th</sup> April 2014, *three armed suspects who attempted to escape the area confronted the troops in the cordon* resulting in Sundaralingam Kajeepan (alias Theviyan), Selvanayagam Kajeepan (alias Gobi?) and likely Navaratnam Navatheepan (Appan) being killed. Wanigasooriya added that **a pistol, two grenades and three pouches** were recovered at the site (*The Nation* e-paper 11 Apr.14).

An LTTE revival on a pistol and two grenades among the three alleged protagonists?

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<sup>145</sup> <http://newsfirst.lk/english/2014/04/three-wanted-ltteleaders-killed-nedunkerni/30029>

Kajeeban's family was allowed only a brief look at the body having three gunshot injuries. The body was refused.

The Government's contrived LTTE revival during the Geneva hearings, gave at best India a pretext to abstain. The affair reads like the Bathroom Coup of 1966 (see Ch.7) – high drama replete with deaths of innocent 'suspects' and subversive leaflets with no substance. There must be enough LTTE cadres who bribed their way out of IDP camps in 2009 to provide the Government material for periodic LTTE revivals. On 15<sup>th</sup> April 2014, the Defence Secretary speaking at the Defence Services Asia conference in Malaysia asserted that there is no more terrorism in Sri Lanka, but rather that the LTTE's overseas networks were hyper-active. Nothing was said about Gobi, the recent attempted revival of the LTTE or the planned assassinations of the President and Defence Secretary from a bakery. However, arrests were continuing in the North, numbering several hundred according to press reports, of young rehabilitated ex-cadres and even elderly women with no history of violence. Do all these harsh security measures, contrary to government claims to select audiences that it has very skilfully eradicated terrorism, reflect a political compulsion to lock the Sinhalese electorate in a war-footing against the Tamil bogey and the defence budget at astronomical levels? But then, will the ex-cadres and the Tamil community in general, ever be rehabilitated? Moreover, such severe measures against a minority, while officers of the state who systematically carried out appalling crimes walk scot-free, lacerates the credibility of the State (Appendices 2 – 4).

## Chapter 8 Part II

### Formulae for the Missing and Dead

*It has been said that half the circle of sciences and all the circle of human interests are open to a census reviewer, and that the perfect census report can be written only by that rare and fortunate individual who is at once a facile and elegant writer, a good mathematician, an authority on vital statistics, well versed in economic problems and linguistic science, and thoroughly acquainted with the history, the religions, the literatures, the customs and superstitions of the people enumerated, and the intricacies of their caste and tribal divisions.*

– Sir Ponnambalam Arunachalam, Ceylon Census of 1901, Introduction

#### What Can Be Known: Note on the Method

We proceed in three parts. Part I discusses the data, its reliability and the conclusions that can be drawn from it for the Kilinochchi and Mullaitivu Districts. From the data available – the Government Agents' (GAs') census in 2008 (Appendix 10 – 1 & 2) just before the final round of war, statistics of displacement put out by the OCHA and UNHCR (e.g. Joint Humanitarian Update (JHUP)), the Governments' postwar census EVE – 2011 (August 2011) and the GAs' resettlement figures – we calculate the missing for these two districts. Both credible average family sizes and a strong continuity in the numbers of families for Kilinochchi and Mullaitivu Districts before and after the war, recommend the Government Agents' 2008 figures for these districts as our indispensable starting point in estimating casualties. These figures have so much been the subject of searing criticism from the Government that even the UN Secretary General's Panel was shy of them. But after careful analysis we have found them to be reliable and accurate.

EVE – 2011<sup>146</sup> was compiled by the Department of Census and Statistics at the bidding of the Defence Ministry, which was anxious to exculpate itself from blame for huge civilian losses. Despite its opacity, the figures if used with discretion provide very useful information. However, one of its major methodological flaws is that it took no account of missing families, who account for 20 percent of dead and missing. The crude ideological bias in the questionnaire would have put off the Tamil teachers appointed to collect the data. On the reason for displacement, it offered only two options: Terrorism and Natural Disaster! (So, no shelling, no bombing, no harassment from the armed forces or land expropriation had anything to do with displacement?) Further, its use of the more ephemeral Household, rather than Family, as a unit, helped to muddle the extent of casualties

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<sup>146</sup> [http://www.statistics.gov.lk/PopHouSat/VitalStatistics/EVE2011\\_FinalReport.pdf](http://www.statistics.gov.lk/PopHouSat/VitalStatistics/EVE2011_FinalReport.pdf)



from war and allowed significant duplication of entries.<sup>147</sup> The Government was after all resettling families, and for the Government Agents' records the family was the relevant unit. For this reason EVE – 2011 is misleading for calculating the survivor population in a district.<sup>148</sup> The exercise would have been more genuinely informative had there been an attempt to take the community enumerated into confidence.

**Part II** uses a small sample and some data from Kilinochchi schools to formulate statistical hypotheses that would give us insight into the missing from the standpoint of families and how the war affected them. For instance, based on figures from a sample of Kilinochchi schools, and the number of orphans, and children missing one parent, on a fair average, **for every eight parents killed, two died as a couple (father and mother)**. They are tested by conclusions from Part I and some data from the ground. Together with survivor data from IDP camps, these tested hypotheses give us a serviceable tool to categorise casualties obtained in Part I.

**Part III** attempts to break down the dead or missing district-wise, including other districts not hitherto considered, using the well-grounded figures for Mullaitivu and Kilinochchi Districts and some reasonable assumptions. Having argued for the essential accuracy of the GAS' district-wise figures for 2008, it proceeds to a casualty estimate using district-wise family sizes obtained from OCHA-UNHCR bulletins and the empirical formulae developed in Part II. The figures calculated using these formulae for those housed in IDP camps come very close to the postwar figures of the government administration.

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<sup>147</sup> The problem lies with the way questions were designed for EVE – 2011. Even though national identity card numbers were recorded, multiple entries do not seem to have been picked out, which for the reasons explained below, would have been common. When resettlement commenced in 2009 and IDPs were moved out of Manik Farm, some went back to their former properties. Others, who could not get back to their lands or found conditions insurmountable, went to stay with relations mainly in Jaffna or Vavuniya. Many of them set about getting back to the rural Vanni in stages. This meant keeping residence with friends or relatives in the Vanni as well as Jaffna or Vavuniya. The onus of providing the information on residents ('Usually Living Persons' (sic)) for EVE – 2011, was on the chief householder (EVE Appendix 2, Section 1), who was ambiguously instructed '*Only those who lives more number of days in a week are considered as usually living persons*' (sic). For many of those resettling in stages, this would have meant double entry.

<sup>148</sup> EVE – 2011 does not help us very much with regard to the war affected population. Table 3.6.1 gives the Tamil population in Kilinochchi as 102,779 and Table 3.1.9 gives the Kilinochchi population residing outside the district as 31,032, suggesting the total to be resettled as 133,811. This is far higher than any figure compiled after the war, suggesting multiple entries for a significant number of persons. The incoherence of EVE – 2011 is indicated by another example. Take Table 4.4 which gives the number of Tamils brought for resettlement in Kilinochchi during 2009 – 2011 as 94,791. This number added to the 31,032 residing outside gives 125,823. Here too the difficulty is that not all those resettled came directly from IDP camps, and were bound to have had temporary households elsewhere as well.

## **Part I: Basic Data and Missing Numbers**

### **Principal Data**

The UN OCHA& UNHCR report of October end 2011, accounts for 264,994 Vanni IDPs, comprising 84,754 families, who were displaced after April 2008.<sup>149</sup> **They comprise 222,705 persons (70,300 families) apparently resettled, 34,671 persons (12,138 families) with host families and 7,618 persons (2,316 families) yet in IDP camps. The Vanni IDP figure is close to the 269,704 persons (86,188 families) in closed IDP camps and hospitals on 24<sup>th</sup> July 2009.**<sup>150</sup> The average size of a 'Vanni family' from the report is 3.127. Given that earlier statistical records give family sizes near the national average close to 4.0, a family size as small as this is an immediate indicator of calamity, but quantifying it is more subtle.

The task of estimating casualties has been made easier by the fact that nearly all the survivor families from Kilinochchi and Mullaitivu districts, those most affected by the war, have either physically resettled or have been registered for resettlement by the government administration. This is confirmed by the strong continuity in numbers of families in Kilinochchi and Mullaitivu from 2008 to 2012. It gives confirmation that the affected families from the Vanni have largely remained in the North. Registration is a precondition for receiving aid for resettlement. Even those whose minds are not made up registered to keep their options open.

**Numbers registered with the Kacheris in early 2012 are as follows:**

**Mullaitivu: 94,490 Tamil persons in 30,036 families.**<sup>151</sup> Most of those who came out of the Vanni from April 2008 were detained in IDP camps. We do know that some people with connections held in camps paid to be smuggled out of the country. These were mainly persons connected to Jaffna.

The close continuity between the numbers of families in Kilinochchi and Mullaitivu before and after the final round of war, tells us that migration of entire families from these districts out of the North is not statistically significant. It leads to the working conclusion that those from these districts that migrated during the years 2009 to 2011 after coming out of IDP camps, left their families in the North. Table 3.1.11 of EVE – 2011 gives figures for migration from years 2007 to 2011. For these years we have from Mullaitivu 292 who left the country, 203 who left the North for

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<sup>149</sup> [http://reliefweb.int/sites/reliefweb.int/files/resources/Full%20Report\\_355.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/Full%20Report_355.pdf)

<sup>150</sup> OCHA, Joint Humanitarian Update, North East Sri Lanka, Report # 5 | 01 – 07 August 2009

<sup>151</sup> Figures at the Mullaitivu Kacheri in April 2012 gave 96,356 person in 30,539 families as resettled of whom 88,398 persons (28,199 families) were Tamils. A further 6082 Tamils (1837 families) were at the Manik Farm centre, as per figures available with rehabilitation agencies.



another part of the country and 377 whose destination is 'not stated'.<sup>152</sup> These persons we assume are not registered locally, but do count as survivors. Adding these numbers to 94,490, **we have in effect 95,362 survivors for Mullaitivu including those who have left their families after the war and reside elsewhere, and hence not included among those who came and registered for resettlement.**

**Detainees:** We leave out detainees (persons in 'voluntary rehabilitation') in our estimations. The number involved is small and besides, as explained in Footnote 7, many of them are likely to have been included in EVE – 2011 as migrants whose destination is 'unknown'. This might result in double counting in our estimates of those released from detention after the compilation of EVE – 2011 in August 2011 and registered with the GAs for resettlement in the lists of March 2013. The error would be small, hundred at most in Mullaitivu, and its effect is to make the casualty estimate more conservative. The number the Government admitted as detainees in January 2011 was 6110<sup>153</sup>. Many detained in May 2009 were released in July/August 2011, the time EVE – 2011 was compiled. The *Indian Express* reported on 3<sup>rd</sup> June 2012 that only about 700 detainees remained in custody.

**Kilinochchi: 122,090 Tamil persons in 38,111 families<sup>154</sup>.** From these families, during the years 2009 to 2011 (Table 3.1.11 of EVE – 2011), that is after the war, 255 persons left the North for other districts, 462 went to other countries and 508 left their families for unstated destinations. Adding these, the survivor population is thus corrected to 123,315.

The figure of 122,090 was obtained in mid-March 2012 when the Kacheris finalised lists for resettlement of IDPs from the war. JHUP said in its May 2011 issue that the resettlement of Manik Farm IDPs of Kilinochchi origin is complete and placed the number returned/ released at places of origin at 118,966, close to the number 122,090 we have above. They were not all resettled, as the Kilinochchi Tamil population of 102,779 in August 2011 recorded by EVE – 2011 shows, but rather those identified by

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<sup>152</sup> Destination 'not stated' for persons who are not present in their district, could frequently mean persons in a detention camp: Section 2 (Inward Migration) in the questionnaire for EVE – 2011 asks nothing about those detained and the teachers who did the enumeration were wary of putting down things that might cause them trouble. But for our purpose these persons count as survivors.

<sup>153</sup> Arbitrary Detention in Sri Lanka: Interment, Rehabilitation and Surrendered in the Prison System, Calleigh McRaith, *Groundviews*, 14 Feb.2012

<sup>154</sup> The Kilinochchi Kacheri on 15<sup>th</sup> March 2012 gave the number registered for resettlement as 122,855 persons (38,447 families), and the number awaiting resettlement as 875 persons (238 families) from Pachchilaipalli. The total registered for resettlement was 123,730 persons in 38,685 families. A senior official told us that the figures included 562 Muslim and 12 Sinhalese families. We take the number of the latter conservatively as around 1640 persons, the number of Sinhalese and Muslims in Kilinochchi in the Census of 20 Mar.2012. That gives the total number of Tamils registered for resettlement as nearly 122,090.



administration records as persons due for resettlement by May 2011.<sup>155</sup> It is these figures that are relevant for us.

The discrepancy between the two figures for Kilinochchi, 122,090 and 118,966, is a reminder that we need to take the natural increase of the postwar population into account.

By mid-2012 resettlement with war victims (post April 2008 displaced) had largely ceased. The Presidential Task Force (PTF, see Ch.9) prioritised pre-1995 (long term) displaced from early 2012. Some indicative figures for Kilinochchi are 126, 944 persons (39,372 families) on 31<sup>st</sup> July 2012<sup>156</sup> and 128,394 persons (39,790 families) on 31<sup>st</sup> December 2012 (Ministry of Resettlement). FN.149 gives the number in the Northern Province displaced before April 2008 as 201,930 persons (57,695 families).

More revealing of the PTF's plans are the figures for Mullaitivu. In early 2012 those to be resettled were 107,717 persons (33,757 families)<sup>157</sup> of whom the Tamils due for resettlement peaked at 94,490. Dated 31<sup>st</sup> March 2012, the GA's document '*Proposed Entire Resettlement Programme*' listed 109,334 persons (34,227 families). We then had for 31<sup>st</sup> Dec.2012, 121,140 persons (37,932 families) according to the Ministry of Resettlement.<sup>158</sup> The additional 11,806 persons who were sought to be brought in during 2012, under the rubric of resettlement, are mostly Sinhalese poor having no previous connection with the area (see Ch.9). The Census taken in March 2012 recorded only 91,947 persons (Ceylon and Indian Tamils 79,081 + 2,182, Sinhalese 8851 and Muslims 1760) showing that a large number registered for resettlement, especially Sinhalese identified for colonisation by the PTF, were not physically present.

For Kilinochchi, the figures we obtained are the figures compiled for resettlement by the Kilinochchi Kacheri in March 2012. Perusal of the figures indicates that they indeed pertain to those caught up in the war and go no further: the figures of 15<sup>th</sup> March 2012 had two segments: 122,855 persons (38,447 families) resettled (family size 3.19) and 875 persons (238 families) to be resettled in Pachchilaipalli (family size 3.67). Total: 123,730 persons in 38,685 families. The first segment is suggestive of one directly affected by the war. The second segment is a population closer to the 2008 Kilinochchi family size of 3.82. The area being part of the Jaffna peninsula, many of them would have moved out of the LTTE-controlled area before the final round of war.

<sup>155</sup> The JHUP document further said that by 13<sup>th</sup> May 2011, 373,593 IDPs in 114 561 families had returned to the North. Many of them were not caught up in the final round of war.

<sup>156</sup> [http://www.hpsl.lk/Files/Situation%20Reports/Joint%20Humanitarian%20Update/LKRN063\\_JHE RU July FINAL.pdf](http://www.hpsl.lk/Files/Situation%20Reports/Joint%20Humanitarian%20Update/LKRN063_JHE RU July FINAL.pdf)

<sup>157</sup> The figure included Sinhalese to be settled in Weli Oya, 11 377 persons, 3393 families.

<sup>158</sup> <http://www.resettlementmin.gov.lk/idps-statistics>

## Correction of 2012 figures for Natural Increase

In estimating casualties we need to calculate small differences as accurately as feasible. Here the natural increase of the survivor population from the end of the war in May 2009 to the time the GAs compiled resettlement figures in early 2012 becomes important, because a perusal of subsequent statistics shows a high level of natural increase of the survivor population. We ignore the natural increase after the statistics were compiled in 2008 until the dispersal from IDPs from camps in late 2009. We refer to the official publications *Northern Provincial Council Statistical Information* for the years 2010 (N10)<sup>159</sup> and 2012 (N12)<sup>160</sup>.

We see evidence for the foregoing supposition from N10 and N12. N10 shows that birth rates in the North dropped by nearly 40 percent during 2008 owing to displacement, uncertainty and violence, which points to an even higher drop for the Vanni. In 2010 and 2011, the birth rate was higher than during 2005 to 2007, while the death rate came down to near normal – about 4 per 10,000 annually.

N12 does not enable us to calculate the birth rate district-wise, as many mothers in Mullaitivu for example would have found it convenient to go to Kilinochchi or Vavuniya Hospitals. We thus take the main part of the Vanni affected by war as a whole by excising Jaffna and Mannar Districts – we are left with Kilinochchi, Mullaitivu and Vavuniya Districts (KMV).

The number of live births recorded in KMV during 2010 and 2011 = 20,433

Population of KMV = 416,649

Average annual percentage birth rate in KMV =  $\frac{1}{2} \times 20,433 / 416,649 \times 100$   
= 2.452

N12 is confusing on death rates, because the Vavuniya and Mullaitivu Kacheris appear to have recorded during this period a large number of war deaths and disappearance, a point we will return to later. The figures for Kilinochchi appear to be normal and we base our estimate on Kilinochchi.

Deaths in Kilinochchi during 2010 and 2011 = 867

Death rate per 100 =  $867 \times 100 / (2 \times 123,315) = 0.35$

**Average natural increase in KMV = 2.10 per 100, per annum (2.452 – 0.35).** During 2000 to 2008, the average annual natural increase varied from 1.5 to 2.0 percent in the Vanni. The national average is currently 0.913.

<sup>159</sup> <http://www.np.gov.lk/pdf/Statistical-Information-2010.pdf>

<sup>160</sup> <http://www.np.gov.lk/pdf/statinfor2012.pdf>

Population expansion from the last quarter of 2009 until the end of 2011 =  $1.021^{2.25} = 1.0481$ . (For Lanka as a whole, the contemporary birth rate was 1.65 percent p.a. and the natural increase 1.05 percent p.a.<sup>161</sup>)

We adjust the survivor populations in Kilinochchi and Mullaitivu to the end of the war.

**Survivor population in Mullaitivu =  $95,362 / 1.048 = 90,994$**

**Survivor population in Kilinochchi =  $123,315 / 1.048 = 117,667$**

### **Statistics from the GAs of Kilinochchi and Mullaitivu, September/October 2008**

The number of dead or missing would depend on how many there were before the costly military operation from January – May 2009. The GAs gave for 2008:

**Mullaitivu: 126,414 persons in 30,950 families; Kilinochchi: 146,661 persons in 38,385 families**, giving an average family size of 3.82 for Kilinochchi and 4.08 for Mullaitivu in 2008. This gives for **Kilinochchi and Mullaitivu: 273,075 persons in 69,335 families**. The family sizes above are as seen below consonant with rural societies in Lanka having varying degrees of urbanisation. All the evidence that we have seen on the family sizes of displaced groups in the LTTE-controlled Vanni, for 2007 and 2008, point to family sizes varying mostly from 3.75 for groups in flight, where families are frequently separated, to about 4.0 in more stable conditions.

The figures for families in 2008 enable us to check whether the postwar lists for resettlement of Tamils from the Kacheris are reasonably complete. For Mullaitivu, we have the number of families in 2008 from the GA as 30,950 and the number of Tamil families to be resettled postwar on the GA's lists as 30,036. For Kilinochchi the number of families in 2008 from the GA is 38,385, the number of Tamil families to be resettled postwar from Kacheri (GA's) lists is 38,111. Allowing for losses in war and marriages subsequently, we may take families on our lists in 2008 as matching closely the postwar families on Kacheri lists. A further note on this is given below in Part II after we discuss the estimates of missing families.

### **A Critical Evaluation of the GAs' Figures for 2008**

The figures of the Government Agents of Kilinochchi and Mullaitivu were dismissed outright by the Government. A similar dismissive approach to the GAs' figures occurs in a study carried on the MARGA web site, which refers to '*AGA Parthipan's overcooked figure of 330,000 at the end of*

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<sup>161</sup> <http://www.indexmundi.com/g/g.aspx?v=25&c=ce&l=en>



February 2009'<sup>162</sup>. The study unfortunately titled the 'Numbers game', makes light of the extensive suffering (see Ch.8.8). The first question to be asked is why the Government aggressively blocks any independent accounting of casualties? Semantic games by its spokesmen and the official report EVE – 2011, not conducted according to professional demographic guidelines, are no substitutes for the truth. Does it not cause irreparable harm to the country's credibility when the obfuscation of enormous Tamil civilian losses becomes the context for theft, militarisation and unremitting Sinhalese colonisation of the war-torn North-East? Does the State's denial of the numbers who died not place it even closer to the offence of genocide, to which it incessantly pleads its innocence?

To begin with we have seen a close correspondence between the recorded number of families in Kilinochchi and Mullaitivu before and after the war. We could dismiss any suggestion that the GAs cooked up numbers of families. If they are accurate thus far, where did they begin their cookery?

We argue below that having to operate between pressures from the LTTE and the Government, which they represented, it would be fairer to say that the war zone government administrators, if they erred, erred on the side of caution. They were servants of the Government on which their livelihood and career depended, even under fire. We can be quite certain that they took their superiors in Colombo into confidence and norms for their professional conduct were long agreed upon. A number of Sinhalese sympathised with the plight of Tamil officers who represented the Government in LTTE areas and the LTTE too was usually pragmatic enough not to push them too far. The abortive peace process of 2002 made it uncontroversial to include LTTE families as regular residents entitled to government benefits. There was no real need for the LTTE to inflate figures. They helped themselves to what they wanted in any case. The officers were astonished and scared when the Government accused them of fraud after their figures from the no-fire-zone posed a direct challenge to government propaganda. The Additional GA for Mullaitivu was forced to seek asylum after he survived the Mullivaykkal ordeal.

Our own judgment, as would be explained, is that the administration recorded fairly accurately the details of families permanently domiciled in villages under them. These records – births, deaths and marriages – are available to the Government and the discrepancies would easily show. Further discussion on this point follows our estimates.

### **The Importance of Family Size**

Official records suggest that district administrations in the North-East started recording family numbers only after displacement became a

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<sup>162</sup> *The Numbers Game: Politics of Retributive Justice*, <http://www.margasrilanka.org/>

prominent phenomenon. The Mullaitivu district census recorded families for the first time in 1986. The unit on which the central government operated is the household. Average family size is an important indicator of the socio-economic character of the region, and has shown remarkable continuity through population fluctuations. With a little idealisation family size can be formulated mathematically (which we do in Part IV). We use it to check the internal coherence of the GAs' records over the years.

The GAs' population figures of 2008, give the family sizes for Kilinochchi and Mullaitivu as 3.82 and 4.08 respectively. We give examples, taken first from areas under government-control and then from areas under LTTE-control. This would show absence of any evidence of doctoring as would affect family size.

### **District Statistical Handbooks Compiled Under GoSL Control**

**Mullaitivu 1986:** This was a time the administration was under direct government-control. The District Statistical Handbook for the year gives the number of families in each AGA Division in 1986, but has used population figures in the national census of 1981, when the district population was 77,472. According to these figures the family sizes for the divisions were: Maritimpattu 4.91, Puthukkudiyiruppu 3.51, Thunukkai 2.96 and Manthai East 3.51. For the district as a whole the family size was 3.97.

This needs correction because the number of persons had increased significantly over five years. The same handbook tells us that the average annual population increase (births – deaths) was 2.3 percent (contemporary national average 1.9 percent); or 12 percent for Mullaitivu over five years. This gives us the corrected family size in 1986 as 4.45.

**Vavuniya Statistical Handbook 2005:** Gives for the displaced persons (40,596 in 9,989 families) a family size of 4.06. For the residents in the district, the average family size was 3.91.

**Post Tsunami Exodus from the Vanni:** The 2005 post-tsunami exodus from the LTTE – controlled Vanni of 30,000 persons had an average family size of 4.54 (Statistical Handbook, GA Vavuniya)<sup>163</sup>

### **District Statistical Handbooks Compiled Under LTTE Control**

**Kilinochchi 2007:** The Statistical handbook for Kilinochchi District gives the Tamil population at the end of 2006 as 196,611 persons in 50,279 families (family size 3.92) and at the end of September 2007 as 194,490 persons in 50,044 families (family size 3.89). For 2008, we gave 146,661 persons in 38,385 families, with family size 3.82. The discrepancy is

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<sup>163</sup> The GA's Handbook gave the Vavuniya population in 2004 as 151,142 persons in 38,608 families and in 2005 as 180,919 persons in 45,172 families. The figures point to a post December 2004 tsunami exodus from the LTTE-controlled area to Vavuniya of 29,777 persons in 6564 families.



because the earlier figures included the displaced families from other districts living among the native Kilinochchi families. In the 2008 calculation, we excluded the 83,338 persons in 20,273 families from other districts (family size 4.11), whose numbers had been swelling from 2007.

In the cases considered, a general observation is that displaced communities had higher average family sizes than others. A possible reason is that they were generally poorer and from rural backgrounds and as we shall see in Part IV, one factor governing larger family size is shorter life expectancy. The Mullaitivu statistics for 1986 revealed a high average family size for Maritimpattu, which had the bulk of the district's population. They were farmers and fisherfolk, now facing active aggression from the Government's Sinhalese colonisation drive it disingenuously calls resettlement.

We might also mention that the GA's population for Mullaitivu in 2008 came in two segments, 100,669 in 25,488 families registered in Mullaitivu (family size 3.95) and a smaller segment of 25,745 persons in 5462 families registered in Kilinochchi, with a large family size 4.71. We have no reason to reject it, as unusual phenomena in smaller groups make their presence felt in smaller samples. Moreover, such family sizes are not unusual for the Vanni, as seen in the family size of 4.91 (corrected to 5.5, see above) for Maritimpattu in 1986. We note that the segment of the Mullaitivu population with family size 4.71 in the GAs' 2008 figures, pertains evidently to the Visuamadu area, where many displaced from Trincomalee and Manal Aru (Weli Oya) during the mid-1980s state-engineered aggression were resettled.

Family size in Lanka varies within a small range near 4.0. We may, for example, compare Kilinochchi and Mullaitivu, having family sizes of 3.82 and 4.08 respectively in 2008, with Anuradhapura and Polonnaruwa, which in 2013, had family sizes respectively 3.71 and 4.35 (Ministry of Economic Development). The patterns in the Vanni and North Central Province are similar. Mullaitivu and Polonnaruwa have the characteristics of newer settlements than Kilinochchi and Anuradhapura.

The drop of the family size in Mullaitivu from 4.45 in 1986 to 4.08 in 2008 could be understood as the result of factors including war. The 2004 tsunami, leading to 3000 killed in the district, may not have affected family size much, as it frequently took away whole families. After the last round of war in 2009, it dropped to 3.15. Since much of our estimation would depend on the family sizes for Mullaitivu and Kilinochchi based on the GAs' 2008 figures, we will firm up this procedure through yet another route.

**A Further Note on Family Size:** Part IV below throws further Mathematical light on the question of family size. Offhand one might think



that a high family size points to a society with a large natural increase. This is misleading as seen from Mullaitivu and Kilinochchi which had similar rates of long term natural increase of 0.018, but the family sizes were in 2008, 4.08 and 3.82.<sup>164</sup> Then we have Polonnaruwa with a rate of natural increase of 0.015 but with a family size of 4.3. Life expectancy may be a significant factor in the difference (Part IV).

Civilian life in Mullaitivu remained relatively undisturbed by the war during long periods and though natural increase declined, there was continuity. The Jaffna Exodus of 1995 saw heavy migration into Kilinochchi and Mullaitivu Districts, with continuous military operations in Kilinochchi and Vavuniya Districts until 2000, giving relative peace in Mullaitivu, excluding the year 1999, until the last phase in 2007 – 2009.

We get a snapshot of the continuity in family size from N10 (pp. 48-50), which gives a population increase of 4327 in Mullaitivu District for 1994 and 1995. The estimated population from the data above was 100,000, which gives a natural increase of 0.0216, slightly below the 0.023 for the mid 1980s; giving a picture of continuity. We calculate some relevant rates of natural increase and family sizes to make a comparison.

**Vavuniya:** Family Size (Statistical Handbook for Vavuniya Dist. 2005) and Rate of Natural increase (averaged over 2001 – 2004) from N10: **(4.02, 0.0185)**

**Mullaitivu:** Family Size (GA's figures of 2008) and Rate of Natural increase (averaged over 1999 – 2003) from N10: **(4.005, 0.01946)**<sup>165</sup>

**Kilinochchi:** Family Size (Statistical Handbook for Kilinochchi Dist. 2007) and Rate of Natural increase (averaged over 1998 – 2006 *ibid*) = **(3.90, 0.0162)**

Given the information set out above, we have little cause to dispute the family sizes for Kilinochchi and Mullaitivu based on the GAs' figures. If we refuse to accept these family sizes, we must accuse the GAs of laying a false trail to no purpose, because what they have given is close to the reality. They were officials who, by the very nature of their job were bound to give cautious estimates. If we accept family sizes calculated from the GAs'

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<sup>164</sup> In Mullaitivu the population that was 77,472 in 1981, and was in early 2008, from the GA's figure, 126,414; an increase by 1.632 over 26 years. This works out to an average annual rate of increase of 1.019. This is down from the 1.023 in the mid-1980s and is what one would expect from the effects of war and the 2004 tsunami. In the case of Kilinochchi the population was 91,641 in the 1981 Census and the GA's figure for early 2008 was 146,661, representing a credible annual expansion by 1.018.

<sup>165</sup> We removed the Kilinochchi population of 24,786 persons in 6608 families from the GA's Mullaitivu figures of 223,846 persons in 56,309 families in 2008. During this period the native population was joined by an influx from Jaffna, post 1995.

figures, having already accepted family numbers, there is no barrier to the acceptance of their population figures for the districts.

It must be mentioned that despite public criticisms by some officials attempting to drive home political points, the Government has yet to dismiss or suppress the GAs' records as treasonous or fraudulent. The GAs' figures are even being reproduced in official publications (e.g. N10 above). Once more, if we dismiss the GAs' figures because of the high casualty figures they entail; we would have to invoke some plague, catastrophe or huge emigration that has escaped record, to explain current (2012) low family sizes of 3.15 for Mullaitivu and 3.19 for Kilinochchi.

**Dead or Missing for Kilinochchi and Mullaitivu:** Subtracting the survivors (see above) from the original population gives us the simplest estimate of missing persons.

**Kilinochchi: No. of dead or missing persons = 146,661 – 117,667 = 28,994**

**Mullaitivu: No. of dead or missing persons = 126,414 – 90,994 = 35,420**

**The total dead or missing for Kilinochchi and Mullaitivu together = 64,414**

The recorded deaths in the Northern Province, especially Mullaitivu and Vavuniya Kacheris, from 2009 to 2011 given in N12 (p.59) are 30,712. This is about 20,000 too high in relation to the normal death rate. By contrast EVE – 2011 indicates there were 6858 'other', perhaps meaning war-related, deaths during the crucial first five months of 2009 and 2635 untraceable persons over the same year.

We now set about examining the question from a different perspective.

## **Part II: The Family View**

### **Some Elementary Statistical Formulae**

Our main purpose below is to show that it is possible – using testable assumptions, including ones relating to family size before and after the conflict – to quantify what happened to the community in several respects. **The formulae, it must be kept in mind, are empirical.**

**The following enables us to estimate missing families:** Based on figures from a sample of eight Kilinochchi schools<sup>166</sup>, on a fair average, **for**

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<sup>166</sup> Through teachers we checked with eight schools in Kilinochchi Dist. and found that 572 parents, including 67 couples, were missing from about 2185 families. We assume that families, whether they lost one or both parents, are represented in the same proportion. In the schools considered, ratios of families with one parent killed to both killed varied widely. But the more reliable data agreed with our ratio. Of course statistical averages do not always agree with immediate reality. **Anecdotal**

every eight parents killed, two died as a couple (father and mother). Here we assume that a child's chances of survival were practically the same whether one or both parents were killed.

**The following assumptions to be tested and used in our estimations are intuitively reasonable:** Assume that in a group of F surviving families Y families had lost one parent in this round of war.

**From the preceding, another Y/6 families lost their cohesiveness**, i.e. lost both parents (for six parents who survived with the loss of spouse, two others perished as a couple: That is, one family lost its cohesiveness).

**We make the hypothesis that when a couple was killed, on the average, one child died with them.**

**Hence Y/6 couples killed, correspond to  $3 \times Y/6 = Y/2$  persons killed (inclusive of children).**

**Anecdotal Illustration:** We have the following small sample, where those killed in a group were: 36 men, 12 women and 20 children. Another 4 were killed by the LTTE while attempting to escape, **i.e. one in every 18 persons killed was due to the LTTE firing** at escapees. This is too small a sample and may be misleading. Lacking any other guide, we use it as an indication of escapees killed by the LTTE, and as a guide to the hypotheses below, which must be tested.

Let X = No. of persons killed or missing from the F surviving families.

Guided by the sample above, we make (by trial and error) the hypothesis that T, the total number of parents killed =  $X/2$ . Then:

$$T = Y + 2 \times Y/6 = 4Y/3 = X/2. \text{ Then } Y = 3X/8$$

**Fm, the number of missing families =  $Y/6 = X/16$ .** We also have from the above,

$$N, \text{ the total number of persons killed or missing} = X + 3 \times Y/6 = X + 3X/16 = 19X/16 = N$$

### **Correction for Orphans**

**We made the credible assumption that one child was also killed whenever both parents were killed. We take it that in such an event the orphaned child was absorbed into the existing population.**

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**example:** Thayakaran's sister Jeya from Thevipuram had moved to Putumattalan. A shell which fell there in January 2009 killed Jeya's three small children. The parents were unharmed.



This means that  $X/16$  orphans were added to the population represented by  $F$  surviving families. Let  $Z$  be the apparent number missing, by which we mean the difference between the original number from the surviving families and the surviving population,  $f_i$  the initial family size before the last round of war,  $P_s$  the surviving population and  $F_s$  the number of surviving families. Then

$$Z = f_i \times F_s - P_s = X - \text{No. of orphans} = X - X/16 = 15 X/16; \text{ and } X = 16Z/15 \text{ and } F_m = Z/15$$

We note that  $N = 19 Z/15$ . The hypothesis could have been formulated in a less structured manner by supposing  $N = KZ$  for a constant  $K$ , which can then be determined empirically.

### Widows and Widowers

We now introduce two hypotheses of secondary importance based on the small sample above. We need these to estimate the number of widows. We know that considerably more men were killed than women. We know that when one couple was killed, six other parents were killed. The next hypothesis about these six appears to fit fairly well the data for widows:

**H:** For each married couple killed, the six widowed parents surviving are divided into 2 fathers and 4 mothers; which gives the number of widows as  $4X/16 = X/4 = 4N/19 = 4 \times \text{No. of missing families}$ .

### Correction to Number of Families

The GAs recorded 30,950 families for Mullaitivu in 2008, and 30,036 in early 2012. The corresponding numbers for Kilinochchi are 38,335 and 38,111. The figures are almost identical and show reductions owing to the war. The number of survivors immediately after the war is 90,994 for Mullaitivu and 117,667 for Kilinochchi.

For calculations involving Kilinochchi and Mullaitivu where small differences matter a great deal, we shall do well to use the family figures recorded immediately after the war. Three years after the war, family dispositions have undergone changes that are relevant where small differences matter.

From these figures, we calculate the missing families by the formulae above derived from the theory formulated. We take as a reasonable approximation for determining this margin, the missing persons obtained using the GAs' figures above and the formula: missing families =  $N/19 = X/16$ .

**Missing families for Mullaitivu =  $35,420/19 = 1864$**

**$F_m = \text{No of Mullaitivu families immediately after the war} = 30,950 - 1,864 = 29,086$**

From the formula above, apparent missing =  $Z = 4.08 \times 29,086 - 90,994 = 27,677 = 15X/16$

**Total missing in Mullaitivu =  $N = 19X/16 = 19/16 \times 16Z/15 = 19Z/15 = 35,058$**

We have almost reproduced the number 35,420 obtained directly from the GAs' figures. We check for Kilinochchi.

**Missing families for Kilinochchi =  $28,994/19 = 1526$**

**No of surviving families in Kilinochchi =  $38,385 - 1526 = 36,859$**

$Z = 3.82 \times 36,859 - 117,667 = 23,134$

**Total missing in Kilinochchi =  $19Z/15 = 29,303$**  is again very close to 28,994 calculated directly from the GAs' figures

This is rather remarkable because the factor  $19/15$  was obtained only with reference to categories of dead or missing and some credible assumptions. The additional factor  $Z$  is based on survivor data and previous family size. The foregoing gives structure to the phenomenon of casualties and draws attention to the importance of family size. We thus find our hypotheses and theory derived from it leading to reasonably accurate end results, even if the intermediate hypotheses would need refinement. The positive test results of the casualty formulae for Kilinochchi and Mullaitivu receive additional justification by predicting almost correctly the number of war zone IDPs in Part III.

As before, let  $P_i$  be the initial population of a group before the final phase of the war and  $P_s$  the survivor population; let  $F_i$  and  $F_s$  be the corresponding family numbers and  $f_i$  and  $f_s$  the corresponding family sizes. We have the following formulae:

$F_m = F_s (f_i - f_s) / 15$ ,  $P_m = F_s (f_i - f_s) \times 19/15 = 19 F_m$  and

$F_i = F_s (15 + f_i - f_s) / 15$

**A note on consistency:** According to the formulae above,

$P_i = F_i \cdot f_s = P_s + P_m = F_s \cdot f_s + 19 F_s (f_i - f_s) / 15$  and also

$F_i = F_s + F_m = F_s + F_s (f_i - f_s) / 15$ , dividing the two equations and noting that  $P_i/F_i = f_i$ ,

$f_i = (19f_i - 4f_s) / (15 + f_i - f_s)$ , which gives  $(f_s - f_i) (4 - f_i) = 0$

This means that  $f_s = f_i$  or  $f_i = 4$

The first would make the formulae useless; however  $f_i = 4$  is the median initial family size in our case. It arises in the way the hypotheses were formulated and calls for a correction factor when  $(4 - f_i)$  is not = 0.

We however found that the formulae worked quite well for Kilinochchi where  $f_i = 3.82$ . Thus we continue to use the formulae as adequate for our purpose.

## A Further Note on the GAs' 2008 Figures for Kilinochchi and Mullaitivu

### No Evidence of Significant Migration of Entire Families:

We see the following movement of the number of families in Kilinochchi and Mullaitivu from the time of enumeration in 2008 to March-end 2012:

	Early to mid-2008	May-end 2009	March 2012
Families Killinochchi:	38,335	36,859	38,111
<i>Change:</i>		$-1526 \rightarrow +1252 \rightarrow -224$ (from mid-2008)	
Families Mullaitivu:	30,950	29,086	30,036
<i>Change:</i>		$-1864 \rightarrow +950 \rightarrow -914$ (from mid-2008)	

We chose Kilinochchi and Mullaitivu Districts as our testing ground because these were people with few connections outside; they were mostly unlikely to leave the North. Owing to the strong continuity in family numbers from 2008 to the war's end, our estimates for Kilinochchi and Mullaitivu are centred on the 68 000 families who have kept their base in these districts. Our estimates cannot be significantly wrong unless these same families have a large number of members residing out of the North or abroad who have not been captured by administrative records or by EVE – 2011. The latter was in fact mooted by the Defence Ministry to show that the casualties were very low and thus had a particular interest in showing that migration away from the North was a major cause of population loss. The uniform poverty of families trying to resettle speaks against their having many members abroad.

### Widows:

**Kilinochchi:** No of widows according to  $H = 4Z/19 = 4 \times 1526 = 6138$

The government administration had by March 2012 identified about 3600 widows. The Association for the Surrendered and Disappeared in its letter to the UN Commissioner for Human Rights of 6<sup>th</sup> March 2013 gave the number of widows in Kilinochchi as 3713 (and the number of Women Headed families as 5803). A member of the Women's Action Network who made inquiries from the administration told us that about 5000 widows for Kilinochchi may be more accurate as some of them live in hope of finding their husbands alive and have avoided identifying themselves as widows or are living with relatives elsewhere and have not registered themselves as widows. Resettlement staff in the field told us that a very high proportion of the widows are war widows.

**Mullaitivu:** Number of widows according to  $H = 4 \times 1864 = 7356$ . The number identified by the government administration so far is about 5000,



nearly all war widows according to relief workers. Estimates by relief workers place about 20% of households in Mullaitivu to be headed by widows, e.g. 6000 approx., and 25% of households as women headed. The 20% also agrees with the 1034 families left in Zone 1 Manik Farm (Kadiringamar Village) in early May 2012. That Zone had 200 widows and 170 disabled persons.

We quote from the document on livelihood coverage put out by GA Mullaitivu and UNDP in March 2012. The report places the number of widows in the district at about 5000. This did not cover the 6400 persons then in Manik Farm:

*"The assessment found there to be 6,084 widows or women headed households. Among these, [heads of] 1,774 women headed households (29%) are over 60 years old and thus face greater challenges engaging in livelihood activities and require wider income protection support. 4,727 women headed households have at least one person/child/relative as a dependent. The highest number of widows and WHH has been recorded in Maritimepattu DS Division. Single headed households, especially the elderly, face many difficulties engaging in income generation activities and also other social and cultural barriers."*

In Thevipuram, during March 2012, 101 out of 345 households were women-headed, while widows headed 92. Nine women-headed families owed to husbands being detained mainly for alleged LTTE links. We take H as giving a reasonable approximation to the number of widows.

### **Part III: The District View**

**To proceed further to estimates for the whole of the Vanni, we need to calculate the numbers from Kilinochchi and Mullaitivu who entered IDP camps.**

#### **Kilinochchi and Mullaitivu – Numbers in IDP Camps**

We infer from EVE – 2011 that  $38,243 + 29,524 = 69,275$  persons from Kilinochchi and Mullaitivu resided outside their district in mainly Vavuniya or Jaffna, of whom 39,751 persons not from Jaffna or Vavuniya chose to move to these districts from IDP camps during 2009 – 2011 (the column Other Settlers, from Years 2009 to 2011, in Table 4.4). We may assume they were from Mullaitivu or Kilinochchi.

We infer that  $69,275 - 39,751 = 29,524$  persons from these districts spent the months of the final military assault in 2009 chiefly in Jaffna or Vavuniya. Most of them would have fled before April 2008, when the Government began detaining those who fled the LTTE-controlled zone. Dividing the 29,524 in proportion to the 38,243 Mullaitivu persons and 31,032 Kilinochchi persons who resided in mainly Jaffna and Vavuniya, we obtain about 12,600 from Kilinochchi and 16,924 persons from Mullaitivu

who fled the Vanni, and were in Jaffna or Vavuniya during the last months of the war, indicating that about

$105,067 = (117,667 - 12,600)$  from Kilinochchi survived the war and went into IDP camps, and

$74,070 = (90,994 - 16,924)$  from Mullaitivu survived the war and went into IDP camps.

The total surviving Kilinochchi and Mullaitivu population =  $90,994 + 117,667 = 208,661$  persons.

**Thus the Kilinochchi and Mullaitivu population that survived the war zone and entered IDP camps =  $208,661 - 29,524 = 105,067 + 74,070 = 179,137$  persons.**

Number of persons from Kilinochchi who entered the final war zone in January 2009 =  $146,661 - 12,600 = 134,061$ .

Number of Kilinochchi families who entered the war zone =  $134,061 / 3.82 = 35,095$

Number of Kilinochchi families who survived and entered IDP camps =  $35,095 - 1526 = 33,569$

Number of persons from Mullaitivu who entered the final war zone in January 2009 =  $126,414 - 16,924 = 109,490$

Number of Mullaitivu families who entered the war zone =  $109,490 / 4.08 = 26,836$

Number of Mullaitivu families who survived and entered IDP camps =  $26,836 - 1864 = 24,972$

For other districts, the numbers of persons and families who entered the war zone are calculated using the same ratio as Kilinochchi.

**We now come to a major point of this discussion on the reliability of the Kilinochchi and Mullaitivu GAs' figures of 2008:** *Based on accuracy with regard to the families in Kilinochchi and Mullaitivu Districts and our discussion of family sizes, we argued that the GAs' figures with regard to the native populations of Kilinochchi and Mullaitivu Districts were accurate within practical limits. Before coming to the GAs' overall figures, first the number that entered IDP camps.*

We have from the testimony of K. Parthipan, Additional GA, Mullaitivu obtained through a mutual friend: *"The total number of persons who entered the Government controlled area and were retained in Camps as of July, 2009 is about 294,000 including 283,000 civilians and 11,000 LTTE surrenderees."* The highest entry for numbers in IDP camps was

289,658 recorded on 25<sup>th</sup> May 2009, or roughly 290,000.<sup>167</sup> A number of persons bribed or used influence to leave the camps, and the number stabilised near 268,000 from August to 9<sup>th</sup> September when rehabilitation commenced. JHUP of 7<sup>th</sup> August 2009 placed the total number in IDP camps opened for war survivors at 269,704 persons in 86,188 families.<sup>168</sup>

We saw that for Kilinochchi and Mullaitivu, out of the original population of 273,075, 179,076 persons went into IDP camps.

The balance of persons (from other districts) inducted into IDP camps is about = 290,000 – 179,137 = 110,863

As a first approximation, we assume that this population from Vavuniya, Batticaloa, Trincomalee, Mannar and Jaffna suffered casualties at the same rate as the population from Kilinochchi. Thus the original population corresponding to these survivors

= 110,863 x 146,661/ 105,067 = 110,924 x (Original Kilinochchi population/ Kilinochchi population in IDP camps) = 154,752

Thus the original population in the Vanni = 273,075 + 154,752 = 427,827. The latter is close to the GAs' figure of 429,059 for the 2008 war zone population.

**We may thus conclude that the much abused and largely ignored GAs' population figures of 2008 are worthy of serious consideration, and should be our first resort in the matter of casualty estimates.** Within the limits of our knowledge, we have no further cause to quarrel with them. We instead try to refine our approximations and calculate the number that entered IDP camps as a check. For this we will use our earlier formulae together with data put out during the rehabilitation process by the GAs and OCHA.

The OCHA update of 13<sup>th</sup> Nov.2009<sup>169</sup> on populations of IDPs returned from camps to places of origin gives the figures in the table following. The correction factor 0.13 is explained below (for Kilinochchi and Mullaitivu, we use the figures calculated above):

<sup>167</sup> <http://www.refworld.org/docid/4a1d3a810.html>

<sup>168</sup> [http://reliefweb.int/sites/reliefweb.int/files/resources/CBFC5D48760B200649257614001D2D2A-Full\\_Report.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/CBFC5D48760B200649257614001D2D2A-Full_Report.pdf)

<sup>169</sup> OCHA, Vanni IDP Camps and Resettlement Information Arrivals since 01 April 2008 - Updated as of 13 November 2009



District	Families in camp Nov. 2009	Survivors in camp	Family Size	Families 2008	Population 2008	Family Size
Mullaitivu	1670	5489		30,950	126,414	4.08
Kilinochchi	513	1774		38,385	146,661	3.82
Jaffna	21,705	66,092	3.045 + 0.13	26,535	107,333	4.045
Vavuniya	5758	18,267	3.17 + 0.13	4634	18,237	3.94
Mannar	1780	5,930	3.331 + 0.13	5412	21,706	4.011
Bat, Trin, Amp	3483	10,254	2.944 + 0.13	2343	8708	3.717

The 2009 figures refer to the earliest stages of resettlement, when very few people from Kilinochchi and Mullaitivu had returned to their areas and it is not clear if those who went back to these areas were from IDP camps. The family sizes of those who returned to Kilinochchi and Mullaitivu at this stage are too high (3.45 and 3.29) to be representative of the population in the IDP camps. In Vavuniya, the population is a little higher than that on the 2008 GAs' lists. OCHA gave another update on 24<sup>th</sup> December 2009, when the resettled Jaffna population remained substantially the same, but the resettled Vavuniya population had gone up to 32,155 and its family size reduced to 2.991. This represents a much larger population going back to areas cleared for resettlement than the families on the 2008 GA's lists. We thus take the family sizes calculated from the OCHA's Joint Humanitarian Update (JHUP) of 13<sup>th</sup> November 2009 for districts other than Kilinochchi and Mullaitivu to be the ones representative of the district populations in IDP camps. As explained below, the family sizes in camp listed above, from 2009, have been corrected (+0.13) for detainees.

### Correction for Detainees

The fact that a large number, primarily males, were moved into detention from IDP camps means that the family sizes obtained from OCHA tables need to be adjusted for detainees before applying formulae derived in Part II.

### Calculation of population in IDP camps from the different districts

The calculation for Kilinochchi and Mullaitivu has already been done above. For the other districts we use the family sizes above based on the OCHA update of 13<sup>th</sup> November 2009, corrected for detainees, using the formulae derived above:

$$Fm = Fs (fi - fs) / 15, \quad Pm = Fs (fi - fs) \times 19 / 15 = 19 Fm \text{ and}$$

$$Fi = Fs (15 + fi - fs)/15$$

The data from OCHA gives the family sizes of detainees in IDP camps after the prisoners were taken out (e.g. 3.045 for Jaffna).

First, an estimation of the total families missing, based on 1865 + 1529 (= 3394) missing in Kilinochchi and Mullaitivu. We estimate this as 429,059/273,075 x 3394 = 5333, where 429,059 and 273,075 are respectively the total population for the Vanni in 2008, and 273,075 the combined population for Kilinochchi and Mullaitivu in 2008.

Total surviving families from the approximation above = 97,345 - 5333 = 92,012

Contribution of detainees to reducing family size of survivors = 11,982/92,012 = 0.130

As an example we calculate missing families and missing persons for Jaffna:

Effective family size of survivors =  $fs = 3.045 + 0.130 = 3.175$

Thus the missing families in Jaffna  $Fm = Fi (fi - fs) / (15 + fi - fs) = 24,256 \times (4.045 - 3.175) / (15 + 4.045 - 3.175) = 1330$

Missing persons from Jaffna  $Pm = 19 \times 1330 = 25,270$

We assume that the orphans were still then part of the IDP population. We will give the results for the various districts:

District	GAs' 2008 figures (Families & Persons)	War Zone (Families & Persons)	Missing (Families & Persons)	WZ Survivors (Families & Persons)
Mullaitivu	30,950; 126,414	26,836; 109,490	1864; 5,420	24,972; 74,070
Kilinochchi	38,385; 146,661	35,095; 134,061	1526; 28,994	3,569; 105,067
Jaffna	26,535; 107,333	24,256; 98,113	1330; 25,270	22,926; 72,843
Mannar	5412; 21,706	4827; 19,841	171; 3249	4656; 16592
Vavuniya	4634; 18,237	4231; 16,670	173; 3287	4058; 13,383
Bat/Trin/Amp	2343; 8708	2142; 7960	89; 1691	2053; 6269
<b>Total</b>	<b>108,359; 429,059</b>	<b>97,387; 386,135</b>	<b>5153; 97,911</b>	<b>92,234; 288,224</b>

We could now give the **war zone rates of dead and missing** for the different districts:

**Mullaitivu: 32 percent**

**Jaffna: 26 percent**

**Batticaloa, Trincomalee and Amparai: 26 percent**

**Kilinochchi: 22 percent,**

**Vavuniya: 20 percent**

**Mannar: 16 percent**

One notes that Jaffna takes 2<sup>nd</sup> place, because much of the Jaffna population that moved to the Vanni from the 1995 exodus onwards was in Mullaitivu District, which experienced the greatest rate of loss; it also seems possible that the high death rate in Mullaitivu owes in part to heavy losses among cadres and conscripts, most of whom seem to have been registered in that district. Another reason suggested by observers is that those in Mullaitivu were less experienced in survival when confronted with army advances. Many of the Mannar folk, it may be noted, left the war zone in February 2009 through Iruddumadu. They had since 1984 experienced many displacements. We obtain the estimated population that entered IDP camps as 92,234 families of 288,224 persons.

The difference between the actual number of dead and missing calculated from official counts, and the number estimated by the formulae, suggests an error in the estimate of less than 1.5 percent for both Mullaitivu and Kilinochchi. For figures outside Kilinochchi and Mullaitivu we have used the formulae for estimates. The total of 288,224 brings us very close to 289,658, figure recorded by OCHA.<sup>170</sup>

## **Some Reality Checks**

### **Check 1: Agreement with IDP Data**

JHUP of 7<sup>th</sup> August 2009 stated that as of 24<sup>th</sup> July 2009, there were 86,188 families of 269,704 persons in IDP camps.<sup>171</sup> This gives an average family size of 3.129.

If this figure of 269,704 persons in 86,188 families is extrapolated to 92,188 families, the estimated number of survivor families, we obtain  $(269,704 / 86,188) \times 92,188 = 288,479$ , which is about 288,224, the estimated number of survivors. This tells us that the Kilinochchi and Mullaitivu GAs' 2008 figures, processed by the methods tested in Part II,

<sup>170</sup><http://www.refworld.org/docid/4a1d3a810.html>, <http://www.refworld.org/pdfid/4a1d3a820.pdf>

<sup>171</sup>[http://reliefweb.int/sites/reliefweb.int/files/resources/CBFC5D48760B200649257614001D2D2A-Full\\_Report.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/CBFC5D48760B200649257614001D2D2A-Full_Report.pdf)



subject to departures before the final round of war estimated from EVE – 2011, have led to the postwar survivor data quite accurately.

One clarification must be made here. The family size implied by the August 7<sup>th</sup> figures of IDPs is 3.129. This differs by 0.13 from the median resettlement family size of 3.00 from JHUP of 13<sup>th</sup> November. The difference corresponds to the correction of family size for detainees. In general the official figures for IDPs from government officials given by JHUP do not allow for detainees. Their figures appear to be based on registration upon entry to a camp and those given official exit passes. Detention was not official. Whence, detention is reflected only in resettlement data. This leads us to the next check.

### **Check 2: GAs' 2008 figures not in conflict with other independent data**

The fact that the GAs' initial figures (by calculations tested for Kilinochchi and Mullaitivu) are consonant with IDP data gives them a high degree of coherence. If the initial figures given by them are significantly in error, there is only one possibility; they were doctored very methodically in the five northern districts and the Eastern Province. For example, we have seen above that no one tampered with the family numbers. The only remaining possibility is that the family sizes were inflated by adding persons to each family, maintaining a uniform pattern. Our formulae give:

$P_i = (19\bar{f}_i - 4f_s) F_s/15 = (19\bar{f}_i/f_s - 4) P_s/15$ , so that  $\bar{f}_i = (15P_i/P_s + 4) f_s/19$

$f_s$  and  $P_s$  are the end data. If the GAs were to inflate  $P_i$  (i.e.  $\bar{f}_i$ ) and make sure that the doctored values of  $\bar{f}_i$  are consistent with the end data,  $P_s, f_s$ ; they would have needed in 2008 the clairvoyance to foreknow minimally for each district, the casualty rate (equivalently  $P_i/P_s$ ), the scale of the exodus in latter 2008 and enough of the dynamics of the war leading to adequate formulae. We can rule this out. An important restriction on  $\bar{f}_i$  is that it must be close to 4.0, the general average in Lanka.

**Evidence of independent Data:** We obtained independent data for the Mannar District from a graduate of the University of Jaffna who was administrative officer for an international NGO. He worked closely with government administrative officers and vouches for the veracity of the figures below.

Nearly everyone from Mantai West was displaced into the LTTE-controlled area. During late 2007, the area had 22,548 persons in 5748 families, giving a family size of 3.92. The GAs' 2008 figures recorded 21,706 persons in 5412 families (family size 4.01). It was practically the same population, from which 336 smaller families had escaped to the government-controlled area, or were allowed to leave.

The same administrative officer gave figures of two groups in displaced contexts during the same period.

The first, in the LTTE-controlled area, had 28,866 persons in 7283 families: i.e. a family size of **3.96**, the same as that for the total population on the GAs' lists.

The second group that had come to the government-controlled area had the following data (we describe populations in pairs, giving the number of families and number of persons): Vavuniya (60, 211), Jaffna (1212, 4224), Mullaitivu (120, 403), Kilinochchi (291, 1035), Trincomalee (46, 177), Others (91, 332). Total = (1820, 6382): Family size = 3.51.

The data above from the LTTE-controlled area supports the GA's figures. The second suggests that families leaving the LTTE-controlled area were usually smaller families: frequently elderly couples who were given passes to leave and younger families who took the risk of escape. We know from our cases that a factor that deterred escape was that families wanted to leave intact. When a few members obtained passes to go, the rest took the risk and escaped to join them. From late 2008 on into the last days in Putumattalan and Mullivaykkal, fathers frequently, after supervising the escape of women and the younger children, went back to covertly secure the escape of other children whom the LTTE had conscripted.

**Check 3: Coherence of 2008 data with long term historical trends:** The 2008 Vanni data which the Government maligned was not some will-o'-the-wisp the GAs plumped on us. The data arose from records kept by different departments over many years that register long term trends. If the records are coherent with long term trends, we must take them seriously. Part IV gives good reason to accept the coherence of the records.

The foregoing led us to the conclusion of the GAs' much-maligned 2008 data as having a highly remarkable degree of accuracy, a contention strengthened by cross-checking with other reliable estimates. We find no support for the contention that the GAs increased average family sizes of districts by padding up members of families. Having reached this point, we found there was only one thing left to be done – to which we proceed.

### **The Final Check:**

We have already cited Additional GA Parthipan of Mullaitivu, who essentially stood by his figures of 2008 with the proviso that some persons left the Vanni before the final round of war. As the final step, through friends we approached a senior official of the Kilinochchi Kacheri. The official told our contacts that he cannot comment on the figures from the Mullaitivu Kacheri, but that he firmly stood by the accuracy of those put out by the Kilinochchi Kacheri in 2008.

Barring closer scrutiny by competent organisations with unrestricted access, the best indication we have is that approximately 97,900 persons

were killed or went missing during the final round of the Vanni war. The figure of 100, 000 was given to us in 2010 by a local NGO official, who knew the GAs concerned. But it took much floundering to find supportive evidence. The country owes an apology to the GAs, who faced the wrath of the Government anxious to suppress the truth. So strident was its hectoring that the UN and International NGOs buckled down. Even talking about 40,000 dead had to be done with trepidation.

## Summary

### Our estimates give the following

Our estimates point to **97,900 dead or missing** in the war zone. The estimates for Kilinochchi and Mullaitivu were based on surviving families and family members. Missing persons who have lost contact with their families may in the first instance be regarded as dead. With some informed conjectures we give the breakdown as follows:

1. Deaths of civilians from Sri Lankan forces' action = 67,600
2. Deaths owing to LTTE conscription and cadres among families = 20,000
3. Deaths from unknown causes and missing = 7,000
4. Deaths from shooting by the LTTE while escaping = 3 000 (see Ch.8)

The following are merely indicative (so far there are no centralised authoritative figures) and are rough estimates from the hypotheses we used and found to be adequate overall:

*Rough estimate of the total number of widows from the latter round of the Vanni war (late 2008 to May 2009) =  $4N/19 = 4 \times 5153 = 20,600$*

*No. of missing families =  $N/19 = 5153$*

*No. of orphans = 5153*

*No. of disabled, extrapolating from roughly 2000 for Mullaitivu =  $(2000/35,095) \times 97,387 = 5550$  approx.*

## **Part IV: Elementary Relations of Population Dynamics and the Long Term Picture in the Vanni**

### **Derivation of Formulae**

From a purely statistical standpoint, every population is characterised by parameters such as Birth Rate =  $b$ , Death Rate =  $d$ , Natural Increase =  $n = b - d$  and Family Size =  $f = \text{Population} \div \text{Number of Families}$ .

We derive formulae giving the inter-relation between these quantities. First we must define other parameters that also characterise the society:

$T$  = Median life span,  $T_m$  = Median age of marriage.



We make the simplification that everyone in the population marries at the age  $T_m$  and dies aged  $T$ .

Taking  $t = 0$  as the time reference (which we take to be the present) and  $P(t)$  as the population at time  $t$  (we write  $P(0) = P$ ), we have

$$\frac{dP(t)}{dt} = n P(t)$$

This standard first order differential equation has solution

$$P(t) = P e^{nt} \dots\dots\dots (1)$$

From our assumption that all persons born die at the median age of  $T$ , the current population must consist of all those born in the past  $T$  years. Thus we have, using (1)

$$P = \int_{-T}^0 b e^{nt} P dt = \frac{b}{n} (1 - e^{-nT}) P$$

$$\text{We thus have: } n = b(1 - e^{-nT}) \dots\dots\dots (2)$$

and using  $n = b - d$ ,

$$d = b e^{-nT} \dots\dots\dots (3)$$

Assuming that all persons marry at the median age of  $T_m$  and that the numbers of men and women are equal, the number of married couples  $= \frac{1}{2} \times$  the number of persons born between the times  $-T$  and

$$-T_m = \int_{-T}^{-T_m} P b e^{-nt} dt = \frac{bP}{2n} [e^{-T_m} - e^{-nT}] \dots\dots\dots (4)$$

$$\text{We have from (4) family size } f = P \div \frac{bP}{2n} [e^{-T_m} - e^{-nT}] = \frac{2n}{b} \frac{1}{e^{-nT_m} - e^{-nT}} \dots\dots\dots (7)$$

$$\text{and using (3) } = \frac{2n}{d} \frac{1}{e^{n(T-T_m)} - 1} \dots\dots\dots (8)$$

from (7), we note that for societies where  $n \rightarrow 0$

$$f = \frac{2}{b(T-T_m)} \dots\dots\dots (9)$$

For  $b = \frac{1}{100}$  and  $T - T_m = 50$ ,  $f = 4$  and  $f$  decreases as life expectancy  $T$  increases. This is generally true.

We have from (8) the formula

$$T - T_m = \frac{1}{n} \ln \left( \frac{2n}{fd} + 1 \right) \dots\dots\dots (10)$$

We shall use (10) to test the coherence long term trends given by statistical data. Now for the subject that is our main concern.

### **Coherence of Kilinochchi and Mullaitivu GA's figures for 2008 with long term trends**

At the onset of the final round of war in late 2008, the Government accused the GAs of giving fraudulent, highly exaggerated population figures. If indeed the figures are fraudulent, coherence with long term trends will be hard to maintain. While population records at local level are maintained by Headmen or GS's; records of births and deaths come through separate channels. If any one of these is grossly inaccurate or cooked up, there would result a mismatch and incoherence in the records. These records come from a system that is interactive at local and national level. Every officer occupies a position for a few years and would be wary of leaving behind records that are incoherent. We look at some examples from which we could judge the coherence of our data for Kilinochchi and Mullaitivu.

Mullaitivu 1985: We have from the GA's statistical handbook

$b = 0.0269$  (26.9 births per 1000 population p.a.),  $d = 0.0039$ ,  $f = 4.45$ ,  $n = 0.023$

$$T - T_m = \frac{1}{n} \ln \left( \frac{2n}{fd} + 1 \right) = 56.3$$

Polonnaruwa 2013: From the Ministry of Economic Development and Economic and Social Statistics of Sri Lanka, Central Bank of SL, 2012.

$b = 0.0201$ ,  $d = 0.0046$ ,  $f = 4.35$ ,  $n = 0.0155$

$$T - T_m = 60.36$$

Anuradhapura 2013: Same references as Polonnaruwa.

$b = 0.0200$ ,  $d = 0.0056$ ,  $f = 3.715$ ,  $n = 0.0144$

$$T - T_m = 74.5$$

Kilinochchi 2006: GA's handbook 2007

$b = 0.0211$ ,  $d = 0.00498$ ,  $f = 3.92$ ,  $n = 0.0161$

$$T - T_m = 71.5$$

Mullaitivu 2008: GA's figures and Northern Provincial Council Statistical Information 2010

As birth and death rates showed wide variation in later years, especially after the 2004 tsunami, we took the average over the years 1999 - 2001

$$b = 0.0246, d = 0.0055, f = 4.00, n = 0.0191$$

$$T - T_m = 61.5$$

We can see the relationship more clearly upon observing that in the cases under consideration, the factor  $\frac{2n}{fd} + 1$  is close to 3.0.

$$\begin{aligned} \text{Then } \ln\left(\frac{2n}{fd} + 1\right) &= \ln\left(3 \times \left(\frac{2n}{3fd} + \frac{1}{3}\right)\right) = \ln 3 + \ln\left(\frac{2n}{3fd} + \frac{1}{3}\right) \\ &= 1.099 + \left(\frac{2n}{3fd} + \frac{1}{3} - 1\right), \text{ using } \ln(1 + X) \approx X \text{ for small } X \\ &= 0.433 + \frac{2n}{3fd} \end{aligned}$$

$$\text{We have } T - T_m = \frac{1}{n} \ln\left(\frac{2n}{fd} + 1\right) = \frac{0.433}{n} + \frac{2}{3fd} \dots\dots\dots (11)$$

Thus the lifespan  $T$  is the sum of two factors, one increasing inversely with  $n$ , and the other increasing inversely with both  $f$  and  $d$ . Note that (11) is applicable only for the narrow range of parameters in rural Lanka.

$T - T_m$  above is an approximation, the result of several idealisations. The results are adequate for a qualitative analysis. In interpreting the figures above consideration must also be given to the fact of migration into dry zone areas as the result of the Government leasing out land in the 1970s and starting schemes to increase food production. Thus a higher natural increase and lower death rate may signify a younger population.

We see that there is no reason for us to dismiss the figures from Kilinochchi and Mullaitivu. The patterns are coherent. Generally, in the cases above, a lower family size is associated with a higher value of  $T$ , or life expectancy, for which the average in Lanka is 75.

**Long Term Picture:** The increase of the native Mullaitivu population from 77,472 in 1981 to 1,26,414 in 2008 and the Kilinochchi population from 91,641 in 1981 to 1,46,661 in 2008 marks a natural increase of 0.018 p.a. for both. For Mullaitivu we note that the natural increase was 0.023 in the mid-1980s and 0.019 around the year 2000, but declined later. For Kilinochchi the natural increase was 0.016 in the 2000s. The overall figure of 0.018 may be taken to represent the effects of war and the tsunami of 2004 in Mullaitivu.



## Chapter 9

### Whose Country?

*The rabbits became strange in many ways, different from other rabbits. They knew well enough what was happening. Even to themselves they pretended that all was well, the food was good...they had nothing to fear but that one fear – the running knot in the hedge and the wood-path; that struck here and there but not enough at a time to drive them away. They forgot the ways of wild rabbits...for what use had they for tricks and cunning, living in the enemy's warren and paying his price? They found out other marvellous arts to take the place of tricks and old stories. They danced in ceremonious greeting. They sang songs like the birds...they passed the time and enabled them to tell themselves that they were splendid fellows...And since they could not bear the truth, these singers who might in some other place have been wise, were squeezed under the terrible weight of the warren's secret until they gulped out fine folly – about dignity and acquiescence, and anything that could make believe that the rabbit loved the shining [trap] wire. But one strict rule they had; oh yes the strictest. No one must ever ask where another rabbit was and anyone who asked 'Where?' – except in a song or a poem – must be silenced.*

- from *Watership Down*, by Richard Adams

#### 9.1 Resettlement or Robbery?

The President and the Defence Secretary regularly remind us that the Security Forces will remain a part of the administration and aid rehabilitation of the North-East. This decision sentences the people to live cheek by jowl with institutions responsible for gross crimes – institutions that have never been answerable to a working system of justice. Such life can never be normal. After decades of anarchy, there is a transitional need for the presence of an army in the North-East, strictly to assist the Police if and when required, and no more. An army which becomes a law unto itself vitiates its legitimate role.

To many observers, the Government's approach to the North-East indicates a continuation of strategies initiated by the Jayewardene government aimed at the slow obliteration of a community by attrition. The intended result is steady depopulation of minorities – Tamils, Muslims and Sinhalese Christians – in targeted areas. Overt military action, such as violence and creation of high security zones, has been complemented by subtle strategies like administrative gerrymandering through Signalising administrations.

Rcmcmbering just a few key incidents highlights the absurdity of the Defence Ministry posing as the rehabilitator of its victims: The January 2006 planned public killing of five students, slain by the STF in Trincomalee, with support roles played by the Navy, Army and Police

(Appendix 4); the ACF killings of 17 aid workers seven months later (Appendix 3); and in Velanai and Allaipiddy during the same period, the killing of thirteen persons, including two infants and an elderly couple (Appendix 2). The same police officer implicated in the Trincomalee killings was, in February 2013, posted as Deputy Inspector General Kilinochchi, and to Trincomalee itself on 23<sup>rd</sup> June 2013! The security forces' past crimes are embedded in the power relations of today.

The Presidential Task Force for Resettlement, Development and Security in the Northern Province (PTF) is largely a body of Sinhalese men led by Basil Rajapakse and a little fewer than half its members have leadership positions in the military. During the last stages of the war, the job of PTF secretary, Mr. S.B. Divaratne, was to spew rhetoric diminishing the truth about the number of civilians under fire. The same denial of heavy civilian losses, and the extensive needs of survivors, is basic to the PTF's approach.

Now, the principal question determining the position of the people who have lived and worked in their native surroundings becomes: to whom does the land presently belong?

### **Method in the Madness**

The PTF's agenda is evident in its attitude toward Tamils who have been displaced for twenty years or longer from the environs of the Palaly military base. To this day, many of the families live in cramped semi-permanent camps for the displaced (so-called 'welfare centres'). A UNHCR report of late 2011, quoting the Government Agent (GA), gave their number as 7,500 persons. The angry PTF Secretary wrote to the GAs on 27<sup>th</sup> October 2011 demanding, in effect, that they keep these persons off the record: *"The Government has already declared that that there are no more welfare centres in the Northern Province [other than the two villages in Mani[k] Farm housing Mullaitivu refugees to be resettled]...In case you deemed it necessary to identify some families as IDPs, you must give details of such families as quickly as possible...All your officers...should be advised not to circulate any reports contrary to the above instructions. You should take personal responsibility to implement these decisions."* For the violently displaced, an erasure of their records means the cessation of rights to their lands.

The Supreme Court judgment over Valikamam North in 2006, points to the Defence Ministry's acquisitions being tantamount to banditry (Ch.7.11). The Supreme Court had the title deeds checked and confirmed the rights of the owners to their lands.

But the acquisition of land has continued. On 10<sup>th</sup> April 2013 several notices were posted by the Land Development Ministry seeking to acquire about 6,400 acres of land in the North under the Land Acquisition Act for



building military establishments, including military-owned holiday resorts. The pretext was always the same: The owners, though recognised by the courts, 'could not be traced'. Any hope in legal remedies has been laid to rest as the Army has continued demolishing houses in the Valikamam North high security zone in contempt of the court order.

Divaratne's ordering of the GAs to suppress records of the displaced is evidence of theft. The PTF continually solicits donor funds for rehabilitation. Is this paying the wolf to rehabilitate the sheep pen?

## **9.2 The LLRC, Aid and Resettlement Games: Weli Oya and Musali**

In the run up to the long-delayed elections to the Northern Provincial Council, scheduled for September 2013, the ranks of the regime grew increasingly hysterical in denouncing land and police powers the Council would exercise even though they were limited. This hysteria appears strange given the Government's acceptance of the recommendations of its own Lessons Learnt and Reconciliation Commission (LLRC) which concluded in November 2011:

*"The land policy of the Government should not be an instrument to effect unnatural changes in the demographic pattern of a given Province. In the case of inter provincial irrigation or land settlement schemes, distribution of State land should continue to be as provided for in the Constitution of Sri Lanka (9.124).*

*The Commission also recommends that strict controls be applied to prevent any alienation of State land other than for IDPs, except where State land is required for other approved purposes, until the proposed programme is implemented (9.140)."*

Implementation of the LLRC's recommendations had been insisted on by the UN Human Rights Council in a resolution in March 2013. The Government even appointed a Task Force in May 2012 to this end.

The catch was where the blame would be laid for demographic changes resulting from displacement, and how they could be used by the State to pursue repopulation in the guise of resettlement. As for blame, the LLRC left little room for doubt. It used the term 'ethnic cleansing' ten times, always in relation to the LTTE: e.g. *"By 1987 there were no Sinhalese residents left in Jaffna. The LTTE had begun its programme of ethnic cleansing (6.22)"* and *"the country did not suffer large scale displacement till the LTTE began its separatist terrorist campaign (6.28)."* The same message was repeated in the Government's statistical report EVE – 2011, which was also published in mid-November 2011.

Selective histories are dangerous, especially when they isolate the LTTE's violence from the larger scheme of violence initiated by the State. The



Sinhalese of Jaffna were caught up in a web of suspicion in a trigger happy environment to which all armed parties contributed. Their insecurity escalated after the random shooting spree of the Army, in the wake of the July 1983 violence, killing several scores of civilians.

Ethnic cleansing, in fact, began in Sri Lanka much earlier. It was against Tamils in the Gal Oya scheme in 1956 with the blessings of the then ruling party, and was repeated during subsequent rounds of communal violence. Ethnic cleansing using the security forces in murder and pillage was an innovation of the Government. The LLRC reports that '6 villages out of the 16 [Sinhalese] villages [in Weli Oya] were permanently evacuated...' It skirts the fact that the area concerned was previously called by the Tamil name Manal Aru, from which the Army evicted Tamils by premeditated murder in late 1984 (see Appendix 7).

The LLRC expressed concern about the discrepancy between the numbers of Sinhalese in different northern districts in the 1981 census and the numbers returned according to administrative records. However, it evinced no interest in the numbers of Tamils evicted from Manal Aru in the same period (mid 1980s) and those who have returned and had their lands restored.

Once the war ended, the security forces had been setting the stage for the next move through forcible land acquisitions. In the wake of the LLRC and EVE – 2011 reports, the PTF Secretary, in a letter dated 21<sup>st</sup> December 2011 to UN agencies and INGOs, claimed that '*resettlement in the North has been a success story*'. In the letter, he further stated that the Government had resettled all who were displaced after April 2008 (LLRC 6.31<sup>172</sup>). Two months earlier, he had seen red when the UNHCR reported nearly 40,000 IDPs in the North living without host families; his letter to the GAs (of 27<sup>th</sup> October 2011) quoted above was subsequent to the UNHCR report. Citing the 'success story' the PTF prioritised the resettlement of those displaced before 1995 with particular mention of Sinhalese displaced by LTTE attacks; and by another letter the following day (22<sup>nd</sup> December 2011), sought aid on an urgent basis for Sinhalese displaced from Weli Oya (Manal Aru). The letter noted:

*"The villages in Weli Oya were old villages occupied mainly by second and third generation of Padaviya settlers. As this area is within the greater Mahaveli zone, subsequently Weli Oya was gazetted as system 'L' of Mahaveli...However, from 1984 onward there had been sporadic LTTE attacks and most of the settlers had abandoned the project and moved to Padaviya scheme to live with their relatives. With the conclusion of the 30*

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<sup>172</sup> The Commission also notes that the Government accomplished the complicated task of physical return and resettlement of the vast majority of 'new IDPs' amidst many difficulties.

*years of conflict and establishment of law and order, people started to return."*

Many Sinhalese who returned postwar had an admirable fidelity to the truth. They acknowledged that in earlier times Weli Oya had been a Tamil area. That kind of truthfulness is essential to ethnic reconciliation. Some of their leaders said recently to an aid agency: "*We initially entered the Weli Oya region in 1984. Prior to this the area was used as an open prison...Prior to the establishment of the open prison Tamil paddy cultivating communities were living in this area. Ethawetunu-wewa was previously known as 'Ana Kondarum'.*" Some villagers mentioned Dimbulagala Thera, a monk used by the Mahaveli Authority in land aggression (see *Arrogance of Power*).

The former Tamil residents who were evicted in 1984 (Appendix 9) were brought back for resettlement in 2011, but were not given back their farm lands. Two years after being 'resettled', the Tamils in Kokkuthoduwai Central contacted the Divisional Secretary for Weli Oya (a newly created Sinhalese division). The Divisional Secretary, however, refused to let them resume farming activity in their lands.

Meanwhile, in early March 2013, the Japanese government pledged US \$ 4 million to UN Habitat for rehabilitation of conflict affected areas in the North. At this point PTF Secretary Divaratne announced plans to 'resettle' 15,000 Sinhalese in the North.

*Uthayan* reported (11 Apr. 2013) that in a public petition to the President, displaced Tamil residents stated that Sinhalese had taken over 2,540 acres of land previously planted by 656 Tamil families in Kokkilai, Kokkuthoduwai, and Karnatukerni. In late 1984 and early 1985, about 200 Tamils, including wives and children of farmers, were massacred by the security forces (end of Ch.10, and Appendix 9) and most remaining families fled.

We checked with the Statistical Handbooks for Mullaitivu District, 1985 and 1986. The Army's depredations caused 1,875 acres of paddy land and 2,000 acres of high land (mainly coconut) coming under the Assistant Commissioner of Agrarian Services, Kokkuthoduwai, to be abandoned. The farming population in Kokkuthoduwai and Alampil declined by 999 families: from 1,344 families to 345. About 614 of the families found work in Kumulamunai to the north. In Mullaitivu District as a whole, the number of farming families fell by 2,000, to 14,500. Such wanton long term losses in production are not accounted for in the true cost of government 'defence' expenditure.

In mid-May 2013, the Government surreptitiously brought 200 destitute Sinhalese families from places as far away as Matale and Badulla to Manal

Aru in Mullaitivu, and the Mahaveli Authority gave them each half an acre of land with a promise of a further acre of irrigated land. Subsequently, Mahaveli officials directed these Sinhalese to clear lands previously used by the Tamils for the additional acre they were promised.

On 11<sup>th</sup> August 2013, Tamil farmers in possession of land rights went to Suhantha-murippu and Erichchankadu in Manal Aru and prepared to resume farming. Several Sinhalese approached them and told the Tamils to vacate, claiming that the Mahaveli Authority had given them the lands. Soon, Mahaveli officials summoned by these Sinhalese came rushing to the scene and chased the Tamils away. The Mahaveli officials warned the Tamils that they are not allowed beyond Kottaikerni, and should they trespass the Police would deal with them. The Tamils are now confronted with apartheid laws that bar them from entering their own lands.

The Mahaveli Authority told the Tamils that if they produce deeds to their lands, they could be given some consideration, but none would be given to those with permit lands.<sup>173</sup> As a result of many years of displacement many have lost their deeds. To their dismay, the Kacheri records, too, are missing. The PTF brought back these Tamil families – expelled by state violence and rendered displaced for twenty nine years – and claimed that they were resettled. It milked cash in the name of resettlement, but left these Tamil victims destitute.

In April 2013, the Government placed the Tamils and Muslims at loggerheads to advance Sinhalese settlement. The Women's Action Network<sup>174</sup> reported that Minister Rishard Bathiudeen brought 7000 Muslims to Mulliyavalai as supposedly the natural increase of 1300 Muslims displaced by the LTTE in 1990 (impossibly high if the original population was 1300) and arranged for 800 acres of forest to be cleared to accommodate them. The result was a quarrel between Muslims and Tamils, many of the latter either landless or deprived of their lands after the war. Nearby meanwhile, about the same time, on 20<sup>th</sup> April, President Rajapakse issued 3000 land deeds to Sinhalese settlers (an estimated 6000 acres) urging them to bring forth a 'golden harvest'.<sup>175</sup>

Contrary to the LLRC recommendations cited above, the Mahaveli Authority, which has from the 1980s functioned as the legal foil for violent Sinhalisation now gives lands owned by Tamils to those with no claims to

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<sup>173</sup> The *Thinakkural* of 5<sup>th</sup> October 2013 reported that Tamils who were disallowed from returning to their 2000 acres of land around Kottaikerni Pillaiyar Temple had complained that the Mahaveli Authority was clearing more of their land for Sinhalese settlement and that GA Mullaitivu had written to the Mahaveli Authority objecting to the move.

<sup>174</sup> <http://www.srilankabrief.org/2013/04/ethnic-tensions-between-tamil-and.html>

<sup>175</sup> <http://www.ft.lk/2013/04/23/land-deeds-distributed-to-over-3000-mahaveli-farmers/>



them. It could have restored the lands of the Tamil displaced, but that would defeat the very purpose of its existence.<sup>176</sup>

**The Face of Administrative Anarchy:** The Government is now attempting to push the same agenda in Musali DS Division, Mannar District. In Musali Division, Muslims are the majority along with a sizeable Tamil population. Resettlement there is incomplete and the Navy's takeover of Mullikulam to facilitate Sinhalese settlement exacerbated the problem of displacement (307 families including 166 from Mullikulam – LLRC).

In 2012, the Government posted Sinhalese as government agents to Vavuniya and Mannar, and recreated the new Weli Oya Sinhalese Division in Mullaitivu. Clearly, these were measures to gain control of land administration and aid large scale Sinhalese settlements. The LLRC, knowingly or otherwise, readied the ground for this move. Take the following from its report:

"The transformations that occurred in...occupation and use of land due to the ongoing conflict as well as the LTTE's manipulation of land settlement, administration and record keeping systems through intimidation and violence, necessitated the launching of a corrective and legitimizing mechanism (6.32)... The data presented above indicate that the progress of resettlement of displaced Sinhalese families in all of the districts in the Northern Province is slow. It may be prudent to review the process of resettlement of evicted Sinhala families in the [North] including the Jaffna district (6.49). Some civil administration officers in the East are allegedly supporting the land claims of families settled by the LTTE as against the claims of original permit holders (6.77). The Commission recommends effective supervision of civil administration officers tasked with [land matters] by the respective Government Agents (6.104)."

The buildup is dangerously one-sided: the actions that apparently need correction are all those of Tamil officials. This logically follows from

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<sup>176</sup> See <http://www.uthr.org/SpecialReports/spreport5.htm>

Almost the entire Vanni is gazetted as 'Area of Authority of the Mahaveli Authority'. A gazette dated 16<sup>th</sup> April, 1988 redefined an area previously known as Manal Aru<sup>176</sup> to place a legal stamp on the State's violent eviction of Tamils in 1984. The scheme involved seven GS Divisions in 1984. The gazette covered the GS divisions of Kokkilai, Karnaddu Kerni, Kokku Thoduvai, Kumulamunai East, a portion of Kumulamunai West, Maruthodai and Oottu Kulam (Vavuniya North AGA division) affecting the lives of over 2000 families. The gazette made several changes by: 1) changing Manal Aru's distinctly Tamil name to Weli Oya, a Sinhalese one; making Weli Oya the new 26<sup>th</sup> District; 2) placing it under the largely Sinhalese district administration of Anuradhapura (but under Vavuniya for election purposes); and 3) bringing Weli Oya under the Accelerated Mahaveli Development Scheme of the Ministry of Lands and Land Development. As the prospect of Mahaveli water was distant, the Mahaveli Authority tried to promote coconut cultivation and each Sinhalese family was given 5 acres of land consisting of ½ acre for residence, one-acre of irrigated land and 3 ½ acres of high land for coconut that remains largely unused.

attributing ethnic cleansing and all the worst evils to the LTTE, and LTTE alone. And officials tasked with remedying the situation are, of course, Sinhalese officials from the same partisan and politicised state bureaucracy.

Had the LLRC gone deeper, it would have found that the land problem in the East is not about abuse by crypto-Tiger administrators. Like elsewhere in Sri Lanka, administrators merely follow instructions from powerful persons. This is the administrators' insurance policy for remaining in official favour since power shifts from hand to hand periodically. It is now clear that nearly all the Sinhalese the Government seeks to settle in the North are simply poor folk with no previous connection to the North. They were politically canvassed and dispatched with promises of reward by parties in the government. Over four score such Sinhalese were dumped in Navatkuli, on land belonging to the Housing Development Authority. The Army, bypassing the Housing Authority and the respective local government, assigned them land. The Army also obstructs landless Tamils from acquiring land there. As in Weli Oya, these Sinhalese settlements are not about relief of poverty. The LLRC can hardly be serious in calling upon the government to check abuses concerning land.

For a regime that seeks to concentrate wealth in a clique these settlements are, in fact, part of the rationale for control. Tisaranee Gunasekera observed: "Sri Lanka is becoming a hungrier place. According to the 2013 Global Hunger Index, Sri Lanka's hunger-score is 15.6. This marks a worrying increase from the 2012 score of 14.4; it is also the highest hunger-score since 2007...For years, experts have been warning about unacceptably high rates of malnutrition in general and child-malnutrition in particular in Sri Lanka. Sadly these warnings were ignored by the regime (*Colombo Telegraph* 17.Oct.2013)."

In reference to the vanquished LTTE, the LLRC notes, "*it is important to ensure that illegal land transfers and alienation triggered by violence, intimidation and ethnic cleansing are not allowed to be perpetuated or institutionalised* (6.101)." It could not have been blind to the fact that even the worst sins of the LTTE in this regard blur in comparison to successive Sri Lankan governments' grand scale land thieving. Having recorded testimony on the Supreme Court judgment on High Security Zones – which the Defence Ministry violates with impunity – it failed to question the need for these sprawling zones swallowing up centuries-old agricultural lands.

Even worse the LLRC was blind to the enormity that is Weli Oya. The State murdered people, chased them away from their livelihoods and placed a legal stamp on the acquisition by gazette notification. Can anyone who stands for the rule of law accept this travesty of legality? Was this not the



precedent for the Sampoor land heist (Ch.8.11) and numerous others that have further made the security forces a law unto themselves?

However, the Government had not reckoned that Sinhalese administrators with a sense of decency may land it in a crisis. The Government ordered the Mannar Government Agent (GA) Sarath Ravindra, a Sinhalese, to settle 500 Sinhalese families in Musali DS Division urgently. According to reports, Ravindra and the Divisional Secretary (DS) of Musali Division, Mr. Ketheeswaran, refused to register nearly 900 names the Government sent them as they were registered in Anuradhapura and none of them had evidence of having been displaced from Mannar District.

The GA, Ravindra, was transferred out just after a year, like his respected Tamil predecessor, and replaced by an ex-military officer M.Y.S. Deshapriya on 12<sup>th</sup> July 2013. GA Ravindra had evidently refused to carry out the Government's instruction that violated LLRC Recommendations 9.124 and 9.140 cited above. Within four days of assuming office Deshapriya, had a meeting with Ketheeswaran in the company of Brigadier Mervin Silva and promptly ordered him to 'identify suitable land to relocate 500 [Sinhalese] families' with additional 'land to be reserved for future development purpose[s]' and surveying and registration of 'displaced persons' to be completed in a week. A Major Gunasena was placed at Ketheeswaran's elbow as coordinating officer to jog his compliance.

Events leave little room for doubt that this 'resettlement' is an extension of the Defence Ministry's agenda to change the demographic balance of minority areas it gained control of during the war. Trusted sources from Hambantota – the President's base and where his attentions have wrought severe environmental damage – report that the government is canvassing Sinhalese to move to the North with offers of cash, housing and government jobs. We had similar reports from Kegalle and Bentota: two acres of land in the North on condition of permanent settlement. Another source from Kegalle revealed that three of his friends who left received less than two acres.

What then of the war-affected in whose name rehabilitation was undertaken? Sinhalese, unscathed by the war and with no legal claim to land in the North, are offered half an acre for residence and one acre of paddy land, even though promises of water to them are highly dubious. Landless Tamil survivors are promised a mere quarter acre of land and exceptionally to a half in places like Mantai. Soon they would face dire water shortages and kidney disease, which is already rife in Anuradhapura District.

The LLRC, in crediting the Government with fighting a clean war, has glossed over the needs of Vanni survivors and has blamed the LTTE for all



the ills of Sinhalese and Muslims without mentioning that the Tamils suffered even more from the State as well as the LTTE. It has not confronted the fact that a large segment of the population in the Vanni, over 20 percent, was killed by the combined efforts of the Military and the LTTE, mainly the former. Is there any sense of ethics in the Government's plans of settling a comparable number of Sinhalese in their place to injure the survivors even further?

Not all arms of the State were indifferent to numbers: "The number of registered electors in 2011 in the Vanni district comprising Mannar, Vavuniya and Mullaitivu electorates was 221,409, down from 236,449, in 2010 and 270,707 in 2009 (*Sunday Times*, 26 Aug.2012)". Representation of the Vanni electoral district was reduced by a seat on the basis that its population has dropped by the thousands during the war!

### **9.3 Land-grabs Weli-Oya Style don't Spare Sinhalese**

Along with many other communities, the harsh reality of blatant robbery has confronted the people of Kepapulavu, Mullikulam, Sampoor and Valikamam North whenever they try to assert their rights over what is legally theirs. What worse response could these people receive than to be told – by their supposed armed defenders – that even in instances of pressing necessity, they cannot shelter in their own homes?

An elder from Navy-occupied Mullikulam heard just such a response when summoned to his village for a meeting with the Defence Secretary and the Mullikulam people's spiritual mentor, Cardinal Malcolm Ranjith. The elder said: *"The Cardinal never even visited our church or spoke to our children. He came directly to the Navy Head Quarters for the meeting and left soon after. On my way to the meeting, it was pouring with rain. As I was exhausted when passing my old home, I asked a Navy officer there if I could take shelter from the rain there as it was where I used to live. He refused and told me that I'd better continue on my way."*<sup>177</sup>

Others are forced into 'temporary' shelters by the Government seeking to drive them out of their ancestral homes. These temporary shelters, in due course, become permanent. For example, the people of Kepapulavu refused to move out of Manik Farm, where the Government placed them as refugees after the war, unless it was to return to their homes. In Kepapulavu, of course, the Army had established a major military camp

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<sup>177</sup> Watchdog, in *Groundviews*, 24 Jan.2013, <http://groundviews.org/2013/01/24/sri-lanka-navy-vs-the-people-of-mullikulam/>, and Ruki Fernando, *The struggle to go home in post war Sri Lanka: The story of Mullikulam* - <http://groundviews.org/2012/08/01/the-struggle-to-go-home-in-post-war-sri-lanka-the-story-of-mullikulam/>

and denied the people access to over 1,200 acres of arable land, including private deed and common land.<sup>178</sup>

Having decided to close Manik Farm camp by the end of September 2012, the Government persuaded 110 of the families in camp to move on the assurance that they would get back their land in two months. The Government then took them to a barren patch in Seeniyamottai, south of their original home as supposedly a temporary measure, but the Army started building houses there and told them that they would be given deeds. Many of the relocated people were farmers who had done well cultivating their lands. Six of the families filed fundamental rights appeals to get back their land. Senior army officers summoned these families to the village headman's office and threatened them. The families were told that they must withdraw their cases or face the consequences of their defiance; they were to lose what little land they had in Seeniyamottai. The Government Agent, the chief district administrator, was helpless on his own turf.

Defying our defenders does bring heavy consequences.

In 1990, the LTTE forced the Muslims of Marichchukatty, Mannar, into exile. After two decades, the village was officially opened for resettlement in July 2010. Some returned taking the Government's word for a fair chance at re-establishing themselves. But on the night of 3<sup>rd</sup> September 2012, naval men chased the people out after setting fire to seven temporary houses and the community hall.

In Kasangeni near Oluvil in the East, the Army fenced off the village and turned it into another of those proliferating peace time high security zones, after chasing away the Muslim villagers in 2011 using a grease devil scare (Chapter 7). A handful of villagers led by an old woman defied the Army and stayed within the high security zone. They endure harassment by the Army, including Buddhist chant from loudspeakers at deafening volume.

No community is spared in such bizarre land grabs. In July 2010, an unidentified armed gang raided a village coming under Panama, on the east coast, with a mixed population of Tamils and Sinhalese. These thugs beat up the villagers and burnt their houses. Later, the Navy built houses in the same area, bordering Yala Sanctuary, which has a strong potential for tourism. A year later the Navy told the BBC that the land had been assigned to them by the Ministry of Defence!<sup>179</sup>

Such outrageous land grabs abound. One day, personnel from a notorious wing of the security forces entered a successful Tamil-owned resort on the

<sup>178</sup> Ruki Fernando and Sr. Nichola Emmanuel, <http://groundviews.org/2012/10/02/menik-farm-the-tragic-end-of-a-bitter-saga-from-detention-to-forced-relocation/>

<sup>179</sup> [http://www.bbc.co.uk/sinhala/news/story/2011/07/110704\\_navy\\_panama\\_land.shtml](http://www.bbc.co.uk/sinhala/news/story/2011/07/110704_navy_panama_land.shtml)

East Coast. Acting as though they were on a mission of national import, the security officers pretended to take the resort's GPS coordinates. A little later, they informed the owner that they were acquiring the premises for security reasons. The helpless owner eventually paid the ransom of USD 35,000 that the security forces demanded to keep his business. However, the future of his legally-owned property and business are now in permanent doubt.

The harassment is not limited to land grabs; bullying of those without recourse has become spectacularly inventive over the years. Security forces personnel and government officials regularly expect free service in addition to their demanding orders from a Tamil restaurant in the East. Fear of their arbitrary power prevents the owner from dropping any hint about payment. One day, the officer in charge of a local camp ordered nearly four score dinner parcels late at night. The owner complied. The commander phoned him again, called him as a 'Bloody Tamil', and threatened him because of a minor discrepancy – the meat was curried rather than roasted. The owner hurriedly repeated the order. In both instances, he provided the food for free. Rarely does anyone dare tell even a close friend about such extortion.

Military partisanship has set a pattern of adversarial communal relations, inducing a culture in which the racism and indiscipline of the security forces enjoy informal licence. Tisaranee Gunasekera has pointed out that the Rajapakse regime has divided and diluted resistance to illegal land grabbing by presenting it in the garb of national security; and that the regime flexing its muscles in the South in the same manner has gone largely unnoticed (e.g. the 1,200 acre land grab in Panama and the forcible clearing of slum dwellers in Colombo).<sup>180</sup>

Humanity even in a small island as Lanka has a multitude of regional variations. Instead of serving people as they are, an ideologically motivated state culture that casts people into ethnic stereotypes of blessed and cursed beings, brings immeasurable suffering on all. In the towns and villages of the south eastern coast ethnic boundaries are rather blurred and the mindless brutality of the State has led to intense shared suffering (see Appendix 12).

Boat people attempting to emigrate and escape such situations reflect collective insecurity, both present and anticipated. These people, many of whom are poor, endured the war years at home and hoped to restart life once the conflict ended. Now they have lost hope. This is not difficult to understand when one sees what they face.

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<sup>180</sup> <http://www.colombotelegraph.com/index.php/reengineering-the-nation/> 26 May 2013



The Army's takeover of lands and the precedent of the Army-Dole deal in Somawathiya, which reduced Sinhalese peasants to work as menials on their former commons, is a warning (Ch.7.11). Although ideology serves the rulers to disinherit Tamils and Muslims in the North-East and to plant Sinhalese colonies, one fate awaits the coloniser and colonised alike: loss of viability leading to immense poverty and immiseration. This approach based on greed demands disregard for the restraints of law, and the resulting bias towards cronies of the rich starves education, which is essential to uplift the socially downtrodden. This is why Rajani did not place ethnicity at the centre of what is indeed our common problem.

While the Defence Ministry set the precedent for land grabs, this legitimisation of greed was taken up with a vengeance by ruling party politicians in a spate of land grabs in the Badulla District. This drive dispossessed large numbers of marginally subsisting Sinhalese peasants of their lands, livelihoods and water resources.<sup>181</sup> It points to a more primitive, even feudal, notion of wealth and power in operation among the ruling elite, which condemns the country to backwardness. Ethnicity as an instrument of greed is a blind with limited scope.

Against the acute crisis for the State, the Government's claims – whether on making Lanka a leader in education (see Appendix 8) or bringing prosperity to farmers – take on the character of bombast. The Government spends two times more on controlling the people under the guise of defence, than on educating them. These are unmistakable tokens of waste, misgovernment and rising repression.

And hollow pledges proliferate: in March 2012, the Government promised the UN Human Rights Council a re-examination of the Five Students and ACF cases of 2006. The result has been an attempt to make farce of tragedy. At least two Tamil witnesses have been killed; an ACF victim's wife took ill and died after being importuned by the Police to testify in the State's favour and those remaining cower in terror. What more can we expect from an attorney general's office and police who betrayed witnesses and suppressed or mislaid evidence as obvious as phone records (see Appendices 2, 3 & 4)? The absolute impunity enjoyed by official hit teams, as in the case of the abduction of child protection officer Stephen Suntheraraj in 2007 and the murder of the *Sunday Leader* editor in 2009, symbolises governance in Lanka. Lawlessness blights rural Sri Lanka and threatens the lives of the peasantry of all communities.

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<sup>181</sup> Nirmala Kannangara, <http://www.thesundayleader.lk/2014/09/28/land-grabs-galore-in-uva/>

## 9.4 Lawlessness and the Enclosure of Commons

Commons are lands that people all over the world use for recreation, the study of nature and livelihood.<sup>182</sup> British colonial practice classified them as state lands, and used that classification against the Kandyan peasantry – which had been crushed by a British policy of pacification in the early 19<sup>th</sup> century – to turn many of the commons into plantations.

Commons are the property of the locality – to cherish and to protect. They are the key to environmental protection. The dry zone is environmentally sensitive, and any use of the land must respect local knowledge and experience. We still have no certainty on why Lanka's gigantic hydraulic systems collapsed during the Middle-Ages, whether from an autocratic political organisation cracking under its own weight, the coming of malaria as an epidemic, or through an interplay of several complex factors.<sup>183</sup>

Exploiting the resources of an area while denying the locals any benefit from them and denying them a voice in protecting their environment leads to a host of evils. The ponderous state security apparatus deploys killer units to terrorise and silence any show of courage in the locality. This only worsens the situation. This appears to be the fate of hapless folk of the Vanni (see murder of Ketheeswaran, Appendix 2). The ruling elite view land and natural resources chiefly as means to a quick buck. Relatedly, the bloated and politicised army, which postwar has little to do, is used as an instrument of greed. For example, in Sampoor, high security zone declaration and transfer of land to cronies followed the military capture of the area (Ch.8.10).

If the British practice used to take over Kandyan commons was terrible then the similar practices by successive governments of independent Lanka, against a minority that has suffered no less than grievously than the

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<sup>182</sup> "The concept of the commons flies in the face of modern practice that each spot on the globe consists merely of coordinates on a global grid laid out by state and market; a uniform field which determines everyone's and everything's rights and roles. "Commons" implies the right of local people to define their own grid, their own forms of community respect for watercourses, meadows or paths; to resolve conflicts their own way; to translate what enters their ken into the personal terms of their own dialect; to be "biased" against the rights of outsiders to local "resources" in ways usually unrecognized in modern laws; to treat their home not simply as a location housing transferable goods and chunks of population but as irreplaceable and even to be defended at all costs." – *Whose Common Future?*, The Ecologist, Vol. 22 No.4, July/August 1992

<sup>183</sup> The Collapse of the Rajarata Civilisation, K. Indrapala, Ed., Ceylon Studies Seminar, University of Ceylon, 1971: Rhoads Murphy in his paper of 1957 conjectures from Portuguese and other records in South Asia that malaria made its advent as an epidemic in the 13<sup>th</sup> Century against the context of political instability. Murphy points to soil alkalinity and salinity as a factor in abandonment in irrigation schemes elsewhere but finds no evidence for its having been widespread here: "Both may result from a dry climate from excessive evaporation and inadequate drainage, leaving stranded salts and alkaline to whiten and poison the ground."



Kandyan peasantry in the 1818 rebellion, is only worse. The similarities are indeed ironical.

### 9.5 Conserving the North's Delicate Environment

Tourism and capitalisation of agriculture, coupled with militarisation with its goals of Sinhalisation, place a huge strain on resources and environmental viability. In Jaffna, the Old Park is one of those commons with a rare collection of flora and fauna. The land, which was purchased by Percival Acland Dyke, the colonial Government Agent (GA) of Jaffna from 1829 until his death in 1867, was left as a public trust with provision for the GA to live in the residence that he had built. Each tree he planted had a separate file. If the Forest Department determined that a tree had to be cut down, another was planted in its place. But during the war, when the residence was damaged, the incumbent GA turned it into a museum and cleared part of the park for a new official home rather than move outside. The ex-general who became governor of the North followed that lead; he constructed another mansion for himself in Old Park.

The fate of Old Park is a grim portent. Local activists who view Jaffna as their home prefer to err on the side of caution in disturbing the environmental balance through the mining of sand and limestone. Experts may disagree, but once your home is ruined, it is gone; the fresh water balance in Jaffna is very delicate. Mining activities that should not be permitted without local concurrence are conducted under *de facto* army protection, with no checks or certification by an environmental authority.

Jaffna has a small land area of around 400 square miles and a variegated environment of astounding scenic beauty. Ongoing meddling by state agencies would horrify anyone who understands its delicate balance. When the Mahaveli Scheme as originally intended in the 1960s, did not bring water to the North, an older generation of native engineers was relieved. They held that reliance on imported water would lead to a failure to conserve and nurture local resources, and leave the North prey to the fickleness of the weather and the Island's politics – a view supported by the mid-2012 drought.

From the 1960s to the 1980s, public awareness campaigns by scientists and environmentalists emphasised repairing village tanks and conserving ground water. Jaffna, in 1981, supported a population of 740,000. But over-pumping for agricultural purposes led to salination. The Arumugam Plan and its antecedents were engineering solutions to combat salinity; this would have turned some of Jaffna's lagoons into fresh water lakes by constructing barrages in Thondamanaru, Elephant Pass, and Ariyalai to hold back rainwater.<sup>184</sup>

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<sup>184</sup> Thiru Arumugam, D.L.O. Mendis, K. Shanmugarajah:  
<http://www.island.lk/2008/08/31/features5.html>, <http://www.dailynews.lk/2009/05/05/fea03.asp>



The plan has emerged once more. Its critics point out that the fundamental mechanism of fresh water availability throughout the year is the presence of the fresh water lens in the limestone aquifer below the ground. The lens floats on a layer of salt water lower down in the aquifer. The freshwater lens which is charged during the rainy season thins rapidly in the weeks after the rains mainly owing to flow to the sea induced by gravity, but its upper surface keeps a relatively steady height above Mean Sea Level (MSL) during the dry months, permitting modest extraction. This is reflected in the sharp rise of water in wells soon after the rains and rapid fall in the weeks after. The mechanism is explained in Joshua et al.<sup>185</sup>, who acknowledge that systematic hydrological investigations were initiated by Arumugam himself in 1965<sup>186</sup>, but the raw data of the extensive study is presently unavailable. The mechanism sketched, suggests that any water stored above MSL using barrages or bunds has little value, owing to gravity and evaporation – average 4.7 ft. p.a. (Water Statistics Handbook, Irrigation Department, 1988).

Experience and common sense suggested to a senior native engineer that Jaffna's water was self-regulating, with about 50 inches of annual rainfall enabling a balance between saline and non-saline lands. A particular example of the prevailing anarchy is the plan to pump annually 10 mcm (million cubic metres) of Iranamadu water to Jaffna before giving any thought to conservation measures in Jaffna itself, which receives an annual 1250 mcm of precipitation (see End Note to Ch.10).

The plan makes sense only for a huge tourist industry in Jaffna, particularly on lands the Army has pilfered. The 10 mcm will merely be the proverbial camel's head in the Iranamadu farmer's tent. Besides when Kanagarayan River which supplies Iranamadu is dammed upstream to impound water for Mahaveli System K, it will lead to additional agrochemicals from System K being washed into Iranamadu. Even without this dam upstream, Iranamadu receives less than 68 mcm of water once every four years, but requires 104 mcm for the winter crop alone.

Encouraged by agribusiness industries promoted by the state, there is over-pumping of water from wells in Jaffna for cash crops harmful to

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The plan, first mooted by the Dutchman Captain Hendrile van Reede in the 17<sup>th</sup> Century, was revived by Twyneham, GA Jaffna in 1879. Twyneham dropped the plan when he judged that the effect of the 1883 cyclone would have been worse had the barrages been in place to hold back flood waters. GA Horsberg revived the idea in 1916 only to abandon it again, four years later. The plan was rekindled once more in 1945. In the 1960s, financial constraints once again stopped it. Analysts have held that indifferent progress, poor maintenance and sabotage by prawn fishermen prevented the idea's success.

<sup>185</sup> Joshua W.D., Thushyanthy M. and Nanthagopan N., Seasonal variation of water table and groundwater quality of the karst aquifer of the Jaffna Peninsula-Sri Lanka, J. National. Sci. Foundation 2013 41 (1)

<sup>186</sup> Arumugam S., Development of groundwater and its exploitation in Jaffna Peninsula, Transactions of Institute of Engineers, Ceylon

health such as tobacco and chillies. Moreover, heavy use of fertilizers and lethal pesticides is also common. Many of these chemical compounds are banned in other parts of the world, and their easy availability is often blamed for Lanka's high suicide rate. Ground water has been rendered progressively toxic, by these same substances that are suspected of causing an epidemic of kidney disease in the North-Central-Province. Without political will to change agricultural practices and conserve water, there are no real solutions.

A recent study by Tourism Concern warns that, *"While hotels may have the money and resources to ensure their guests enjoy several showers a day, swimming pools, a round of golf, and lush landscaped gardens, neighbouring households, small businesses and agricultural producers can regularly endure severe water scarcity."*<sup>187</sup>

The authorities neglect local resources and ecology in favour of carpeting roads and village lanes supported by foreign loans and large commissions. Gravel lanes in villages have long proven eminently serviceable in comparison to metal roads that decay and impede movement after only a couple of years. In addition, gravel roads become small rivers during the rainy season, ferrying rainwater to village tanks. Metalled roads disrupt this system. Even as the Government floats huge loans for dubious public works, village tanks last repaired some years ago under the LTTE's management are in a state of neglect – their channels, surroundings, and beds themselves clogged with plastic refuse.

Short-term profits doom the environment. In Vadamaratchi East, for example, government ally EPDP is commonly blamed for mining sand on a huge commercial scale. Persons close the EPDP, however, say that the Army is the main beneficiary of such sand mining (see Appendix 2).

Even an official study recommends a number of precautionary measures when mining (*Mineral Resources in Jaffna District*, Geological Survey Mines Bureau, January 2011). Among these: backfilling of mined areas, avoidance of the use of heavy machinery for mining sea sand, and, in any parallel system of dunes, leaving one untouched or leaving behind a few feet of a dune so that it will renew itself. During the December 2004 tsunami, the sand mass saved lives by enabling people to shelter above the level of the surging foam. The report above, as well as local knowledge, recognises the role of the dunes in protecting fresh water deposits inland.<sup>188</sup>

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<sup>187</sup> <http://www.guardian.co.uk/global-development/2012/jul/08/fresh-water-tourist-developing>

<sup>188</sup> The peninsula may, in fact, be said to be the joint gift of the coral polyps and of currents that come laden with alluvial matters from the Coromandel Coast and deposit their burthen on the coral reefs – Sir Ponnambalam Arunachalam, Ceylon Census 1901.



But the recommendations have not been properly implemented. In KKS, gaping holes where limestone has been mined reveal the perfunctory nature of enforcement. Limestone was being mined on both sides of the road by contractors on government projects. In the event of another tsunami, residents fear, many of the holes would entrap salt water that would then contaminate the fresh water table already exposed by mining.

Much has been said about the rapid development of Sri Lanka's roads in the postwar era. But locals' pace is measured, not hurried; bicycles are adequate. Costly roads are for the privileged. They speed in and out at sixty miles an hour, menacing beast and fellow man through a rise in traffic accidents, causing severe injuries that are often fatal. It seems clear that this short-term benefit for the privileged comes at the long-term cost of locals.

Frustration in the wake of such pseudo-progress finds the people irritated by the lawlessness and corruption. When the state ignores history as do the people, the latter begin to hope, wistfully, for armed groups to act as a corrective. Even those who detested the Tigers remember that they planted trees and protected the forests. This clearly shows that attempts to bury the past without learning from it will only perpetuate its worst legacies.

## **9.6 Mullaitivu: The Destructive Political Economy of Sinhalisation**

30<sup>th</sup> April 2013: Mullaitivu Army Commander L.B.R. Mark invited prominent locals for a traditional New Year's dinner and dance at the military complex built on stolen land in Kepapulavu. Several invitees were troubled over the propriety of associating closely with an institution that has thoroughly alienated the local populace. On the following day, May Day, now pro-government former TNA MP Kanagaratnam addressed a sullen crowd of about a hundred persons. Security forces personnel in civvies outnumbered the civilian crowd two-fold. If the people supported the Government, he swore, he would solve their problems: in addition to more money, he would get their lands and fishing rights back. Mullaitivu has a long history of repeated displacements. The Army had driven the Tamils out of much of the southern part of Mullaitivu in 1984 in a move to establish in Manal Aru, the Weli Oya Sinhalese settlement. From 2010 onward, Tamils returning to this area faced obstacles in reaching their agricultural lands in South Mullaitivu and their fisheries in Kokkilai, Kokkuthoduwai, and Nayar. These areas had been taken over by the security forces and Sinhalese settlers under their patronage.

Fishing requires permits, which Tamils had before they were displaced in 1984. But now, many Tamils returning to Mullaitivu who apply for permits to the fisheries department through their local fisheries society have been refused on the grounds that the quota is full. Local fisheries officials, who



are frightened to talk publicly, disclosed that they had received a telephone call from the Ministry of Fisheries not to issue permits to Tamils, but rather to issue them to Sinhalese sent by the Ministry, who were not in the area before. On the other hand, further north in Mullivaykkal, where Sinhalese fished before 1985, their permits have been renewed on application. Without the permit, anyone can challenge one's right to fish in a particular area. One may also be denied subsidies, such as for fuel, provided by the fisheries department.<sup>189</sup>

We had further confirmation from a man who had a *paadu* (a portion of the coast) for offshore fishing (*karaivalai*) two miles south of Mullaitivu town. The *paadus* are gazetted in the names of individuals, as this man's was in 1967. He used it until the war situation made it difficult. Postwar, some Sinhalese went to the Mullaitivu Kacheri and got the Tamil district fisheries officer to write the *paadu* in their name without any reference to the owner.

However, for Tamils, even a permit is no guarantee of a livelihood. In addition to destructive Indian fishing trawlers (which had been scarce for a time since early 2013), Sinhalese fishing boats, under naval patronage, intrude into their traditional fishing grounds, often with banned equipment. With no notice, Sinhalese come in lorries and launch boats with engines more powerful than the allowed 15 to 20 horse power. In such instances the Army sides with the new Sinhalese fishermen. Complaints to the Police through local fisheries societies are, as a rule, futile. The Navy sometimes turns back Police taken to sea by Tamil fishermen to investigate offensive practices. Only Sinhalese are allowed to fish in several parts of the coast occupied as high security zones.

A similar situation prevails in Vadamaratchi East. According to local fisheries sources, about a 100 migrant Sinhalese fisher folk seasonally set up huts and live along the coast in front of the naval base at Kaddaikkadu in Vadamaratchi East, to the east of Palai. They are sponsored by as much as Rs. 40,000 for equipment and motorised boats for deep sea fishing for sea cucumber and conch shells, though fishing for such items is banned in the area. The powerful boats destroy nets of local fishermen left in the waters and make a big noise, which scares away fish. While Sinhalese fishermen live along the coast, Tamil civilians were not allowed on the beach after 6.00 PM. Regular Tamil fishermen were followed by armed security forces if they were on the beach after that time. Earlier, the Sinhalese fishermen fished for the banned items openly. After complaints

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<sup>189</sup> Moreover, while the Military and Sinhalese businessmen extract sand from grabbed lands and common lands like river beds, Tamils, who earlier on were professionally sand-miners, are denied permits.

by local Tamils they operate from the naval base where their activity cannot be scrutinised.

In Kokkilai, a village at the southern end of Mullaitivu, 230 Sinhalese families from Negombo have followed more than a century-old tradition of migrant fishing. Their social and family lives are closely tied to this practice. Shortly after the war, without consulting these Sinhalese, the Mahaveli Authority began clearing 3,920 acres of forest on the border of the Northern and Eastern Provinces, including reserve forest under the pretext of resettling them. In doing so, the Mahaveli Authority did not fulfil any of the legal requirements nor follow due process. Even as such gifts to Tamils whose lands have been stolen are unthinkable, the prospect of timber fortunes poses a major attraction for civil and military officials tasked with Sinhalese settlement.<sup>190</sup>

The move has a seamy side to it. The majority of Sinhalese fisher-folk in the area are Roman Catholics. Yet a Buddhist monk has illegally occupied titled land belonging to a Tamil. In 2012, the Army constructed a Buddhist temple overnight. The real reason for offering the Sinhalese fisher-folk new land elsewhere is to make Kokkilai a strategic Sinhalese Buddhist area. The inspiration has to do with the even narrower nationalisms of the Bodu Bala Sena type that have the blessings of the Defence Ministry.<sup>191</sup> The long-standing goal of Sinhalese ideology is to push Tamils out and to render them a debased people in a lawless environment dominated by a racial hierarchy under the armed forces.

The current plan is in keeping with the anonymous messages sent by members of the security forces to the families of Tamil students publicly executed on the Trincomalee beachfront in 2006: *"...We shot your five sons because they are supporters of the Tigers who are attempting to link our Eastern Province with the North. This land (the East) belongs to the Sinhalese. All Tigers, Tiger supporters, besides Tamil loyalists (pattalarkal), will soon be evicted or killed."*<sup>192</sup>

By comparison, the organisers of the communal violence in 1958 were more considerate: they at least acknowledged the Northern and Eastern

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<sup>190</sup> In violation of the Forest Conservation Ordinance No. 65 of 2009, around March 2013 nearly 1500 acres of forest reserve in Vavuniya District was cleared on orders from the Commanding Officer Vavuniya, ostensibly to move in 1,200 Sinhalese families from the South. The timber was carried away in army trucks. Following a Sinhalese being made GA Vavuniya, a request has been made to de-gazette 8000 additional acres of forest land for Sinhalese settlement. <http://www.thesundayleader.lk/2013/04/21/clearing-forest-reserves-to-rob-timber-army-refutes-allegations/>

<sup>191</sup> <http://www.khilaafah.com/index.php/analysis/asia/15621-fascist-sri-lankan-movement-bodu-bala-sena-announces-campaign-to-abolish-the-jilbab-with-tacit-approval-from-sri-lankan-government>

<sup>192</sup> UTHR (J) Special Report No.24



Provinces as living space for minorities.<sup>193</sup> The violence of 1958 was arguably sponsored by fringe elements backed by one section of the Government. By contrast, today's aggression finds its strongest supporters at the very core of the regime and the Defence Ministry.

For Tamils in Mullaitivu, peace has facilitated robbery, humiliation and deprivation imposed by the victor. Above 20 percent of this population died in the war; and today the survivors find that the most pressing problem is inability to secure viable incomes. The hardships imposed on the agricultural and fisheries sectors keep their entire economy in the doldrums.

Consequently, many IDPs who took bank loans intending to restart their trades are unable to meet even their interest payments. Those who pawned gold at banks to borrow money are defaulting on interest payments. Goods in shops are not moving, making things very difficult for traders. Many who bought vehicles to move goods for trade are defaulting on their instalments, jeopardising the banks.<sup>194</sup> Unlike in the old days, when the North used to be a bankers' paradise, today, saddled with non-performing loans, the banks are on the streets trying to recover their money. Several businesses are closing down, and on top of this banks and businesses have to entertain security forces asking contributions for their celebrations.

Cornered borrowers raise money by either selling property which they have been prevented from putting to productive use or misusing bank loans. Eventually, lacking any support from the law, they go to a 'travel agent'. For many this means 'Australia or bust' in what may be a floating coffin.

## **9.7 Portents of Rehabilitation**

**9.7.1 The Government's Calculus of Racial Worth:** We are thus witness to postwar 'resettlement' plans in which the military and security forces are continually appropriating land, evicting Tamils and Muslims and bulldozing their houses. Moreover, Government Agents have been warned to suppress the claims of Tamils displaced by so-called high security zones.

These acquisitions have become casual affairs. Tamils and Muslims who are robbed of acres of arable, fertile farmland are offered compensation

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<sup>193</sup> "Be warned. Death is at your doorstep. Act now and join us in our struggle for freedom from Tamils and other aliens such as Muslims, Malays, Burghers etc., all of whom can go to the Northern and Eastern Provinces if they want to remain in Sri Lanka. Our sacred cities of Anuradhapura and Polonnaruwa and our capital cities of Colombo, Kandy and Galle must be made a hundred percent Sinhala without any foreigners or non-Buddhists allowed to live in our midst and corrupt us" – from pamphlets sent anonymously by post to the Government of Ceylon, first in May and June 1958. Taken from Tarzie Vittachi's *Emergency* '58, Andre Deutsch, London, 1958

<sup>194</sup> Curiously, a similar problem occurs when international agencies like the UNDP start permanent housing schemes for the economically vulnerable who have to meet part of the expense. Forced to meet deadlines, the poor were forced to borrow from loan sharks.



packages of maximum 40 perches (1/4 acre) of land or, in some cases, next to nothing (e.g. Valikamam North, Sampoor, UTHR(J) Bulletin No.46 of 2008). The arithmetic of the exchange speaks for itself. In 2011, the military took land belonging to 160 families in Kepapulavu, Mullaitivu. The families, who were at that time confined in Manik Farm, were first offered 20-perch plots of low-quality in Kombavil, where the people were to be forcibly relocated. International agencies (e.g. EC, UNHCR) protested and the Government did not want to meet the entire cost of the relocation. In an attempt to mollify the international community, and get from them some assistance, the Government increased the offer to 40 perches for a family. But even at this rate, they were offered a total of 40 acres for the loss of over 1,200 acres of healthy, arable land. Being landlocked, it was also not an ideal solution for fishing folk.

The people of Kokkachchan Kulam were also robbed. In this Tamil village in the Nedunkerny Division, nearly 165 families from Semamadu, including persons of Indian origin, were given an acre apiece under the One-Acre Scheme of the early 1970s. Owing to a lapse, the land was never registered in their names. These people left during the post-1983 disturbances when the Government moved to force a Sinhalese settlement in Manal Aru. In 2010, the Army brought Sinhalese families – led by a monk – to Kokkachchan Kulam, and the Mahaveli Authority was tasked with repairing the local tank. But many of the Sinhalese left dissatisfied. The *Daily Mirror* in June 2012 reported that several Sinhalese brought there launched fasts to the death because even as their rations were about to stop, promises of housing and materials had not been honoured. These protestors threatened to depart, as 75 of the 175 families brought there already had.

Subsequently, the Army's website ran regular reports of its distributing gift parcels to the settlers, and the Government bypassed the District Administration in Vavuniya to give the Sinhalese possession of the land in the village, which is now renamed Kelebogaswewa. On 13<sup>th</sup> February 2013, Namal Rajapakse ceremonially upgraded state patronage to include electricity, housing and infrastructure from foreign donors (e.g. India and Japan). The settlement will expand by encroaching on jungle, with the State's blessings. The resettlement ministry website said the number of families 'resettled' in 'Kelebogaswewa' village was 650 in March 2013 – up from 175 in mid-2012. However, the State still cannot provide one thing: adequate water (see Ch.10). The Government calls this repopulation, 'resettlement of war-affected areas'.

Like in Kepapulavu to the east the Army has built a model village in Akkarayan, west of Kilinochchi, and was put up 450 prefabricated Chinese houses for Sinhalese 'army families'. They have also taken over permit lands previously used by Tamils and refugees from the estates. According

to local administrative sources, they would be allocated two acres of land each. Moreover, these Sinhalese families are to be fed by Akkarayan Tank. The system was designed to cultivate 3000 acres. As in Mudalikulam-Morawewa earlier, the dynamics and scale of army intrusion would eventually make life untenable for the war-affected.

And Tamil losses are not, of course, limited to land. A huge number of Tamil survivors are starting life from ground zero – facing the loss of family members and all assets; carrying unusable limbs and shrapnel injuries; and, often, nervous and psychiatric disorders. Many were unable to resettle in the conditions of extreme privation having no emergency medical aid. A vast number of these families were headed by women widowed by the war and included disabled or young girls. They lacked male protection. Sinhalese and Muslims returning to (or settling in) the North cannot, in all fairness, be prioritised at the same level of need as Tamils who survived the military onslaught. But, the PTF has, in fact, done the exact opposite. It is trivialisation of the worst kind when the PTF accuses Tamils who could not ‘resettle’ of staying with host families to enjoy ‘urban facilities’ (*op. cit.* Letter to GAs by the PTF secretary of 27<sup>th</sup> Oct.2011).

Thus we have the Government’s calculus of racial worth. For Tamils, the best deal government offers – after robbing them acres of arable land – is 40 perch (1/4 acre) plots of low quality. For Sinhalese, who are brought from the outside, the same government offers, as a minimum, a total of 240 perches of fertile land (1/2 an acre for home and garden and one acre of paddy land).

In Matala, for the 2378 Sinhalese families being displaced for building the Kaluganga reservoir, the Cabinet decided (31 Dec. 2010) to allocate 0.60 hectares of irrigated land and 0.20 hectares of homestead for a family – that is, 316 perches. They have publicly protested that the compensation is insufficient. **Does this mean that one Sinhalese is worth a minimum of six Tamils?** Antecedents of the Government’s present actions can be traced to 1984 (Appendix 9).

**The key difference between resettlement and colonisation:** When displaced Tamils were allowed to return to their former lands, they gladly stayed, except in cases of disability. They were relieved and made the best of it even with scanty help. In the case of the Sinhalese poor, they are doubtful about the way the Government proposes to help them. They have to be cajoled, bribed and bullied to take someone else’s lands; or else they use their political clout as the Sinhalese majority to demand more in return for fulfilling the State’s ideological objectives as explained in this chapter.

**9.7.2 Spurious Resettlement of Duped Sinhalese:** Sinhalese colonists, particularly those sent to the North, are themselves a broken people. They are – understandably enough – driven by the dubious



benefits that the State dangles before them. This is obvious in a number of situations. For example, in 1984, Indian Tamils who were successfully cultivating alternative crops in Kent and Dollar Farms were driven out. These farms where they lived, now renamed Monerawewa and Gajabhapura, are home to Sinhalese settlers forced to make the best of the one acre apiece given for paddy cultivation. But they encounter severe problems with irrigation from local tanks. Even the security the Government promised them was questionable. When the Sinhalese in Weli Oya fled to Padavi Sripura, the Government built some limited accommodations for them there. Nevertheless, that was where the assistance ended: when they found life there hard and were unable to make ends meet, many of them returned to Weli Oya and live below the poverty line.

Planted by governments that no sooner turn their back once cash flow dries up, the settlers presently blame the scarcity of rain throughout the year directly on deforestation of catchment areas for the building of more settlements. In the thick of military confrontation, they suffered pain and loss; the Government did next to nothing for them and now, nearly 29 years later, is requesting donor funds by selling their misery. The PTF, ostensibly trying to divert resources for the Sinhalese in Weli Oya, gives them an appearance of privilege. But the reality is different: the Government's commitment to the Sinhalese stops at pushing NGOs to serve them.

Many Sinhalese are badly served by the obsession with Sinhalisation as distinct from the welfare of Sinhalese. Sinhalese returning to areas in the East, such as Pullumalai in Batticaloa District, where they have lived since the migrations that followed unsettled times in the wake of the Kandyan rebellion of 1818, are today neglected. Governments are keen to only plant new Sinhalese settlers in the North-East. They too will be soon forgotten.

Like the Vanni Tamils under the LTTE, these Sinhalese too have been milked dry – their sufferings used for propaganda and their sons for cannon fodder during the long civil war. Their plight is a fruit of political stupidity.

**9.7.3 Kidney disease in the NCP:** Recently, a University of Kelaniya physician charged that *“Other than politicians and big wigs of the government all the down trodden people in the North Central Province are suffering from kidney ailments though it had gone unnoticed and this disease is a curse which would eventually wipe out the whole population of Rajarata”*. One of his university colleagues - equally vociferously - indicted him of being an unethical charlatan after publicity. This controversy has since spread. The first allegation comes from Dr. Channa Jayasumana, heading the research team that has identified arsenic in agro-



chemicals as the main cause of the area's kidney ailments (*Island*, 7 Jan 2013).

Researchers have conflictingly suggested diverse causes as cadmium, a high level of fluorides in drinking water; or blue-green algae formed in stagnant water and made worse by fertilizer and manure runoff into lakes and streams, combined with a warming climate. Also blamed is political interference in customs clearance enabling the import of toxic fertilisers. One is reminded of apocalyptic moments in history when strong public dissension has gone hand-in-hand with political paralysis.

The grim reality however, as confirmed by a WHO investigation<sup>195</sup>, is that about 200,000 people, about 15.3 percent of the population in the North Central parts of the country, are affected by kidney ailments that have accelerated over the last 20 years.<sup>196</sup> As experts disagree, the Government has done very little except to bring in more dialysis machines, otherwise unaffordable to affected farmers who are poor. There are five for Padaviya Hospital, where a reported 50% of patients come with kidney complaints. The Government has, belatedly, acknowledged the gravity of the problem, and has pledged a national policy on agro-chemicals.<sup>197</sup>

**9.7.4 Dire implications for the Vanni's war-affected:** Governments have long ceased to regard agricultural colonisation schemes – the country's major plank of development since the 1930s – to be sustainable economic assets. They are pursued largely as a pretext for massive foreign borrowing to oil networks of patronage on which politics runs.

In the wake of the North Central Province's epidemic of kidney failures in colonisation regimes, the Government must show some minimal responsibility in not pushing the regime in the Vanni. Those who have already been victims of war are the least able to survive another such onslaught of illness or deprivation. The disease has already claimed a significant number in Vavuniya and Mullaitivu Districts (1,227 or 6.3 percent of total of 20,336 patients in 2010<sup>198</sup>) and is on the rise. The latter are areas targeted for Sinhalese colonisation.

The authorities have known this problem of chronic kidney disease of unknown etiology in the NCP and other colony areas in the South for 20 years. The snowballing of the disease represents a grievous and

<sup>195</sup> Mission Report, 6-8<sup>th</sup> June 2011 Chronic Kidney Disease of Uncertain Aetiology (CKDu), Sri Lanka <http://dh-web.org/place.names/posts/WHO-on-CKDU.pdf>

<sup>196</sup> [http://www.island.lk/index.php?page\\_cat=article-details&page=article-details&code\\_title=85230](http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=85230), 6<sup>th</sup> Aug. 2013

<sup>197</sup> "...the rise in kidney failure cases each day has become a major health problem in Sri Lanka. Not only a health problem it has also become a social problem as whole families have become victims of kidney disease" – Secretary to the Ministry of Agriculture, *Daily News*, 19 Mar. 2013.

<sup>198</sup> Amarasiri de Silva, <https://www.colombotelegraph.com/index.php/sri-lanka-stop-hoodwinking-the-public-over-kidney-disease/>

inexcusable failure on the part of the State. It is time for these same authorities to admit that the present top-down schemes for the North, which ignore local concerns and wisdom, can only spell disaster for the region. The North-East needs and deserves a chance to give its people a better deal.

From the start and into the 1980s, irrigated colonisation schemes were advanced on a scientific basis, and used state-of-the-art methods. And yet recipients were marginalised instead of finding social upliftment. With the onset of kidney disease, their very lives became tenuous. The current initiative to Sinhalise the North is just a crude exercise to drive marginalised Sinhalese settlers into the Vanni, stretching the Vanni's minimal resources. The Vanni is drier and has fewer resources than the NCP; the Mahaveli water, which politicians and irrigation bigwigs promise, can only materialise at the cost of pushing up domestic electricity bills astronomically. The grim fate of the NCP may have been an unforeseen consequence, but after that series of mistakes, those advocating the same strategies in the North-East cannot profess ignorance of what is to come.

**9.7.5 In the Name of Resettlement:** What the PTF calls 'resettlement' does not distinguish between people given back their original homes and others who have no homes because of military occupation. One day in March 2012, hope dawned when the President's son, Namal Rajapakse, arrived and took a tour of Kokkuthoduwai, promising earnestly, as the people recollect, to solve their pressing problems. Many of the people had deeds to fertile land that they were hoping to clear and begin cultivating. The next day their faces fell, when they learnt that Namal had phoned the AGA and told him to block off about 45 acres of their land for a foreign company to start an ilmenite factory. It was another cruel joke on the war displaced, in the class of what had already happened in Sampoor, Valikamam North, and Mullikulam.

It was not the only such joke in Kokkuthoduwai. Another family that possessed two acres of land had the misfortune to have an innocuous *bo* tree growing on it. Using the Buddhist significance of the *bo* tree, the Army built a Buddhist monument around it and refused to let the owner have the land. When the owner persisted, the AGA 'solved' the problem by giving 1/2 acre to the monument and restoring 1 1/2 acres to the owner.

A telling comment on rehabilitation came from the action of a compassionate army officer, Brigadier Kariyakarawana of the 61<sup>st</sup> Division. The authorities had already deemed the resettlement of Mantai East technically complete, but the Brigadier reportedly contacted PTF secretary Mr. Divaratne and told him that the district's people were extremely poor, and that children were going to school after eating only wild *illanthai* berries. He had been giving the people army rations, but that could



obviously not last. After his call, Mr. Divaratne visited the area and gave it priority status for attention by agencies.

**Case of Muslims Resettling in the North:** The PTF expects those summoned to areas opened for resettlement to move in immediately and begin from ground-zero. For many, however, the move is hard to make. Most Muslims, for example, after living in admittedly impoverished conditions outside the North for decades, have found places with access to schools for their children, emergency medical facilities, and casual employment. Expecting them to pack up and begin life in a less well-equipped place points, again, to scanty government commitment.

**Plight of Women:** The case of resettled women best illustrates the Government's shoddy claims of resettlement. Take, for example the condition of 325 families 'resettled' in Thevipuram. A hundred and one households are headed by women, of whom 93 are widows. One NGO was committed to building 200 shelters, giving priority to women and disabled heads, but the rest of the families had to fend for themselves.

With children to look after and no means to do so, several of the household heading women have taken to prostitution, both locally and in distant towns. Where there is no law enforcement to deter them, local men, too, begin to think and act as though women are mere objects. The lot of these women could be greatly eased if they could obtain state benefits without going through all the rigours of the legal process in the event their husbands are dead, missing or are detained.

## **9.8 Harassment of Women**

Single women face enormous trials in the present heavily militarised environment. Their plight is worsened by the lack of privacy in the shanties they call home. It is a situation entirely unsuitable for women survivors, who already face an uphill struggle. For a start, they live with an Army lax in discipline and holds the people in contempt. A women's group well known to us (WG) disclosed that in Aiyankerni, a physically handicapped woman stabbed a soldier who came to her shack in the night. After being identified, the soldier was transferred to another camp and the area commander told the villagers and the woman not to talk about the incident again.

The regular use of coercive methods by the Military to cover up crimes is a reflection of deeper malaise within. Activists have reported families responding to summons from local army camps in hope of obtaining information about missing loved ones. Military personnel then abuse these women, coerce sexual favours out of them and crush their hopes.

When the Army is used to serve the narrow interests of the ruling regime, discipline plummets. Early 2011, for example, saw an upsurge in trafficking



of women from the North by persons close to the regime who made dubious promises of employment.

Ex-LTTE cadres and others arrested on suspicion are asked to report to the nearby army camp monthly thereafter. Soldiers also visit their homes under the pretext of conducting security checks. This has made it difficult for ex-cadres to integrate into civilian life or to find work. Their insecurity is also put to unethical uses. On 23<sup>rd</sup> July 2011, the President's son Namal visited the Vanni. Ex-cadres and others released from detention were ordered to report at army camps and were then taken by bus to attend his election campaign.

A number of ex-women cadres shunned by society have contracted marriages locally merely as a means of avoiding harassment and delay at army camps. In some cases, members of the security forces encouraged these unions, as one way of making these women 'normal' (WG).

In several interior areas, single women heading families live in isolation surrounded by army camps. Such is the case in Mantai West and Musali DS divisions. Asked if they suffered abuse from the Army, one woman from the area laughed sardonically. Public places are no longer theirs; they belong to the Army and people use them on the Army's sufferance. Military personnel beat up those who tried to retrieve their cattle from common lands now claimed by the security forces. Women must search for a lost hen or a kid alone, in 'public' spaces that are no longer theirs or safe. The same woman quoted earlier noted that the high level of harassment from men, including the military and government officials, has prompted a number of women to offer their bodies to a single 'protector,' who keeps others away. Another said, "*Intha naykal ellaam vara neram, oru nayodai irunthiddu povom*" (When so many dogs come sniffing after us, it is less harassing to be with one dog than many). In practical terms, this means that women are falling at the feet of army officers or other powerful men in order to resist extensive demands for sexual favours (WG).

## **9.9 Militarisation and Breakup of the Community**

Women's advocates have been very clear that while women face a host of problems even in normal times, militarisation is at the root of the present problems. In Mullaitivu, about 20% of homes are headed by widows and about 25% of the households are headed by women, widowed, single or separated. Militarisation distorts issues faced by women by robbing society of its defences through implicit terror; suppressing discussion through which means of support could evolve; subverting justice; and finally, empowering debauched elements at the expense of women. For women without the protection, aid, or companionship of another adult, resettlement in such conditions can be hell.

Though Vanni people are known for being hard workers, there is no scheme for employment at a fair wage to enable them to tide over their present difficulties. One such woman, Indira, is an emaciated young widowed mother from Thanneerootru, Mullaitivu. Her husband Thanga was killed in Putumattalan when shrapnel from an exploding shell struck the back of his head. Her brothers, Thilliampalam and Rasathurai, along with the latter's son, were also killed in shell attacks. Technically, Indira is resettled, because she has registered her family in Mullaitivu. However, she has several children to look after and has frequently moved between temporary homes in Jaffna, living on low wages. They need special attention, yet despite a number of people raising this issue – including women and others who testified before the LLRC – little has been done.

In the 'No More Tears Sister' section of *The Broken Palmyra*, Rajani Thiranagama wrote of the plight of women victims after the Indian Army's takeover of Jaffna. Many women survived sexual assault, only to face stigma in their own communities. "*Why can they not treat it as a wound sister and let it heal?*" Rajani wrote. "*The soldiers destroy once. But the village destroys us a thousand times.*" The same is true for female survivors of sexual violence today.

Left isolated after their traumas, some of these women find paths that endanger not only themselves, but also others. Society frequently drives these women to feel that they have nothing more to lose. Rights groups have found that such survivors sometimes resort to trading in illicit liquor or sex. The police raid these ventures only if the purveyors are not hand-in-glove with the military or some other powerful political personage. For example, rights groups reported that one Muslim woman who was raped by the Army in Adampan has now turned into a dealer feeding networks that collect women for prostitution and trafficking. Rights groups assert that the military, as well as government politicians or their agents, are managing these rackets. They are certain of this fact because whenever they approach the police to take action on trafficking or the sale of illicit brew, the police tell them that they are helpless in the face of military involvement or political patronage.

In June 2011, a police officer harassed a young woman walking through the jungle in Aiyankulam. On that occasion members of the public who witnessed the harassment protected her. But that was not the end: the woman later complained that the same police officer had raped her several times. However, the woman feared to go any further than having herself medically examined (WG).

Such fears are certainly understandable. Military personnel gang-raped another woman in Adampan in 2009, just when the people had come out of closed IDP camps. The assault caused her grievous harm. Following the



villagers' complaint, an officer from military intelligence arrived and began registering all the villagers. He threatened them collectively alleging that "There were several ex-Tigers among them who would be arrested" (WG).

### **9.10 Rape and Sometimes Murder**

The gravity of the incidents described arises not only from the crimes themselves, but also from the state's systematic subversion of justice.

On 16<sup>th</sup> January 2011, Mrs. Latchitham Kandasamy, a widow with four daughters, went with her daughter Thulasini to collect firewood from the jungle north of the Redd Barna scheme, Visuamadu. Three soldiers followed the mother and daughter. Both were raped and killed. An old man, Mr. Suntheralingam, a woodcutter from another part of the housing scheme, had coincidentally been in the jungle. He witnessed the incident and reported it. The miscreants for some reason had left the scene in a hurry. Local sources say that a government official returned to the scene with Suntheralingam. A different source reports that there the police recovered a dark sock that the assailants had left behind. Rather than taking any action against the soldiers, the police accused Mr. Suntheralingam of being a party or accessory to the crime and locked him up for several months before they released him under threat.

A case of this nature does not go before the courts; those in power cover up the crime by intimidating those who know anything about it. We spoke to several persons, including some that knew about it only sketchily. The families of the victims and witnesses have moved away, which minimises attention and harassment. Even uglier truths are likely to remain hidden.

Another women's group told us of an incident in which a soldier raped a sixteen-year-old girl in Pooneryn in mid-April 2012. The girl was on her way to visit a relative. The police hushed it up, claiming that the girl had reached the age of consent, and had her removed to a care facility. The authorities succeeded in keeping the courts entirely out of the matter. This appears to be the general pattern for incidents in remote places where not only the victims but also the witnesses are powerless.

An early case is that of P in Visuamadu; soldiers who learnt that her husband was away from home chose to target her. Four soldiers led by Corporal Ratnayake from the Redd Barna camp came to her home at about midnight on 6<sup>th</sup> June 2010, four days after their return from Manik Farm. The women of the household and P's 16-year-old brother resisted their entrance, but the soldiers beat the young man with a rod. Because another woman of the company flashed a torch, they were able to identify the men as those who had come earlier to inquire about P's husband. Two soldiers beat P with a pole, injuring her head, and then raped her. Two other



soldiers chased away the two children. The soldiers also molested her neighbour, M.

At 6 AM, the police arrived and commenced investigations. Shortly after, however, the army arrived and instructed P to have a bath and come to the main army camp at 12<sup>th</sup> Mile Post. The bath, of course, removed some of the evidence of the attack. The army kept P in custody while the local commander tried to bribe her to drop the matter. By 11 AM, the police too came to 12<sup>th</sup> Mile Post, where they conducted inquiries until 7 PM. Although P and her younger brother were bleeding, they received no medical attention until the police took them to Vavuniya Hospital at 2 AM on the 8<sup>th</sup>, more than 24 hours after the assault. On 14<sup>th</sup> June, despite a large and intimidating military presence in court, P and her neighbour M identified the four men who had assaulted them. Someone bailed them out in November. The case is practically in limbo (WG).

The case concerning P in June 2010 appears to have been a turning point. From that time onward, the Police, who were then under the authority of the Defence Secretary (from February 2006 until August 2013) hardly acted on any serious crime involving the Army.

The crimes detailed above have affected mainly the subaltern layers of society, usually at some distance from main roads. Yet, even when an area presents an appearance of normality, it requires no great effort to discern that things are in fact very abnormal. On the one hand, the Army is an obligatory invitee at local functions; on the other, one discovers almost casually that soldiers at an army farm who drew drinking water from a neighbouring house raped a girl in that house. When the matter was reported, instead of doing justice, the authorities simply transferred the soldiers. Rape, besides being the violation of a woman, subjects her to severe trauma, both personally and socially.

### **9.11 Trauma, Past and Present**

Prof. Daya Somasundaram and his co-workers have found that social trauma in the North-East intensified during the war years. The internal killings that brought the LTTE to dominance in Tamil society brought with them a new upsurge in trauma among perpetrators, victims, and their families. As increasing numbers of this traumatised Tamil community escaped to the West, LTTE supporters sensed a problem brewing: professionals treating these people and probing their intimate secrets were bound to get a different picture of Tamil society under the LTTE than the heroic society the LTTE wanted them to see. Here we offer two instances that show how the LTTE and their supporters saw red when impartial observers confronted trauma in society.

A group of expatriate Tamil doctors formed the Medical Institute of Tamils, which had a major conference in London in 1994. From his clinical experience, Prof. Daya Somasundaram presented – along with trauma caused by the Military – two revealing instances of internal violence. In the first instance, the LTTE brainwashed a 12-year-old boy and dispatched him to massacre people, evidently in the Muslim village of Eravur, in August 1990. The traumatised child recalled how he had smashed the head of an infant and then stabbed the wailing mother. A second case dealt with a boy who was used to torture fellow Tamils. Both boys were in a state of utter breakdown. A censor board of eminent Tamil doctors reframed Prof. Somasundaram's written version for the conference record to cast the LTTE in a positive light, besides calling them freedom fighters.

Probing trauma in a society that suffered decades of terror is like archaeological exploration. Because the LTTE was in control of the rural North-East, surface discussion there provides a warped picture. Deeper layers of inquiry show that different villages were under the influence of a whole spectrum of political forces eventually obliterated by the LTTE's terror. Fowzia's case from a lecture by Prof. Daya Somasundaram at the University of Jaffna (July 2012) exemplifies the complexity.

Fowzia was a brilliant Tamil student at Kilinochchi High School. Being of a sociable and generous disposition, she helped other students in their studies. In 2007, she gained admission to Jaffna University, but the LTTE refused to give her a 'pass' to leave the Vanni. Two years later, they forcefully conscripted her and cut her hair to make deserting harder. While serving on the frontlines, she sustained multiple shell blast injuries. The shelling at Mullivaykkal killed her mother and fatally injured her sister. Learning of her mother's death, Fowzia was stricken by profound grief from which she never recovered as we will see below.

There is, horribly, a deeper layer to her anguish. When Fowzia was six, the LTTE arrested her father and paraded him around Kilinochchi with a board on his neck accusing him of treachery to the nation, accompanied by a loudspeaker blaring invectives. After his disappearance, her mother continued to look for him for five years to no avail. Fowzia had spent her formative years stigmatised as the offspring of a traitor.

Joining the University as a student after the war ended in 2009, she had enjoyed the companionship of women at the university women's hostel; this kept her from suicidal intentions. But despite medically supported appeals on her behalf citing the possible consequences of her deep grief, the university authorities bungled the matter of her continued residence in the hostel as a student, and she could not stay. When the students dispersed for spring vacation, Fowzia gave her possessions to charitable causes and then drowned herself in a well in Vavuniya.



The next case illustrates the Government's inhumanity in keeping out international NGOs which could provide relief to many of those afflicted by the war that could benefit from advanced medical care and counselling.

R is a university employee. One of his young sons joined the LTTE as a child soldier in the early 1990s and died serving in its medical unit. In 2006, the closure of the A9 Road forced R and his family to live in the besieged Vanni. During the war, his daughter, her husband, and their two children, who lived in Puthukkudiyiruppu, were killed when an exploding missile from an air attack knocked down a tree and it fell onto their house. The fall gravely injured R's remaining son, who survived because of timely medical care. This second son, after the war ended, joined the University as a Commerce student. As his injuries confined him to a wheelchair, his fiancée took care of him. Eventually, upon learning that his bodily functions were failing, the fiancée pushed R's son, in his wheelchair, into a kulam (tank). The pair drowned together.

**Trauma in the Security Forces:** The present government of Sri Lanka, too, has its reasons for playing down the extent of trauma in the North-East, and for that matter within the Army itself. The military is now plagued by crimes of soldier against soldier, leading the perpetrators to commit suicide. All these soldiers will have to go back to their homes in the one day, and already in many parts of the South crimes by military men are frequently reported. Around 19<sup>th</sup> May 2012, for example, a soldier argued with a young girl in Katugastota and then fatally shot her and her mother.<sup>199</sup> A few days earlier a news item reported three incidents of soldier killing soldier in the space of five months in Jaffna.<sup>200</sup> On 19<sup>th</sup> August 2013, an air force man killed a male and a female colleague at Marble Beach Hotel, Trincomalee, one of the Air Force's questionable business ventures, before shooting himself.

The discovery in February 2013 of the decomposing bodies of a 42-year-old ex-navy man, his wife, and his eight-months-old infant is another telling incident. The veteran had strangled his child and stabbed his wife to death before hanging himself. Their corpses were found in a house in Panadura, south of Colombo. The incident brings to mind crimes by the Navy, leaving in their wake horrific scenes reminiscent of that above: the Allaipiddy murders of the Ketheeswaran couple and their two young children in May 2006 (Appendix 2) and of the young Martin couple of Vankalai and their two children in June 2006.<sup>201</sup> The Navy was definitely the perpetrator of the first incident; and according to our contact from a left party, a member of naval intelligence was involved in the second. University students from

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<sup>199</sup> <http://www.colombotelegraph.com/index.php/a-soldier-had-killed-a-girl-and-her-mother/>

<sup>200</sup> <http://www.colombotelegraph.com/index.php/sri-lankan-soldiers-killing-each-other-three-killings-within-the-last-five-months/>

<sup>201</sup> Addendum to Special Report No.23



the area too identified the Navy: Martin, a carpenter, had injured one of the attackers while resisting them; the injured attacker sought medical treatment at the local hospital (UTHR(J) Supplement to Special Report 23). In the case of the rape and murder of 19-year-old Tharshini Elaiyathamby in Pungudutivu on 16<sup>th</sup> December 2005, the investigating magistrate told us of strong *prima facie* evidence of Navy involvement. It comes as no shock that the perpetrators of such violence are also traumatised. Perpetrators of violence, in turn, become its victims.

Such impunity imposes a very heavy price on any society. While the Government scorns Human Rights Watch reports detailing evidence of the security forces' gruesome and perverted sexual torture of hundreds of detainees, the alarming reality of murder and abuse by persons with military connections confronts us too frequently for comfort. Besides, our education authorities from 2011 subjecting all university entrants to compulsory 'leadership' training under the Military points to deep cynicism.

A government that has prevented the UN or anyone else from documenting the size of the human catastrophe at Mullivaykkal will hardly allow an organised scientific study of the resulting trauma. Though such a study would enable survivors, both military and civilian, to have the best remedies science has to offer, it would also lead to the revelation of many ugly truths.

Denial ultimately does the Army a disservice. Those from the war zone reported a number of cases of rape and murder of civilian women trying to escape from the LTTE to army lines. A former conscript told us that while in many instances the Army helped escapees, he had also seen the bodies of four or five escapee women who had been raped and killed by soldiers.

These incidents have serious implications well beyond the immediately affected. Had the Government tried to ensure observance of humanitarian law during military operations, and had such violations ceased with the capture of the North, we might have seen a different story. However, what we see in the Vanni now is a continuation of wartime attitudes by an army that does not observe the law. Even if forensic evidence is lacking or has been suppressed, the pattern of reports over many years tells a fairly coherent story of abuse. The current state of militarisation is injurious to the Army, and even more so to those placed under it.

Several recent incidents reflect the racism Tamils face from the security forces – an adverse attitude left unchecked for decades. At Paranthan Junction in October 2011, a Sinhalese bus driver taking tourists to Mullaitivu broke the rear mirror of a local passenger bus while turning. The two drivers quickly settled the matter, with the former paying the latter for replacement. While the Tamil driver was having his vehicle

repaired at a nearby garage, soldiers at the junction who had witnessed the accident chased him and his conductor several times around the bus and beat them badly.

The following May, in Nunavil, some Sinhalese road workers from the South tried to rob a house where an elderly woman normally stayed alone. That day, a young man on a chance visit gave the robbers a chase, caught one and beat him up with his bare hands. The would-be-robber reported the matter to the Army. The Army caught the young Tamil defender and beat him up so severely that he had to be hospitalised. When the Tamil man reported this to the Police, they hospitalised the Sinhalese worker to make the Tamil man look like the assailant.

The previously mentioned (Ch.7.9) Navanthurai incident of August 2011 and the assaults on detainees in Vavuniya, which led to the death of Nimalaruban, are also evidence of inherent racism in the security forces.

Whatever the sins of the political leadership, the rank and file of the Army battled subalterns of their own social class. Even when they were given reckless orders by their superiors, and committed terrible crimes, they marched forward into fire and gave their lives in large numbers. Official numbers indicate 71,000 deserters in January 2013; and perhaps 10,000 in 2011 alone. Among other indicators, it is a significant subaltern vote on the competence and trustworthiness of the military and political leadership.

The security forces and their leadership are hardly in a state to manage civil unrest without going berserk, as witnessed in the nation-wide riots in July 1983 (*Arrogance of Power*) and countless times afterwards. This resulted from decades of encouragement to torture and lawlessness. The brutal police attack on 28<sup>th</sup> November 2012 on students having a peaceful demonstration outside Jaffna University in protest against the Army's brutish behaviour at student hostels, over the symbolic lighting of flames the previous day, is a troubling portent. What this army inflicted on Sinhalese civilians in Weliveriya on 1<sup>st</sup> August 2013 was about the third postwar incident of the security forces going berserk against Sinhalese civilians (after Chilaw, Katunayake and Welikade):

*"When they realised that the water from their familiar wells had turned toxic [owing to the factory of a crony businessman], they would have believed that 'their government' will succour and protect them...They did not realise that their demand for clean water would transform them from patriots to anti-patriots, from members of the Volk to stooges of the Tamil Diaspora and NGO-lovers" (Tisaranee Gunasekera). "In my mind, the events keep merging: What I saw happen at Weliveriya from amateur television footage; and what I imagine might have happened in the North, during those final, anguished months of the army's war with the*



*Liberation Tigers of Tamil Eelam. Civilians had perished in that battle. In Weliveriya, too, there was a battle. It was even more disproportionate than the war in the North*" (Namini Wijedasa). The end of militarisation would be to the benefit of not only all Lankan civilians, but also the Military itself.

Under the pressure of militarisation, Tamil civil society has suffered an equal breakdown, as evidenced by the high incidence of violence among the young. The North reports a high incidence of child sexual abuse, rape and murder, suicide and other grave violence against women.<sup>202</sup> According to the Judicial Medical Officer of Jaffna Teaching Hospital, in February and March 2012 alone the Hospital received 56 cases of rape and severe violence against women and girl children. In 2010, incidents of violence against women numbered 102; in 2011, it was 182.<sup>203</sup> Violent death among young women in Jaffna is high and calls for a frank appraisal: *"In the last six months there have been 29 reported cases of death mostly young women in Jaffna district alone and many of these deaths are either murder or suicide as per Jaffna hospital officers."*<sup>204</sup>

However, as long as militarisation and lawlessness do not permit the society to discuss these grave concerns freely and to formulate real solutions little can be done to address these statistics.

### **9.12 Sivashankar Saga: Army's canvassing of destitute Tamil Women**

The recent recruitment of 109 Tamil women from Kilinochchi District into the Army has prompted several related and painful questions. The Government and the Army continue to deny the extent of the suffering the people have endured. The Government puts money into roads and buildings, but refuses to invest adequately in its neediest citizens. In the postwar era, the rehabilitation of infrastructure succeeds where the rehabilitation of people has catastrophically failed. Many young women living with one or both elderly parents and young siblings are growing desperate. Even preschool teachers can expect no more than Rs. 3,000 a month, paid by the local government ministry.

On 21<sup>st</sup> July 2012, Prof. Daya Somasundaram, in his public lecture at the University of Jaffna on society's collective trauma, cited the Jaffna University's Community Medicine research study on university medical faculty students from the Vanni in 2010. He pointed out that, 82% of the Vanni students had been directly exposed to the war situation, 67% had barely escaped death, 35% had lost family member or friend, 43% had

<sup>202</sup> <http://www.thesundayleader.lk/2012/04/01/rape-in-jaffna-women-want-justice/>

<sup>203</sup> [http://www.bbc.co.uk/sinhala/news/story/2012/03/120309\\_jaffna\\_child\\_abuse.shtml](http://www.bbc.co.uk/sinhala/news/story/2012/03/120309_jaffna_child_abuse.shtml)

<sup>204</sup> Interview with Judicial Medical Officer, Jaffna, by WG, early 2012



witnessed killing, 27% had been imprisoned, 23 % kidnapped or abducted, and 18% had been tortured or beaten.

The Army, which lives in denial of civilian trauma, appears to believe that hiring 109 Tamil women at a salary of Rs. 30,000 a month each is reconciliation and poverty alleviation. In this heavily militarised environment, army officials identified the most desperate women and canvassed them individually. They also canvassed preschool teachers as a group. Some of the women confessed to a doctor that their families practically lived on rice porridge (*kanji*). If rehabilitation is the goal, why not give 50,000 people in the Vanni – including preschool teachers and unpaid teachers – jobs at Rs. 30,000 a month? But that would cost Rs. 18 billion, which is money the Government will not invest. The Army's reconciliation strategy is at best a publicity gimmick; it is humiliating and there is little to suggest that its intentions are *bona fide*.

In mid-December 2012, after two of these new women recruits reported being haunted by spirits, a crisis broke out: fifteen of them went into collective hysteria and were admitted to Kilinochchi Hospital. Dr. Sivadas, a psychologist who saw them, eased their anxiety; most of them wanted to return to the Army and did so. However, the psychologist's colleagues feel that the matter is not as simple as reported. Dr. Sivadas had previously counselled people in the Vanni refugee camps. His *forte* was persuading many to get on with life – 'There is nothing wrong with you, just get a move on'. Prof. Somasundaram observes, "*There is a truth to all these different ways of looking at it, but underlying it is the unhealthy 'repressive ecology' that causes the so called 'mass hysteria'*".

Later, one of the girls who had recently joined the Army was given leave to go home and sit for her O. Level examinations. She wanted to get out of the military after the examinations. Her mother hid her with a relative. For ten days, the Military and Police officers visited her home repeatedly in search of her.

**The Sivashankar Saga:** Dr. Ratnasingham Sivashankar's story illustrates the militarisation of justice and its sinister underpinnings. Sivashankar, a doctor with more than fifteen years of experience was an outspoken critic of all forms of militarisation and strongly believed that the army was no place for women. According to his colleagues this was the reason why he was transferred from Jaffna to Anuradhapura Hospital. At the end of 2012, Dr. Sivashankar accompanied the mother of the girl who wanted to quit the Army to the Kokkavil army camp. Following an argument with Sivashankar about release of the girl, the Army arrested him on the flimsy charge that he had forced his way into the army camp after being refused entry and tried to take pictures with his cell phone. An unarmed civilian forcing his way into an army camp is hardly credible. In

any case, these are allegations which Sivashankar has consistently denied. He was handed over to the Police and was produced in Mullaitivu Court under a detention order from the Defence Ministry and was detained under the Prevention of Terrorism Act.

The implication of such an order is that the Magistrate cannot release him even if upon scrutiny, he finds that the detention had no basis, but was merely stupid and vindictive. Neither is a high court empowered to release a man in such an event. In effect, justice in such cases is rendered a Sinhalese preserve. The word of a Sinhalese private or an NCO prevails over that of a respected Tamil citizen, or the considered opinion of a Tamil judge. In Sivashankar's case, as in most such cases, the Police routinely extended the detention by way of a fresh order.

Upon being posted to Mullaitivu Court in March 2013, Magistrate M. Ganesharajah wrote to the Attorney General (AG) and requested that he either files charges against Sivashankar or agrees to his release. It took three months for the AG to decide that there were no grounds to file charges against him. Consequently the Magistrate discharged Sivashankar in mid-June 2013. Sivashankar's position as a doctor and the unfavourable attention Sri Lanka was attracting no doubt helped. But for many hapless persons detained in this manner, they may remain in custody for many years (e.g. Nimalaruban, Ch.7.6). This too in a postwar climate when there is no justification for the State to exercise such draconian powers. Although Sivashankar's initial arrest was publicised, he was thereafter almost forgotten, illustrative of fatalistic indifference on which oppressors rely.

The detention of Dr. Sivashankar as a terrorist was most incongruous. In a society that has made playing safe a virtue, Sivashankar was an outspoken critic of the LTTE's terrorism and earned wide respect for it. When the LTTE murdered T. Subathiran of the EPRLF in 2003, Sivashankar wrote an appreciation mourning the loss and had a newspaper publish it under his own name. Sivashankar, who was bold in challenging the Tigers, had no recourse or appeal against a wanton Army action. Having blinded themselves with a surfeit of power, the State and Military become angry over every challenge to their presumed authority.

**Sivashankar had committed no criminal offence.** He was, according to colleagues, suffering from a mental illness called hypomania (which may have made him brave enough to visit an army camp and argue fearlessly in Sinhalese – having grown up in Anuradhapura). He had been produced periodically at the psychiatric clinic in Vavuniya for treatment and he was on strong psychiatric medication. It is against moral and civilised principles to imprison a person with mental illness. By contrast, influential persons in the South charged with criminal offences are quickly



released on bail on flimsy medical grounds or transferred to medical wards.

### 9.13 Slow Annihilation by Attrition

**Velanai:** The military regime often poses a critical barrier to the return of the displaced. The Velanai area offers one such example. On the night of 13<sup>th</sup> May 2006, the Navy, burnt about a dozen shops in the area and killed several shop owners and members of their families. The massacre was intended partly to punish those who had kept their shops closed under an LTTE threat (Appendix 2). Along the roads today, the Navy has boards advertising themselves the Nation's first line of defence. Where was the first line of defence for these innocents murdered by the Navy?

Velanai's Puliyankoodal Junction, the site of the Navy's depredations, has (in 2012) the blighted appearance of a place that has seen better days. The once-prosperous area is sleepy, with boarded-up shops. Velanai, which was in the past renowned for education, now sends its young, who show marked signs of poverty, all the way to Jaffna in crowded buses for English classes.

**Mutur East:** Mutur East, in the Trincomalee District, saw another development that set the stage for persons to be arbitrarily harassed and detained without any recourse to the law. Ironically, the incident to which we refer took place the day after the President celebrated Independence Day in Trincomalee – on 5<sup>th</sup> February 2013.

When the Tigers controlled the area until 2006, they forcibly trained able-bodied men. These men were displaced to Batticaloa in 2006 with the rest of the populace under heavy shelling as the Army moved in. Several of those who survived by fleeing with their families were later killed in refugee camps, where the State's paramilitary groups (often ex-LTTE) executed persons accused of a willing or unwilling LTTE association.<sup>205</sup> Sampoor civilians were not given back any of their land when they were brought back and housed in IDP camps just south of their homes. They had to eke out a living by finding work on lands nearby that were not taken over. Many of the men had to report to the local police every week.

On the day in question, 5<sup>th</sup> February 2013, a dozen men followed orders to report to the Police. Unexpectedly, officers detained them and took them to Boosa detention centre in the South, for 'rehabilitation' – seven years after the war had ended in the East! Many of them, in their late thirties or mid-forties with wives and growing children, had been forced to neglect their crops and livelihoods. In their stifling penury, the women had to leave their children and make long journeys at their own expense to see their husbands. Similar arrests with detention in Boosa, accompanied by

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<sup>205</sup> UTHR Bulletin No.45



hullabaloo about an LTTE revival, were unloosed during the UN Human Rights Council sessions of March 2014 (Ch.8.11).

Why engineer such a state of affairs, particularly in areas where Tamils are most vulnerable? The State's actions are impossible to explain, unless they are deliberate.

The population grievously affected by war needs both political space and a demilitarised environment to regain their stature as free and independent human beings. The Government and the Defence Ministry are determined to prevent this by suffocating them with an overbearing military presence and hemming them in with land acquisitions. Permitting the Military and State to take over the lands of people they have grievously harmed leads to moral and legal anarchy.

### **9.14 Chickens Home to Roost**

With each passing anniversary of the LTTE's defeat, President Rajapakse's declamations centred on the recent war present a government increasingly beleaguered. His upbeat victory speech in 2009 celebrated the triumph of the unitary state against terrorism. In 2012, his regime marked the start of a troubled fourth postwar year with great pomp, by parading its new acquisitions of, mainly Chinese and East European, military hardware. The President besides used the occasion to reiterate that he would never withdraw the Military from the North-East. The tone of the festivities suggested an aura of victory against another powerful nation, rather than a homegrown guerrilla force born of decades of misgovernment.

In 2013, on the fourth anniversary, the President delivered a petulant and xenophobic speech that complained about demands for legal accountability: *"...there were many strategies tried out by these [external] forces to rule our Motherland. These included...the independence of the Judiciary, media freedom and human rights. There were attempts to make us file answers over such charges [to the UN HRC] almost every six months," the President moaned. He further said, "It is these sinister aims that are put forward as the protection of human rights and democracy. All these are ulterior attempts to break up this country. We will not allow a single inch of the land that you [the armed forces] won by the sacrifice of your life to be taken away."*<sup>206</sup> All that is necessary for a healthy nation was held anathema.

Inclusive anniversary commemorations could have been a unifying force for the country, but this was entirely lost on the Government. Its embrace of the Military as the Sinhalese pillory in which to set the minorities has injured the Government to glaring instances of crass vulgarity.

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<sup>206</sup> <http://www.asiantribune.com/node/62604>

For example, in the Vanni, war-affected Tamil survivors starve or are severely malnourished for want of aid. Nevertheless, the Government offers cash rewards to the Military, which occupies lands stolen from these survivors, to produce more offspring.<sup>207</sup> Far from championing the Sinhalese, however, the regime will bring them an equal measure of ruin. The Government is developing the Military as a shield against public anger stirred by the use of external borrowing for wasteful projects that destroy our environment and reward the rulers with commissions.

What the Sinhalese poor, like the rest, need most is social justice that includes better quality education for social advancement – and not to be made part of a destructive scheme of colonisation in the North-East.

The JVP insurrection in the late 1980s showed that the repressive practices the State developed in the North-East post-July 1977 were amplified when they came South, as illustrated by the Matale mass graves discovered in November 2012. These are presumed to contain the bodies of suspected JVP cadres who were victims of enforced disappearances in the late 1980s, which consumed tens of thousands of Sinhalese youths. The graves have become a thorn in the Government's side since command responsibility implicates the President's brother, Defence Secretary Gotabhaya Rajapakse. When the magistrate and the Judicial Medical Officer (JMO) – who had acted professionally in their capacity – were removed from the case it set off alarm bells in the South. Lawyers who turned a blind eye to crimes in the North-East are now asking how such transfers to suppress justice are effected almost casually. It should surprise no one that the fate of the minorities will be the fate of the country.

We may recall once more the January 2006 Trinco Five case, in which the local JMO who did the post-mortems on the five students slain by security forces resisted official pressure to conceal the actual cause of death: firearm injuries. Despite or because of his honesty, the authorities sent the Anuradhapura JMO to Trincomalee to do the inquests into the killing of the 17 ACF aid workers seven months later. They further transmitted the case from the Mutur Magistrate, who showed a determination to investigate, to the Anuradhapura Magistrate. Such trifling with justice not only hurts minorities, but compromises the country's rule of law in a manner that eventually affects everyone.

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<sup>207</sup> Economic and Political Weekly, *Notes on the Military Presence in Sri Lanka's Northern Province*, 14 July, 2012





## Chapter 10

### A Barren Field: Colonisation and its Costs

*To disturb anyone in the actual and long possession of territory has in all ages been considered as repugnant to the general interests and feelings of mankind*

- Hugo Grotius, *De jure belli ac pacis* (The law of war and peace) Ch.4,  
1625 AD

*The present government's scheme is to settle [Sinhalese] along the Padaviya border and eventually form a line of Sinhala defence from Padaviya to Nedunkerni*

- Don Mithuna column, *The Weekend*, 2<sup>nd</sup> December 1984

#### 10.1 A Saga of Abortive Episodes

Lanka's ethnic discord presents its minorities with unavoidable and painful questions about their lives and dignity. It is impossible for them – for us! – to run away from these questions, and yet Rajani, with whom this book began, did not place ethnicity at the centre of the country's crisis. She saw political developments and ideologies of conflict primarily as our failure to free ourselves from the shackles of neocolonialism.

Faced with emerging discontent at subaltern levels, the older colonial elite relied on partners from the petit bourgeoisie (lower middle class) to prolong their dominance. Their politics advanced a millenarian vision founded on nostalgia, casting themselves in the role of saviours who would restore the glory of the lost hydraulic civilisation, while settling scores with traditional enemies of the 'race' – the minorities. The eclipse of the colonial elite in politics began with the communal violence of July 1983, in which the elite was complicit, and came to a head in 1987.

The Rajapakse regime (2005–2015) was a conglomeration of parties that sparked off the Southern internecine violence of 1987 through belligerent opposition to the political settlement of the Indo-Lanka Accord. The assortment then included the SLFP, MEP, the forerunners of the JHU, and the JVP; the latter then engaged its other allies in a tryst with death – purely over power. These players are bound by nothing more than their anti-minority stance. By contrast, what remains of the Lankan left continues to try to work across ethnic lines to challenge neoliberal economic policy. On the uses of communal aggrandizement to push neoliberal reforms, an India-based commentator communicated the following:

“Narendra Modi's ‘Gujarat model’, which he wants to foist on the whole of India, is very much like this: Viciously neoliberal policies that favour industrialists but pauperise and dispossess large numbers of Hindus,

which combined with Hindu nationalism that gives the Hindu petit bourgeoisie and lumpen proletariat a sense of power that comes from the brutal treatment meted out to minorities, especially Muslims; lauds him as the saviour of the Hindus from these minorities who are supposedly trying to destroy them. How one responds to this is extremely important, and Tamil nationalism is as self-destructive as Muslim extremism is in India. United resistance across communal lines is the only way forward – which is no doubt why the Frontline Socialist Party (FSP) is being persecuted so badly.”

The Indian Left, although better organised, faces an uphill task. The main trend associated with neoliberalism is the transformation of the economy and financial institutions to facilitate large inflows of foreign capital, either as loans to the government and local banks, into shares of formerly public companies or into investment in tourism. The only security the country can offer the lenders, is its land and natural resources. A government that borrows, and that to waste on its cronies, invites colonialism in a new guise. Most loans from China are insured against repayment with a Chinese state-owned company (FN.216), which pushes up the cost of borrowing. It marked a radical shift in our largely self-contained financial institutions.

## 10.2 Lanka's Liberalisation Experience

**10.2.1: War Against Minorities as the Tradeoff:** Moves towards trade and exchange rate liberalisation in Lanka came about because people were tired of shortages and queues and voted for change in 1977. Jayewardene liberalised trade selectively (while freeing imports on items as chillies and onions produced in the North it protected the Southern farmer who produced rice and potatoes). And contrary to neoliberal orthodoxy, it expanded the state sector by canvassing massive loans in the name of infrastructure development (Dunham and Jayasuriya<sup>208</sup>).

But we had wide choices in how we liberalise. In Lanka, the measures were enforced in such a way as to reinforce class hierarchies that determined privilege and existing patronage networks on which governments depended for their survival, while those left out faced bleaker prospects. The result was the State's increasing reliance on coercion.

In retrospect, the outcome of this borrowed expenditure was to flatter Sinhalese egos and reward patronage networks by creating white elephants. Thus Patrick Peebles says of Jayewardene's Accelerated Mahaveli Development Programme begun in 1977 (AMDP) in the *Journal*

<sup>208</sup> David Dunham and Sisira Jayasuriya, *Liberalisation and Political Decay: Sri Lanka's Journey from Welfare State to a Brutalised Society*, <http://repub.eur.nl/res/pub/19097/wp352.pdf>, October 2001

of *Asian Studies* (Feb.1990): “[The UNP government of President Jayewardene] consciously evoked a Buddhist past in which the Dry Zone provided resources for a cultured civilisation. Officials of the Accelerated Mahaveli project appealed directly to this mythical past in which Tamil Hindu Invaders were hated enemies, to mobilize Sinhalese Buddhist support.”

The World Bank and other donors tolerated the Government’s chauvinistic pomp and exacerbation of social and communal cleavages for the sake of the ‘reforms’: *“If there were to be some tampering with a central aspect of the welfare state (subsidised rice), there had to be an alternative program which caught the imagination of the people. The accelerated Mahaweli was the centrepiece of that alternative vision. In the Government’s political judgment, if the Bank wanted to provide effective support to the radical policy change, it needed to support the Mahaweli* (World Bank 1986, Report 6074, in R. Venugopal<sup>209</sup>).” The World Bank later admitted diplomatically that it was a dead loss:

“The funding of the AMDP was a very controversial issue in the Bank, particularly because it occurred ‘before the full engineering and economic studies usually required by the Bank were available’ (World Bank 1986). A 2004 review of one of the largest of the World Bank’s six Mahaweli loans downgraded the project outcome rating from ‘unsatisfactory’ to ‘highly unsatisfactory’, describing how the development effectiveness of the scheme was ‘extremely limited’, and how the incomes of resettled farmers have declined over time, with mean incomes now below the poverty level (World Bank 2004).” (Venugopal, *ibid*)

President Rajapakse (2005 – 2015) carried Jayewardene’s inspiration to a new extreme. The AMDP gave us at least hydropower. Rajapakse’s innovation is frankly what we may call ‘White Elephant Economics’. Even though his government launched costly irrigation projects, there is no possibility of adequate water to ensure that the Sinhalese settlers it hoped to plant in the North would make a tolerable living. It is all about the Mahaveli Authority and the Irrigation Department conjuring up water on paper to create formal pretexts for Chinese credit. The so-called beneficiaries are unwanted, destitute Sinhalese to be swept under a military carpet in the North and rendered politically sanitised.

This is the ultimate legacy of neo-liberal economics in the Lankan context. It was not pre-ordained, but rather a manifestation of local decadence. Nevertheless writers on Lanka have marvelled at Lanka having been a forerunner of economic liberalisation for three and a half decades and make the curious point that this course was rendered easier by the war

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<sup>209</sup> <http://personal.lse.ac.uk/venugopal/Chapter%204%20Rajesh%20Venugopal.pdf>



which opened up new avenues of patronage. The question that comes to mind is what have the 'reforms' got to show after three and a half decades?

We have largely run down quality free education that opens the door to newer forms of economic activity and more equitable investment that would fit the unemployed rural youth to rise above the level of menials. **Compared with the 5.2 percent of total government expenditure on education in Sri Lanka, Tamil Nadu spends 12 percent, Kerala 14.6, Singapore 18.6 and Malaysia 21.6** (2012 figures, Appendix 8).

The end result is that even postwar we are hooked on to the war economy, warring with spectres of insurrection with soaring zeal, with little prospect of healthy investment to provide decent, sustainable employment. In place of demobilising a bloated Army, it has been turned virtually into an official mafia further impeding the economy.

Neo-liberal economists repeatedly told us to bear with the inconveniences of today and wait for a new dawn. After more than a generation alas, that dawn eludes us. Even more bizarre is our deepening addiction to white elephant economics – a formula for enrichment of a few and to sweep potential trouble makers under a military carpet. The latter would at best become a cheap source of menial labour for cash crops.

Rajani's political task was to break out of this vicious cycle and to unmask hypocrisy. In the spirit of her work, this chapter examines present trends in Lanka's colonisation (transmigration) schemes. An influential lobby of elite actors clamours vigorously for the State to brandish its power and repressive apparatus to Sinhalise the North-East, which their scholarship claims was lost to invaders and interlopers (Ch.13 of *Arrogance of Power*). But in reality they are no more than pied pipers.

**10.2.2 The Legacy of Irrigation Schemes:** Investing the country's development resources in building massive irrigation systems yielding extremely poor returns, placed the money where the intended beneficiaries were far few in number. The majority were excluded without hope, while the country headed towards insolvency. Paradoxically, for several decades after independence, it was the disenfranchised and despised Indian Tamils who, from their tea and rubber produce, kept the country afloat.

Against this backdrop, President Jayewardene moved to open up the economy and dismantle the welfare state as the new magic formula for growth and the inflow of donor credit. 'Reforms' that were bound to impoverish and unsettle a large section were veiled behind obscurantist ideological fervour and a hard line approach to the Tamil question.

Driven by economic reforms, the welfare state experienced a steep decline in such areas as education and health; nevertheless, the state sector

expanded owing to large development projects such as the AMDP (e.g. Dunham and Jayasuriya op. cit.). This injection of funds enabled the rulers to consolidate themselves with huge patronage networks.

The ensuing civil war became a new source of patronage by drawing unemployed rural Sinhalese youth particularly from Amparai, Trincomalee, Polonnaruwa, Anuradhapura, and Moneragala into the security forces. The same areas were leading 'beneficiaries' of earlier colonisation schemes, where agricultural incomes were shrinking. The 31 percent of youths in the age group 18 – 30 from these areas who are unemployed, would have risen to 43 percent if not for jobs in the security forces (Venugopal<sup>210</sup>).

**10.2.3 Irrigation: Doomed Dependence:** Irrigation-based settlement '*was the major plank of Sri Lanka's agricultural development policy from Independence up to 1975, absorbing by far the greatest part of our non-export agricultural development budget at that time*' (L.C. Arulpragasam, *The Island* 29.Dec.2012). But in fact, irrigation-based settlement absorbed only 6 percent of the annual increase in the work force. Its returns (after taking costs into account) were at best 67 cents on a rupee over 50 years. Imported rice from Burma cost about half as much as that locally grown, which had to be subsidised by the Government. Other costs included underutilisation of loans and long delays in construction.

In 1960, on the initiative of Felix Dias Bandaranaike, Minister of Finance and Planning, Arulpragasam, a senior civil servant, met Prime Minister Mrs. Sirimavo Bandaranaike. She asked, "*Mr. Arulpragasam, I understand that you are saying that our colonisation programme, our main development programme, is wasteful and uneconomic. How can this be?*" Arulpragasam explained, recommending lower costs by slowing down alienation of land and settlement (extensification) and taking measures to raise efficiency (intensification). C.P. de Silva, Minister for Agriculture, Lands and Power, virtually vetoed this in 1962.<sup>211</sup> Two years later, when Mrs. Bandaranaike tried to move de Silva to another ministry and carry out the reforms, he and his supporters crossed over to the UNP opposition and brought down the Government.

C.P. de Silva, from a marginal Sinhalese caste of fairly recent South Indian antecedents, was identified with dry zone colonisation for much of 3 ½ decades, as a civil servant from the mid-1930s and then as Minister. One

<sup>210</sup> Rajesh Venugopal, The Politics of Market Reform at a Time of Civil War: Military Fiscalism in Sri Lanka, *Economic & Political Weekly*, 3<sup>rd</sup> December, 2011 vol. xlvi, 49

<sup>211</sup> L.C. Arulpragasam, Planning and Implementation of Irrigated Colonization Schemes in Sri Lanka (1950-1970), *The Island* 29 Dec.2012: "...all the Cabinet Papers from the Ministry of Agriculture and Lands (up to 1965) requested more funds in order to clear more lands so as to obtain this same low yield of 40 bushels an acre, which automatically made these schemes uneconomic."



infers that he saw his way to the top job by championing extreme Sinhalese ideology through land colonisation and thereby creating a power base through new electorates. His tenure saw the appointment of Sinhalese government agents to the majority Tamil-speaking districts of Trincomalee and Amparai – a move aimed at facilitating Sinhalese colonisation.

In the 1940s and 1950s, colonisation may have been attractive for another reason – fear of a left-government in parliament. Many of the colonists then were drawn from caste groups in the South where the Left was politically strong. Being uprooted and transplanted as government protégés, cut them off. In fact C.P. de Silva's uncle, Colvin R. de Silva, was then a key figure in left parliamentary politics. Such is the myopic vision of petit bourgeoisie politics that once transplanted into disillusionment and further poverty, these colonies became hotbeds of JVP insurgencies in 1971 and 1987.

When the older irrigation schemes were launched, there was acceptance that they were genuinely a developmental exercise. By 1969 Prime Minister Dudley Senanayake had who had earlier challenged Arulpragasam's findings found, from a study he commissioned, that the return on investment in the much vaunted Gal Oya scheme was a mere 58 cents in a rupee over 50 years (FN.211).

The same trends were evident in the Accelerated Mahaveli Programme (AMDP) implemented from the 1970s. Ariya Abeysinghe, a project official in his book on the AMDP (Centre for Society and Religion, 1990), wrote of systemic poverty, where farmers unable to make ends meet or repay loans, effectively ceded their lands to a new entrepreneurial class among the settlers, becoming in effect, labourers on their own land. The writer strangely described this accumulation of land from pauperised counterparts as '*intensification of land use and higher output*.' By 1990, this fate had overtaken nearly 40 percent of the farmers settled in the 1970s.

A revealing aspect of colonisation is the near exclusion of Indian Tamils from benefits under the Land Development Ordinance of 1935. The Indian Tamils could then theoretically qualify after five years of residence. But the Indian and Pakistani Residents Citizenship Act (1948) even went on to exclude Indian Tamils who became citizens by registration from land benefits, particularly during the colonisation drives in the North-East;<sup>212</sup> so

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<sup>212</sup> Jawaharlal Nehru had raised concerns about the status of citizenship that would be conferred on persons of recent Indian origin. On 17<sup>th</sup> August 1948, on the eve of the first citizenship bill being debated in Parliament, Senanayake responded to Nehru that 'benefits under the LDO are confined chiefly to the poor and landless Ceylonese. The Indians were all employed and their inability to be eligible for land was only of academic interest' (W.T. Jayasinghe, *The Indo-Ceylon Problem*, p.110).



much so that the Government reacted harshly to Indian Tamils who were driven to the North-East by violence and near famine in the 1970s.

**10.2.4 China and Rajapakse's White Elephant Economics:** Mrs. Bandaranaike who succeeded Senanayake in 1970 avoided the grandiose and concentrated rather on increasing agricultural production (which was later undermined by Jayewardene's open economy). Her daughter President Chandrika Kumaratunge<sup>213</sup> (1994 – 2005) reserved the Moragahakande scheme that was part of the Mahaveli Plan to top up water shortage in the neighbouring Mahaveli Systems in Anuradhapura District – the shortage resulting from the prioritisation of hydropower in the AMDP.

There was hardly any water to do more. But particularly after the end of the war in 2009, Rajapakse wanted to use the Moragahakande scheme to revive the abandoned NCP Canal to carry water to the North for large scale Sinhalese settlements, a relic of Jayewardene's legacy in dealing with Tamil political demands (Ch.20, *Arrogance of Power*).

The Rajapakse government's model to raise money was derived from Jayewardene's scheme. Projects became patently a pretext for massive loans to feed his patronage networks. He unabashedly used his patriotic cover as the vanquisher of the LTTE to advance market reforms aggressively. As regards Sinhalese settlement, his model was drawn from C.P. de Silva. Settlement meant the dispersal of pauperised Sinhalese peasantry as military protégés (to create tame new electorates!), and to hobble Tamil activism at the root.

If Moragahakande water is used as President Kumaratunge intended, to increase cropping intensity<sup>214</sup> of Mahaveli lands in Anuradhapura District, from 1.55 to 1.85, it would lead to genuine production and some relief of distress. By overstretching the small amount of water and establishing settlements that were bound to run dry, Rajapakse was going to produce only misery for the unwanted Sinhalese dispersed under military supervision as a guard against the tendency to rebellion evidenced in Gal Oya, Moneragala and Kantalai settlements in 1971 and 1988. There is however an object lesson from C.P. de Silva's electoral defeat in Polonnaruwa in 1970 – a protest by those left out or impoverished.

Unlike earlier large irrigation projects, where disillusionment took time to settle in, Rajapakse's creations are naked white elephants, starting with the harbour and international airport in his home district of Hambantota. The problem was money. Lanka's position was much weaker than in the 1970s.

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<sup>213</sup> Kanishika Goonesekera, "Moragahakanda at what cost?," *Daily Mirror*, 2 Jun.2007

<sup>214</sup> A piece of land usually allows two seasons of cultivation. If x percent of the land is cultivated in winter and y percent in summer, the cropping intensity would be  $(x + y)/100$ .

Most funding agencies insist on feasibility reports and the World Bank was wary, particularly after local protest over environmental destruction and the displacement of over 200,000 people forced its pull out from the Sardar Sarovar dam project on India's Narmada River in 1993.

About the year 2000, the Japanese offered to fund a coal power station and the Moragahakande dam project. Japan pulled out of the coal power project in Nuraichcholai consequent to the strong local protest. The Australia-based company SMEC International was commissioned to study the feasibility in particular of the NCP Canal. Its report (IAR<sup>215</sup>) released in October 2010 stated: *"At present the cropping intensities in System H, IH, MH and D1 are below 2.0 and there is thinking whether we should firm up these existing irrigation areas before we try to develop new lands. The decision in this regard has to be resolved as it has more social and political implications than technical."* The indirect message was, drop it! Japan, which was to sign an agreement for a loan of USD 225 million in early 2011, pulled out of the project.

**China:** It was at this time that China expanded its loan commitments in Lanka to become the Government's ideal lender and funded the white elephants in Hambantota and the fitful coal power station in Nuraichcholai.

China's calculation is simple. Threatened by a domestic financial meltdown owing to a high ratio of non-performing loans, China's loans to Lanka go into the books as good credit. As Lanka has never defaulted on repayment, it helps to improve the rating of China's banks. It looks deceptively easy in the short term. The West and the World Bank would remain indifferent to such waste as long as Rajapakse goes ahead faithfully with 'reforms'. But whenever international agencies write down Sri Lanka's credit rating, it will undermine China's comfort with Lanka (see Appendix 6).

**10.2.5 Military as Official Mafia:** China's role in the Moragahakande and Yan Oya irrigation projects, its building in the North military establishments on pilfered and common lands, besides phony irrigation schemes, has made it a major player in the militarisation of the North-East.<sup>216</sup> **Government military expenditure (excluding Police)**

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<sup>215</sup> Initial Assessment Report – Updated Mahaweli Water Resources Development Plan, SMEC International Pty Ltd. in association with DHI Water and Environment (Denmark), Ocyana Consultants, Sri Lanka and Project Management Associates, Sri Lanka, Oct.2010

<sup>216</sup> The Government has awarded several contracts to Chinese firms on 'unsolicited proposals', which lack transparency and did not pass through normal tender procedure and competitive bidding. The bulk of the costs are loaned by Exim Bank of China. Examples are Trincomalee's Outer Circular Road (USD 259 million), High Altitude Sports Complex in Nuwara Eliya (USD 115 m). Cost overruns and delays would force additional loans: The contract package for the Colombo-Katunayake Expressway was revised from USD 292 m to USD 337 m. Most projects also have



**stood at 10 percent of the total from 2013 to 2015, compared with 6 percent in India and Malaysia. (Police took 2 percent of the total, Appendix 8.)**

Chinese loans, defence purchases on Chinese credit, and the astronomical defence budget in peace time are means by which patronage is extended to the Military. A disturbing indicator of collusion between the Military and crony businessmen is the former opening fire at Sinhalese civilians in Weliveriya protesting against the poisoning of their drinking water by a glove factory, on 1<sup>st</sup> August 2013, killing three.

Important from the standpoint of patronage is placing of the Urban Development Authority (UDA) and the Land Reclamation and Development Board, which supervises the sale of government land, under the Defence Ministry. It involves taking over prime real estate, mainly lands of state establishments, and acquired lands and converting them to capital assets and luxury apartments. When the Defence Ministry, with its notorious contempt for the law, facilitates activities of international developers and casino magnates with huge capital, and besides, deals with compensation claims of locals whose lands have been 'acquired' and 'resolves environmental impacts' of projects it deals with, there is a multiplicity of conflicts of interest. A left commentary on the ramifications of using military coercion to evict shanty dwellers and pavement hawkers for land acquisitions, observed: *"Just as the shanty dwellers were denounced as "criminals" for opposing the destruction of their homes, so too workers will be branded as economic saboteurs and traitors for seeking to defend their jobs and living standards."*<sup>217</sup>

The Defence Ministry's assumed powers in land acquisitions inevitably subverts legal accountability, which involves consultation, adequate notice with compensation and the observance of the public trust doctrine. An example is the Secretary of Defence sending letters to villagers in Dambulla in 2012 telling them to quit their homes owing to the purported creation of a sacred area. Kishali Pinto Jayawardene wrote (*Sunday Times* 28 Oct.2012), *"This is indeed unprecedented in as much as these land acquisitions target not those who are economically well off but those who are the deprived and the marginalised in the first instance, with full knowledge that few would have the resources to fight back...The letter requesting villagers to hand over their lands does not mention the section of a relevant statute under which the action is proposed to be taken...even though it vaguely mentions that alternative land will be handed out."*

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provision in the agreements that require Sri Lanka to insure (with a Chinese state owned insurance company) against repayment of the loans in question.

<http://www.sundaytimes.lk/130908/columns/amid-world-pressure-sl-loans-itself-to-china-61389.html>

<sup>217</sup> <https://www.wsws.org/en/articles/2010/05/sril-m13.html> ,

<http://www.wsws.org/en/articles/2013/08/02/sril-a02.html?view=print>



This implicit use of terror taints the entire State as a lawless entity to be feared. The same writer reported being told by a public officer from the South (3.Nov.2013), of the Government's acquisition of a piece of land purportedly for a hospital. He found later a luxury hotel being constructed on that land, taken for a song. The owner, a small time businessman, 'was too scared of the authorities to engage in any protests.' One is left feeling distinctly uncomfortable when litigants challenging an action of the security forces, abruptly throw in the towel.<sup>218</sup>

The licence given to this coercive apparatus will cripple the economy through *rent extraction*. The Military has emerged as the official mafia; and its role as the cornerstone of development, skews our priorities towards construction, tourism and entertainment that enrich a few in the short term, leaving the future of the masses debt-ridden and bleak. Its relevance to the rulers' agenda is pelf and control – one of the aims of colonisation of the North-East as explained earlier.

Another area of military intrusion is no less sinister. Student politics has traditionally been left-oriented, anti-establishment and regarded hobnobbing with the security forces an anathema. This is healthy in a democratic society. From the start those who valued education as a means to nurture free minds versed in the art of reason and debate, felt very disturbed when the Ministry of Higher Education far exceeded its remit in forcing university entrants to undergo 'Leadership' training in army camps since 2011. It misrepresents the woes of our universities that are increasingly noted for sadism and whose rankings are slipping disastrously behind.<sup>219</sup> The real purpose of the training is increasingly visible now. Colonisation is just one strand of militarisation.

Many Sinhalese university students have been sent to the North-East under an abnormal militarised setting, where the Army has in recent times spied on and attacked Tamil students with suspected nationalist leanings. On the other hand groups like the Frontline Socialist Party that seek common ground across communal barriers have been persecuted brutally by the State in the North. The Army has hosted university students from the South on trips to the former war zone in what amount to victory tours of former LTTE sites. The end result has been to brainwash many Sinhalese students and erect a barrier between them and students from the minorities. At the same time the Defence Ministry resolutely persecutes left

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<sup>218</sup> Monte Carlo Garment Pvt. Ltd. in Wattala withdrew its Court of Appeal petition seeking an order to prevent the Defence Ministry from digging or removing soil from a plot of land belonging to it...but declined to give reasons for the withdrawal – *Sunday Times*, 8 Sept.2013.

<sup>219</sup> <https://www.colombotelegraph.com/index.php/sri-lankan-universities-in-dire-straits/>

activism in universities in the South – particularly against World Bank, IMF and ADB-prompted moves to privatise education.<sup>220</sup>

The Peradeniya University Teachers' Federation (15 May, 2013) described the experience of student leader Janaka Madushan: "[Security men took him] to an empty room above a shop where he was interrogated and told to refrain from engaging in union related activities. If not, they threatened, he would meet the same fate as Mr. Janaka Bandara, the Kelaniya University union leader who was killed in a roadside accident last year while engaged in a protest march."

The moves focus on the one purpose of suppressing mainly Sinhalese dissent behind the cover of the Tiger-bogey. There are limits to a government buying survival by disbursing patronage on borrowed money and distorting the economy through rent extraction.

### 10.3 Failures of Irrigated Settlements

Coming to colonisation schemes themselves, one notable drawback is the large population that is left out. Often people at the tail end of irrigation schemes find themselves without water. The late Mahee Wickremaratne, a civil servant who worked on the Gal Oya and Mahaveli projects, felt disturbed enough to tell this author in 1995 that the Gal Oya project concentrated its resources on the settlers to the neglect of the local Tamil and Muslim villages and the old villages of Sinhalese who settled down there after the Kandyan rebellion of 1818.

In the North Central Province, while 40 percent of the population is covered by layout irrigation systems, 50 percent live in old (*purana*) cultivation areas. While 80,000 hectares (ha) of rice land depends on Mahaveli water sufficient for 50 000 ha, 85 000 ha of paddy land lies outside the Mahaveli system with 245,000 ha of Chena lands mainly around small tank cascade systems (Sakthivadivel *et al*<sup>221</sup>).

Pressing the poor into settlement schemes with declining incomes and water availability has perpetuated poverty in generational waves. The late Lalith Athulathmudali and Gamini Dissanayake told the Tamil leaders in 1993, as related to this writer by the late A. Thangathurai, that colonisation was no longer a political option because there is no more water. Even where water was available there were costly engineering errors.

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<sup>220</sup> Lakshman Punchi, <http://www.norrag.org/en/publications/norrag-news/online-version/targets-in-education-training-off-centre/detail/globalisation-and-development-the-politics-of-educational-reforms-in-sri-lanka.html>

<sup>221</sup> R. Sakthivadivel, C.R. Panabokke, C.M. Wijeratna, Nihal Fernando, K. Jinapala, R.B. Bandula Sirimal; Pre-Project Technical Assistance Study for Proposed Area Development Project of North Central Province, Prepared for RII&H Consultant/ ADB, 1995



An experienced irrigation engineer sensitive to the ethnic issue told us that a key problem is to do 'with the infamous mcms (quantities of water in mega cubic metres) that led to the failure of most of the irrigation projects the world over. The volume of water from a reservoir is easy to measure and regulate, but the problem everywhere is the **totally fictitious rainfall and river flow data in rural areas.**' He added:

**"If you take Uda Walawe and Lunugamwehera (Kirindi Oya) irrigation projects in the South, you completely leave out the ethnic issue and you can easily show how technically incompetent and socially incoherent designs created these really sick white elephants. Mind you, these were designed by Sri Lankan 'experts'." The writer contended that foreign consultants brought in by the donors simply work on the technical data provided by the Government, and being indifferent to the politics underlying these projects 'provided battle drawings' for the [ethnic] 'chess games' of corrupt local rulers. Their impact on supposed beneficiaries, he described as 'infrahuman'.**

As to recent schemes, take Moragahakande. The consultant Lahmeyer earlier estimated the inflow into the dam site at 963 mcm. Later the Melbourne-based SMEC reduced the estimate to 700 mcm (IAR *op. cit.*). The difference is large and critical for the intended beneficiaries far away at the tail ends as Padaviya and Weli Oya. After being settled, the people will be confronted with water scarcity. Estimates from available rainfall data in near locations and topography are prone to large errors, and are part of the game of engineering.

#### **10.4 Colonisation Schemes: The Parakramabahu precedent**

Perhaps the most penetrating comment on the schemes involving large tanks, colonisation and an authoritarian state comes from the *Culavamsa's* account of the close of the reign of Parakramabahu (1153-1181 AD), the model for post-independence rulers of Lanka: "*When [Vijayabahu] had received consecration as king, the prudent one in his great mercy released from their misery those dwellers of Lanka whom his uncle, the Sovereign Parakkama, had thrown into prison and had tortured with stripes or with fetters. By restoring at different places to various people their village or their field, he increased the joyfulness of them all (Ch. LXXX, 2 - 4).*"

*Culavamsa's* abrupt admission of repression follows gliding evasively over the closing years of King Parakrama, whom modern publicists credit as the unifier of Lanka and the bringer of unprecedented prosperity. The resemblance to modern Lanka is not diminished by the rebellions Parakrama put down brutally, including formidable ones in Ruhuna (South) in 1160 AD and in the North, 1168 AD. At his passing, the country



flipped into a tailspin of succession struggles. Thirty years later it broke into a kingdom in the North and several semi-independent chiefdoms in the East, even as a monarch in Kotte made weak claims to being the ruler of Lanka. Ruhuna, once the country of kings, subsided into a sullen non-entity, to rebel again twice at great cost in the 20<sup>th</sup> Century.<sup>222</sup>

*Culavamsa's* confession of Parakrama's repression, in conjunction with two sentences on Padaviya from S. Arumugam's *Water Resources of Ceylon* (Water Resources Board, 1969, p. 276) gives us a fair indication of the strains that brought an end to the Hydraulic Civilisation of Ceylon: "*Padivapi was enlarged and put into good order by Parakrama (1153 – 1186). Nissanka Malla (1187 – 1196) decreed Padivapi a sanctuary for animals.*" The two events, about 30 years apart, strongly suggest that the depopulation of Padaviya was under way during the reign of Parakrama itself. Has the recently restored Padaviya, bearing the ideological burden placed upon it, fared any better?

### 10.5 Waters of Wrath: Summary of Current Trends

The hidden aspect of colonisation of the northern and eastern areas of Lanka, which the rulers strive to hide, marks clearly its character: the defrauding of Sinhalese peasantry after flattering them. The first Prime Minister D.S. Senanayake cast on settlers in Padaviya, the heroic aura of the '*last bastion of the Sinhala*' – a call to resist the proverbial Tamil invader. The Padaviya farmer paid a high price for this unsolicited honour.

Padaviya today faces a cropping intensity (FN.214) much below 1.0, signifying dire poverty. Several governments have promised them water. However, water from the new scheme in Moragahakande is to be used only marginally to relieve distress in the Padaviya region – to raise the cropping intensity to 1.0 at best. The bulk of the water is destined for planting ideological pawns on the Line of Sinhala Defence in Weli Oya (10.8).

The manner in which the settlements have outstripped water availability would mean that within an even shorter space of time, the new Sinhalese settlers would be in the same straits as earlier Padaviya settlers. Is it merely a coincidence that Padaviya is the worst hit by the scourge of chronic kidney disease that continues to mystify?

The End Note to this chapter deals with the Iranamadu and Giant's Tank Systems, which shows that the bogus promises behind which the Government tries to press pauperised Sinhalese into commandeered lands

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<sup>222</sup> The question of continuity must be treated with caution, as one would the composition of England today with that of Roman Britain. The 20<sup>th</sup> Century rebellions in Ruhuna were dominated by caste groups of more recent South Indian extraction – which were part of the continuous stream of migration from that quarter that underpins today's conflict over identity:- viz. the anthropological writings of M.D. Raghavan.

in the North-East, could lead to conditions of famine during years of low rainfall (see Ch.9.7.3 - 4). The Safety Factor is a hallowed concept in Engineering. Here even engineers appear to be complicit in driving humans to extremes of want by designing political human settlements on widely flawed data and poor analysis.

The Environmental Foundation pointed out that the heavy investments the Government makes on Chinese credit are highly destructive of the environment while accomplishing little of value even for Sinhalese: For example the Yan River reservoir would destroy 4000 ha of agricultural lands, 1400 ha of forest and 240 water bodies, while purporting to open only 650 ha of new land locally for cultivation.

Fake development using Sinhalese hegemonic symbols, adversely affects all concerned. Both the Sinhalese and Tamils would eventually be pauperised. Our planners do indeed create lots of water on paper and fragile new settlements threaten to destabilise settlements as a whole. For example, water from the Moragahakande scheme, which was in 2000 promised to relieve distress in System H, is now to be diverted to open up Sinhalese settlements in Manal Aru-Weli Oya.

Behind the madness lurks the spectre of control. On home ground, Sinhalese peasants displaced for the Moragahakande scheme have protested and clashed with the Police over compensation. Tamils whose lands the Military appropriates, in complete defiance of the law, are on the other hand terrorised and silenced. Destitute Sinhalese planted in the North would be absorbed into the network of military patronage, killing two birds with one stone – silencing both the uprooted Sinhalese and the battered Tamils. The Mahaveli Authority has promised Sinhalese settlers 1 ½ or two acres of land (against 2 ½ acres for earlier irrigated settlements). Landless Tamils in the North are entitled to only ¼ acre.

Finally, the Sinhalese colonists originally settled with much fanfare have remained an embarrassment to be swept under the carpet. In their misery, they join the minorities in the North-East and Colombo's urban poor being expelled by force. The Government's commitment to the social upliftment of the poor is reflected in its shamefully abysmal expenditure on education; while cramming an underclass into small plots of land at huge expense. Those left out inevitably undermine the tenuous water arrangements.

Calls were repeatedly made to firm up existing settlements before moving on to new. The current wisdom is to create new settlements and turn the back on earlier ones. There is no thought about economic returns. Profit is the return the farmer makes beyond what he needs to live on – unthinkable with low cropping intensities on meagre lands.



**The problem of extending settlements is tied up with hydropower.** Over-extended settlements would pressure the Government to curtail water sent for optimum power generation at Victoria Reservoir and release it to save a few settlements. Ironically, hydropower, which generates about 40 percent of Lanka's electrical energy, represents one of the last vestiges of national sovereignty. It is completely our own. The first Chinese-built coal power station at Nuraichcholaï commissioned in 2011, had by mid-2013 to be shut down over a dozen times.<sup>223</sup> Local engineers have through the media charged the Chinese with manoeuvring to take ownership of the station in lieu of loan repayment, giving China in effect overall control of the national grid. With India set to build another coal power station in Sampoor (Ch.8.10), intrigues will worsen.

Like colonisation schemes, coal power is another instance of failure to build a national consensus. The site considered ideal by many experts was Mawella east of Matara, which provided a landing site as well as river water. It was shifted to Nuraichcholaï after protests in Matara that coal power would turn the region into a polluted desert. The Government lied about the purpose when it surveyed an alternative site in Nuraichcholaï, a Muslim and Christian area, leading to police firing at protesters. The Government had its way, but was forced to sign an agreement not to tap ground water from the farming neighbourhood, but to use water from a desalination plant.

**Sampoor:** Trincomalee with its port facilities and water from Kantalaï reservoir was another option. The decision to establish a coal power station at Sampoor was made purely in the context of the Tamil civilians being shelled out in 2006. Sampoor, now a high security zone, is an agriculturally rich peninsula of 56.4 square miles. Those displaced from arable acres of watered land would at best get a tiny fraction far inferior.

To add insult to injury, the Government has leased out 97 square kilometres (37.5 sq. mi.) of land in Sampoor as a special zone for heavy industry<sup>224</sup> to a crony of the Rajapakse family (Ch.8.10). Such zones are normally sited on a river bank. From where it would get the vast quantities of water needed is a mystery. This has become the hallmark of Sri Lankan planning, which is frequently guided by malice rather than rationality.

## **10.6 Mahaveli Systems: The Precedents of 1958 and 1983**

The Jayewardene government's plans for crushing Tamil political demands through gerrymandering had matured by the time of the July 1983 violence (see the author's *Arrogance of Power*). The plan itself was partly an

<sup>223</sup> <http://www.thesundayleader.lk/2013/08/18/norochcholaï-shut-down/>, dailymirror.lk of 9 Oct.2013 reported that the plant scheduled to open on 22 Mar.2011 was delayed by an outbreak of fire on 24.Oct.2010 and faced further shutdowns from fires in Aug.2011 and 18 Jan.2012.

<sup>224</sup> [http://www.china.org.cn/world/Off\\_the\\_Wire/2013-06/21/content\\_29192380.htm](http://www.china.org.cn/world/Off_the_Wire/2013-06/21/content_29192380.htm)



overreaction to the settlement in the North-East of Indian Tamils displaced by starvation and violence in the 1970s. The Sri Lankan Navy first forcibly repatriated these Tamils to the Hill Country from Trincomalee in June 1983, after the security forces' communal attacks herded them into camps (*ibid.* pp. 81, 82).<sup>225</sup> Authorities looking to establish Sinhalese settlements in the North and East were making overtures to the Israelis, who were expert in such plans. On 21<sup>st</sup> July 1983, the eve of the anti-Tamil violence, Minister Lalith Athulathmudali announced in Parliament, "*In those days it was said that there was a Tamil majority in the North. But now it is different. The time has come that the majority of the Tamils must live among the Sinhalese.*" However, the opprobrium created by the overt communal violence of July 1983 threatened to disrupt these plans. Still, the violence was part of the Government's incoherent character.

The apparatchiks in the Mahaveli Authority intent on pushing Sinhalese colonisation, panicked. Spurred by rumours, they feared that Tamil hordes were grabbing lands in the Maduru River Basin (Mahaveli System B). (In fact, the same Tamils were being mercilessly thrashed.) The apparatchiks went overboard, taking a horde of Sinhalese to occupy Mahaveli project lands in the Batticaloa District pre-emptively. With little to live on, the rains flooded the hapless Sinhalese off the land. Coming so soon after the July 1983 violence, it defied common decency.

But Jayawardene was not ready to let the settlement plans go. He revived them covertly, with help from his son Ravi, who joined him from Australia soon after July 1983. Their land operations came under the purview of Joint Special Services Operations (JOSSOP), set up in Vavuniya in early October 1983. Navy Commander Asoka de Silva led the initiative, and the second in command was D.J. Bandaragoda, Additional Secretary Mahaveli Development and former GA Trincomalee (*Arrogance of Power* Ch. 20).

Almost immediately afterwards, Hill Country (Indian) Tamils – who had been helped with livelihoods in the north by NGOs like Gandhiyam in the wake of the 1977 evictions and communal violence – faced a campaign of vituperation. A report in *The Island* on 7<sup>th</sup> October 1983 spoke of over 50 families of Hill Country Tamils (whom it mischievously categorised as stateless) to be evicted from 500 acres in Pavatukulam (Mahaveli System I) earmarked for settlement of 'landless persons' under a World Bank scheme. The land was permit land, like Manik Farm, held by Tamils.

The Mahaveli Act of 1979 (Sections 23 – 25), gave the Government draconian powers to acquire land in any area gazetted by the Minister as a Special Area (Section 3); which includes practically the entire Vanni. Hill

<sup>225</sup> The 1981 Census gives the percentages of Hill Country Tamils in the districts of Mullaitivu, Vavuniya and Mannar as respectively as 14.5, 19.6 and 13.0. The Census Department's Enumeration of Vital Events – 2011 gives the corresponding percentages as 0.9, 1.2 and 1.2.

Country leader Mr. Thondaman immediately protested against these evictions. Mahaveli Minister Gamini Dissanayake, raising the propaganda war to a feverish pitch, began purposefully talking Gandhiyam leader Dr. Rajasundaram back to life. (He had in fact been killed, having been a target of the cowardly Welikade prison massacre three months earlier.) Rajasundaram, Dissanayake said in the present tense, was in league with Mr. Thondaman, and they were aiding terrorists by settling Hill Country Tamils in the North. A Mahaveli official sent to the North on 10<sup>th</sup> October 1983 identified Kent and Dollar Farms in Mullaitivu, which had been settled by Tamils, as suitable places for settling Sinhalese taken to Batticaloa by the Mahaveli Authority and soon evicted by the floods.

Lalith Athulathmudali was made National Security Minister on 23<sup>rd</sup> March 1984. With U.S. mediation, an Israeli Interests Section was opened in the U.S. Embassy, formalising the Israeli presence. During the first week of May, Athulathmudali visited Manal Aru in the company of some journalists, Gamini Dissanayake and Vavuniya Police Superintendent Arthur Herath. The purpose was ostensibly agricultural.

At Kent Farm, the journalists, of whom T. Sabaratnam was one, were allowed to talk to the Hill Country refugees from the 1977 violence settled there. Sabaratnam records (in his book *Pirapaharan*): *"They told us that they were happy, as their incomes were high [having grown crops like ulunthu]. The entire area looked green and fresh. In June, those happy farmers were evicted. Herath first created the environment for their eviction. Stories were planted in the Sinhala- and English-language press that these farms were being used as terrorist hideouts. Then the Indian farmer families were herded into buses, taken to Hill Country towns and dropped [off] on the roads."*

Before eviction, these refugees had been a success story. They had grown alternative crops without irrigated water or state patronage. In the name of fighting terrorism, the Government destroyed that effort and the Gandhiyam leader, Dr. Rajasundaram. He and his wife Dr. Shanthi had come down from England after the 1977 communal violence to start Vavuniya Clinic and work among the refugees. The Mahaveli Authority, which took over Manal Aru, has singularly failed the Sinhalese it planted in the place of evicted Tamils.

At the time of the evictions from Kent and Dollar Farms, the President's son Ravi Jayewardene visited Israel from 21<sup>st</sup> June to 1<sup>st</sup> July 1984, where he saw *'all the settlements'*. In October, the Government hoodwinked Sinhalese from various state prisons into the Kent and Dollar Farms in Manal Aru – now renamed Monarawewa and Gajabapura – ***'to form a line of Sinhala defence from Padaviya to Nedunkerni...in the Mullaitivu District'*** (see Appendix 9, *Arrogance of Power*, 13.13,



The move resulted, as planned, in the displacement of Tamils by sporadic violence and rape. But it also led to the LTTE massacring 62 Sinhalese prisoner-settlers on 30<sup>th</sup> November 1984 and 11 Sinhalese fisherfolk in Kokkilai the following day, where the Government had proposed to build 1000 houses for Sinhalese. Large-scale military reprisals against neighbouring Tamils followed (Appendix 9, chapter end); more than 2,000 Tamil families affected have remained displaced. The Indo-Lanka Accord of 1987 halted the Government's depredations until, it appears, President Rajapakse, post-LTTE, saw it fit to revisit an old nightmare – one that originated in the ideological motif behind the colonisation project.

Prime Minister D.S. Senanayake told the Padaviya settlers in the early 1950s: *"You have been uprooted from your village. You are like a piece of driftwood upon the ocean; but... one day the whole country will look up to you. The final battle for the Sinhala people will be fought on the plains of Padaviya...Those who are attempting to divide this country will have to reckon with you...the last bastion of the Sinhala"* (Herman Gunaratne's *For a Sovereign State*, p. 201)

Sam Wijesinghe's book *All Experience: Essays and Reflections* (2001), recounts an election rally in Polonnaruwa in 1956, where S.W.R.D. Bandaranaike, Senanayake's rival, had *"unleashed a vibrant tirade that dug deep into issues of race and language"*. On the journey back to Colombo Senator M.W.H. de Silva QC told Bandaranaike, *"You have sowed the wind, our people have to reap the whirlwind."* Bandaranaike responded that they will cross that bridge when they come to it – a bridge too far as it turned out for Bandaranaike, an early casualty of the whirlwind, and his successors. By this time the colony areas were emotionally charged to accomplish their patriotic destiny, believing that attacks on the helpless, even expectant women and children, constituted heroic duty.

The violence in 1958 from the Padaviya colonisation scheme is captured in Tarzie Vittachi's *Emergency '58*, illustrating the endemic political licence to engage in violence: at that time. Police and army officers were paralysed as a mob baying for the blood of Tamils advanced on the Polonnaruwa Police Station, where the Tamils had taken refuge.<sup>226</sup> Even as the

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<sup>226</sup> H.N. Somadasa of Walapane, Udupusselawa, came to Padaviya at the age of 21 in 1956 as an irrigation employee. Following the communal violence which had been sparked off, he was remanded. Asked what led him to join in attacks on Tamils, he replied: "There were many Tamils employed on the scheme. A rumour was spread that Tamils were going to takeover the entire scheme. We became angry and attacked them. I later discovered that the rumour was false and felt ashamed". Asked who spread the rumours, he replied, "Why, the papers had them!" He, like the other employees of the scheme received land in Padaviya in lieu of gratuity. The violence ensured



whirlwind wreaked its havoc, Bandaranaike and his deputy C.P. de Silva, the local MP, stalled on declaring a state of emergency – until the Governor General did the following day – 27<sup>th</sup> May. Such was the fear of political victimisation that the army officer on the spot demanded and pocketed a written authorisation from the harried government agent, Deryck Aluwihare, before opening fire to disperse the mob.

The ideological imperative here is to use Sinhalese settlers as forward troops to occupy lands allegedly lost to the Tamil invaders and to create electoral power bases for their patrons. Their degradation condemned them to remain 'driftwood' for all time; as evidenced in the Sri Lankan Army's regular enticement of youth from failed colonies to fight the Tamil rebellion that its actions provoked.

Present colonisation policies show strong continuity with those of the 1950s. From the insider judgment of the engineer cited earlier, we may discern in the Mahaveli Plan of C.P. de Silva, the battle lines of ethnic aggrandizement. By its own depravity Tamil politics shunned openings between 1987 and 2005 to check these policies.

In assessing some of the current irrigation schemes, we recognise, as pointed out above that the estimates of water availability may be widely flawed, except where river gauge measurements are routinely made. We rely on available estimates only to show that even by these, the projects are thoroughly flawed – a case of politicised engineering.

**Basis for Estimates:** Water requirement for paddy cultivation in an area is determined by water duty: the height of water required in cultivation for a year or season. This admits wide variation: 2.08 m a year for Huruluwewa and 3.75 m for Kalawewa RB (IAR *op. cit.*). It is lower in older schemes where the ground has hardened and percolation is less. In general soils which are grumusols (clayey) have lower water duty (e.g. Giant's Tank) and soils that are alluvial (sandy, high percolation) have higher water duty (e.g. Iranamadu). More generally, we will use the water requirements in S. Arumugam (*ibid.*), p. 9: Winter cultivation 4 ft. (1.22 m), Summer 6 ft. (1.82 m).

**The ongoing Moragahakande Project** intends to supplement the estimated 700 mcm flow to the dam from Amban River, by tunnel flow from damming Kaluganga – estimated flow 208 mcm<sup>227</sup>. Allowing 250

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the exclusion of Tamils from the scheme. The few Tamils who remained were a dwindling lot. With reprisals sparked off by the LTTE's Kent and Dollar farms massacre of 1984, the small Tamil presence came to an end. The Tamils who survived the last incident were protected by their neighbours – UTHR (J), Bulletin No.4, 1995.

<sup>227</sup> C.M. Madduma Bandara, University of Peradeniya, in 'Issues in Environmental Impact Assessment of Large Scale Reservoir Projects in the Humid Tropics: The Case of Kalu Ganga at Laggala Pallegama in Sri Lanka', Kandy, Dec. 2006, International Conference of Water in the

mcm for residual flow in both rivers, the estimated water available from Moragahakande is optimistically about 650 mcm<sup>228</sup>.

### 10.7 System L: Buying Misery on Chinese Credit

After Japan pulled out of the NCP Canal project about the end of 2010, it was evident that the Malwathu dam project, which was earlier to receive water from Moragahakande through the canal, must stand alone.<sup>229</sup> Extra water for the Malwathu River has to come from the Polgolla diversion of the Mahaveli River, additional to the 875 mcm per annum already destined for System H. The Mahaveli flow at Polgolla is estimated at 2344 mcm p.a. (IAR), from which the balance of 1469 mcm is destined for hydropower generation at Victoria Reservoir. Initially System H was to receive 1270 mcm, which was reduced to 875 when in 1985 power generation was prioritised in the AMDP.

In place of the NCP Canal, water (FN.229) is presently to be sent from Malwathu Reservoir to Kokkavil (System K). Moragahakande water, one infers, is now meant to feed the proposed Yan-Wahalkada reservoir and System L through Hurulu Reservoir. *Asian Tribune* announced on 4<sup>th</sup> November 2011 that the Chinese Company CAMA was undertaking the Yan Oya Project (formally launched in August 2012) under which a large reservoir will be constructed at Angurugasweva across the lower side of the Yan River, water from which is to be diverted to another major reservoir in Padaviya, and from this source to Weli Oya for irrigation of 9496 hectares.

As early as 2009, the Mahaveli Authority used its draconian powers over land to fell forests illegally in the Kokkilai Reserve. The Green Movement of Lanka forced state officials to stop the felling and filed a fundamental rights action in the Supreme Court against the Mahaveli Authority, Environment Ministry, Forest Department and Timber Corporation for destroying 3,920 acres of forest in the Kokkilai Forest Reserve.<sup>230</sup>

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Tropics <http://www.docstoc.com/docs/23552801/Issues-in-Environmental-Impact-Assessment-of-Large-Scale-Reserv>

<sup>228</sup> Minister Sirisena: As it is, 725 million cubic metres of water [from Amban River] goes to waste and with the implementation of this project, it could be reduced to 225 million cubic metres (*Island* 27 Jan.2009)

<sup>229</sup> The Minister for Irrigation Mr. N.S. de Silva told *The Sunday Observer* (8 May 2011): "We are planning very large irrigation schemes for the North under the NCP canal scheme. Under this project, the excess water from Malwathu Oya will be taken to Vavuniya and to other Northern areas." The following year, he said "The NCP canal is taking water from the Malwathu Oya to the Iranamadu reservoir, irrigating lands between Anuradhapura and Iranamadu" (*Island* 1 Oct.2012). In the original plan for the NCP Canal (see End Note), it was to discharge water for Malwathu Reservoir from Kapirigama in the east and proceed northwards to Iranamadu. After the initial fanfare, nothing more was said about the Canal for over a year.

<sup>230</sup> <http://www.thesundayleader.lk/2013/04/14/mahaweli-authority-turns-forestlands-into-bare-lands/>



The official state mouthpiece, *Daily News* (22 May 2010), sought to mitigate the illegality by claiming that the deforestation is for resettlement of the 'displaced'. Ethnicity is not the only factor in this game of narrow loyalties. The Government wanted to relocate the Sinhalese Christian (RC) fishing community from Kokkilai into the newly deforested area so that the southern end of Mullaitivu could be turned into a Buddhist site. The Supreme Court ruled on 11<sup>th</sup> March 2011 barring the Mahaweli Authority from destroying any forestland for development work. It is such irritants of spasmodic judicial independence that led to the servile Parliament impeaching the Chief Justice.

Resettlement was just a blind for the pursuit of the 'Line of Sinhala Defence'. The land being cleared was on the boundary of Trincomalee and Mullaitivu Districts. Other actions under 'resettlement' conformed to this pattern. Displaced Tamils said in a petition to the President (see *Uthayan* 11 Apr.2012), that 656 owner-families who farmed 2,540 acres of land in Kokkilai, Kokkutoduwai and Karnattukerni have been denied access by Sinhalese with the backing of the Sri Lankan Army (see Ch. 9.2 & 9.6).

Notwithstanding the court ruling, Director General Mahaveli Authority, Gamini Rajakaruna, requested the Conservator General of Forests to release 12,900 hectares from the Padaviya Forest Reserve for a resettlement drive and development work by a letter of 27<sup>th</sup> March 2013. Pointing out that the request violates the court ruling; the Green Movement told *The Sunday Leader* that the land requested lies in the North Central Province where there was no displacement and whence, no need for resettlement. This order to clear the forest points to the planned settlement on 9496 hectares of new land reported by *Asian Tribune*, including rain-fed paddy lands to which Tamil owners have been denied access. It explains the Rehabilitation Ministry's figure of 121,140 persons (37,932 families) 'resettled' in Mullaitivu by 31<sup>st</sup> December 2012, suggestive of plans to raise the Sinhalese population in Weli Oya to 25,000 – 13,000 more than projected at the beginning of 2012.

The government plan is to complete what was left uncertain in 1984 – clear the Tamils out and militarise the area. The plan as appears is to clear the forest in the Ma River basin all the way to Kokkilai Lagoon. As in 1984, following the planting of prisoners in System L, life for Tamils in their remaining villages of Kokkilai, Amarivayal, Thennamaravady and Kokkutoduwai would become impossible, if it has not already.

### **10.8 Burning borrowed Fortunes on Pauperisation of the Peasantry**

Launching the Chinese funded Yan River project (USD 210 million) on 17<sup>th</sup> August 2012, President Rajapakse promised relief to farmers coping with cultivation intensities well below 1.0 (one season's cultivation), particularly



in the NCP areas of Kebitigollawa, Padaviya, Weli Oya and Madawchchiya. The promise was utterly misleading.

The plan is to dam Yan River about halfway between Horowapotana (50 percent reliable flow at 115 mcm) and the sea (215 mcm outflow) making available about  $\frac{1}{2} (115 + 215) - 30 = 135$  mcm of water for the reservoir, after allowing a modest 30 mcm for continued river flow. According to the 1969 Master Plan (IAR), the land to be developed in the Yan River scheme was 11,300 ha. Of the water requirement of 345 mcm, the balance  $210 = 345 - 135$  mcm was to come from the NCP Canal.

The water available from the Moragahakande scheme, also under the Chinese, is realistically about 650 mcm (see above). What remains from local demands (Matale and environs) was to be conveyed to Hurulu Tank along the first 21 miles of the original NCP Canal route. The double-banked canal will permit the siphoning off of water on both sides by desperate farmers. Meeting local demands in Matale and the NCP, including theft, would require at least 200 mcm. Farmers under Hurulu Tank have long been promised 45 mcm to raise their cropping intensity from 1.3 to at least 1.85.

If the old Master Plan were to be followed in land development, the water available for Padaviya (including Padavi Sripura in Trincomalee), System L, Kebitigollawa, and Madawachchi is at best  $= 650$  (from Moragahakande)  $- 210$  (Yan Oya Scheme)  $- 200$  (local demand)  $- 45$  (Hurulu Scheme)  $= 195$  mcm p.a.

The water requirement for System L in IAR is 985 mcm to upgrade 8100 ha of existing cultivated lands and open up 30,900 ha of new lands. To raise the cropping intensity in 8100 ha of old lands in Padaviya where the present cropping intensity is about 0.5 or so to a respectable 1.85 would require 197 mcm. That is what the old NCP canal project proposed doing besides developing 31,000 ha of new lands for round-the-year cultivation. The demands above would leave nothing for new lands in System L.

The Mahaveli Authority wanting 12,900 ha of forests cleared suggests more extensive settlement than the 9,496 ha reported in late 2011. 9,496 ha would require at least 290 mcm of water annually. The water demands above would not permit this – demands dictated by the golden rule to firm up existing settlements before embarking on new.

As disclosed by the Irrigation Ministry's additional secretary P.U. Wickremaratne<sup>231</sup>, the old scheme in the Master Plan sketched above is ruled out. What the new plan which prioritises the ideological Weli Oya settlement proposes is no more than to increase cropping intensity of old settlements in the region from 0.75 to 1.0. Ivan de Silva, Secretary to the

<sup>231</sup> <http://www.thesundayleader.lk/2013/06/30/yan-oya-reservoir-another-waste-of-public-funds/>

Ministry of Irrigation, admitted that the current situation was even worse: "With this project, the people in the Padaviya area can cultivate 3,000-4,000 hectares of existing paddy lands. For the past 20-30 years, these people could only cultivate 50 percent of existing paddy lands (*The Nation* 9 Jun.2013)." Besides, what a leader of the Padaviya farmers said along the same lines in 2007, suggests is severe environmental degradation underlined presently by chronic kidney disease.<sup>232</sup>

The current plan involving massive deforestation is further bound to degrade the environment and provide merely marginal relief for the distress of low cropping intensities in Yan Oya and Padaviya. Raising the cropping intensity of 8100 ha in Padaviya from 0.5 to 1.0 requires 49 mcm annually. This means all other claims on the water from Moragahakande, including water theft, the claims from farmers in Matale, System H, Huruluwewa etc. need to be met with 650 (water from Moragahakande) – 290 (Weli Oya) – 49 (Padaviya) = 311 mcm of water annually.

Expectations from Moragahakande far exceed capacity. Environmental degradation adds to the demand for water that cannot be met. *The Island* (3 Oct.2009) reported the complaint of 500 farmers in Gokerella that Hakwatunaoya tank had run dry owing to the wanton felling of trees. They demanded water from Moragahakande, several years from completion. There are 35,000 families in the NCP to whom the Government promised land (Secretary Mahaveli Authority, Ivan Silva, *Sunday Observer*, 25 Jul.2010). According to Mahaveli Director General D.M.C. Dissanayake, another 100,000 families want land in the NCP (*Island* 8 Feb.2011). Given the existing deficit of 395 mcm from the Polgolla diversion, the NCP's additional water burden is above an impossible 2,000 mcm if they each receive half a hectare (nearly 1 acre) of land. As powerful as it appears the Mahaveli Authority could guarantee little, least of all real water.

**Unstable as Water: The case of Huruluwewa:** Huruluwewa that was restored in 1953 irrigated 4300 ha of paddy with 79 mcm of water annually from Yan River.<sup>233</sup> Given the local water duty as 1.26 m for summer and 0.82 m for winter (IAR Table 2.6), the scheme attained a cultivation intensity of 1.81. Under the Mahaveli Scheme, an additional 75 mcm of water was given for Huruluwewa (Table 2.5 of FN.221) and a few smaller schemes, and the cultivation area was increased to 6560 ha. The water was ample for the requirement of 136 mcm to cover two full seasons. Then farmers along the route of the canal, who were left out, began siphoning off

<sup>232</sup> <http://www.sundayobserver.lk/2007/03/04/fea03.asp> : "Although there were heavy rains in other parts of the country during the monsoonal seasons, [Padaviya] received only short spells of rain throughout the past 50 years. As a result, out of 17,000 acres of paddy land only 6,000 acres of land were cultivated annually in Maha (Winter) Season."

<sup>233</sup> Sakthivadivel et. al. 2.3.6: It was observed that after the construction of Huruluwewa Reservoir, the average annual flow at Horawapotana reduced from 197 mcm to 118 mcm.



water towards the downward slope of the embankment. The cropping intensity for Huruluwewa lands dropped frequently to 1.0 or less (IAR *op.cit.* Table 2.5). This meant that most of the 75 mcm of Mahaveli water channelled went missing. After negotiations with local farmers in the late 1990s, The Mahaveli Authority provided more water for Huruluwewa: up to 35 mcm, as indicated by the rising of cropping intensity by 0.4 to 1.43, during 2004/5. The solution was only temporary. A. Abeynayaka et al.<sup>234</sup> tell us how the best laid plans go awry:

*"When [Mahaveli] officers removed the siphons [from unauthorised tapping], local politicians forced them to put the siphons back."*

D.L.O. Mendis pointed out that water from Moragahakande that would flow along a double banked canal for 21 miles is ideal for tapping.<sup>235</sup> As freely as the Mahaveli Authority takes liberties with the lands of war-affected Tamils, it dare not use force against Sinhalese peasants stealing water meant for distant Weli Oya. It could only hope that the Sinhalese it planted in the North would stay on when the water runs out. The greater likelihood is captured by the newspaper headline 'Mahaveli Authority turns forest lands into bare lands' (*The Sunday Leader* 14.Apr.2013).

It all points to what we said at the beginning. The Government is intent on Sinhalese settlement in the North-East at any cost. Promises of water to older settlements, though regularly made, would not be kept. Against rival demands for water, any water that could be conjured up on paper would be used for Sinhalese settlement in the North. Even if a settlement is established the durability would be short in the face of overstretching of limited resources, theft or political pressure for reallocation of resources by those left out. Most settlements will eventually follow Padaviya whose cropping intensity dropped disastrously below 1.0. The farmers in the North who survived the war would increasingly find their water and land resources robbed for fragile military-backed Sinhalese settlements. Neither Tamils nor Sinhalese can profit from such a situation.

## 10.9 Ideology, Militarisation and Resource Issues

A criticism frequently made is that water use by farmers in Lanka is so wasteful that correcting this would provide water for schemes that may look unviable now. Irrigation professionals who are at the forefront of current practices are eloquently futuristic in their advocacy, and talk about crops and new methods that would make water-consuming rice obsolete. This is the same point about **intensification vs extensification** raised

<sup>234</sup> Issues arising from water encroachments along HuruluWevaFeederCanal, 2007, <http://www.dlib.pdn.ac.lk:8080/jspui/bitstream>

<sup>235</sup> "Another danger of the proposed NCP canal is that there will be theft of water from both sides all along its northerly course from Moragahakande reservoir. Conflict over water will add an east-west dimension to the existing north-south ethnic conflict." (*Daily News* 31.12.2001)



by Arulpragasam more than 50 years ago. The original Master Plan (Ratna S. Cooke<sup>236</sup>) envisaged alternative crops requiring far less water in half the 900,000 acres of Mahaveli lands, but settlers lacked the confidence, and stuck to rice despite the looming water scarcity. Correction would have been easier at the early stages. The failure has much to do with the crusading spirit infused into settlements in pursuit of ideology regardless of resource limitations. Reform of agricultural practices is necessary. But when quality education assumes lower priority, prospects of reform recede.

Giving hapless people impossible choices has become a mark of governance. Lalith Athulathmudali in pursuit of making “the majority of the Tamils...live among the Sinhalese,” announced in 1984 that 200,000 Sinhalese would be settled in the North as a means to eliminate terrorism (*Arrogance of Power*, p. 335). Such an intention is just a hair’s breadth away from mass murder in its pursuit (see Appendix 9). The first guinea pigs of the policy announced by Athulathmudali were Sinhalese prisoners.

Jeffrey Gunasekera was Superintendent of Prisons at Pallekele in 1984 when prisoners were offered incentives to move into Kent and Dollar Farms. He explained to prisoners who sought his advice, “*All that has been offered to you will only be granted at the end of the sentence – in case you are alive*” (*The Island* 3 Apr.2013). He concluded his article, “*Whenever decisions had to be taken by me, I considered myself as a prison officer and an individual and decisions were taken on the understanding that inmates are also human beings like any of us. They should not be offered the impossible.*” About half the prisoners declined the offer; several of those who accepted and went to Manal Aru were killed. Are Sinhalese settlers, and those whom they displace, treated as human beings?

Many if not most of the Sinhalese used to populate settlements like Weli Oya came from contexts where irrigated colonisation schemes had failed them (*Arrogance of Power* 5.3, pp. 74, 75). Their stories are riddled with indebtedness leading to suicide, covert land sales, and sons joining the military out of desperation. In Weli Oya, the Mahaveli Authority allotted 500 settlements, each comprising 4 acres of high land and one acre of paddy land. An FAO report says, “*Integrated agriculture goals in the highlands did not occur, as most farmers did not live in the newly allocated lands. Limited fodder and dry season water could not sustain livestock.*”<sup>237</sup>

To quote some of these civilians (UTHR(J) Bulletin No.4, 1995): “*Several of the men said, ‘We do not know if the army is protecting us or we are protecting the army’...In the nights men among the civilians are sent into*

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<sup>236</sup>The Accelerated Mahaveli Development Project, Institution of Engineers Sri Lanka, 1982

<sup>237</sup><http://www.fao.org/docrep/005/ac623e/ac623e0k.htm>

*bunkers [as home guards] with shotguns, while in their homes the women are abused by soldiers... The women are sometimes forced to pose for pornographic pictures which are marketed within the army."*

The Sinhalese now in Weli Oya (2013) are clear that the LTTE was not the immediate reason for their flight in 1999. They assumed that if the Army were to pull out they would be given advance warning. But one morning during the Sri Lankan Army's rout in late 1999, they were astounded to find that the troops had vanished without a word. What these people need are not fake promises of land or water, but quality education.

The State's use of 97,000 dead and missing in the Vanni during the latter months of the war as an opportunity to crush the Tamils irretrievably, has become the hallmark of a shameless nationalism. The same callousness that made several educated persons, who knew better, predators against the minorities was in turn reflected in attitudes towards their own poor. (See End Note for additional water issues in the Mahaveli Plan.)

### **10.10 The Cost of Ideology**

The Line of Sinhala Defence project was from the start fraught with mass murder. We give below an extract from a document given to us by Mr. R. Sampanthan MP around 2000, for the writing of *'The Arrogance of Power'*. The information was documented accurately by a network of organisations in which the late Mr. K. Kanthasamy played a pivotal role. Mr. Kanthasamy facilitated the presentation of evidence before the Sansoni Commission, which had been charged with inquiring into the communal violence of August 1977. But the incident below took place in 'Weli-Oya' – System L – on 15<sup>th</sup> February 1985. The Minister for National Security, Mr. Athulathmudali claimed that 52 Tamil separatists had been shot and killed at no loss to the security forces, but the document prepared by local citizens' groups disagreed:

*"On the contrary all those killed were Tamil farmers [and their family members from Kokkilai, Kokkuthoduvai, Karnatukerni, Nayaru, Chemmalai, Kumulamunai and Alampil]. On 15<sup>th</sup> February 1985, some of these people who were farmers trekked towards their villages to harvest their crops [which they had sown in their respective villages before they were forcibly displaced in December 1984]. Many of them were shot and killed by the Armed Forces. Helicopters flying low fired at the people...Many of [the dead] were females. At the time of harvesting, stacking and threshing the paddy crop, it is customary for all grown up members of the family to partake in the task. Subsequent reports indicated that well over 100 Tamil civilians had been mowed down by the Armed Forces...A physical check in each of the [five] refugee camps in Mullaitivu, revealed that 130 Tamil civilians who had gone to their villages from the refugee camps on 15<sup>th</sup> February are missing and are*

*presumed killed.*" (The list attached to the original document, giving the dead or missing camp-wise, had 36 women and a boy V. Muthulingam of 12 years). **It is their lands that the Mahaveli Authority is today giving the Sinhalese settlers it inducted.**

This was but one among several massacres of hundreds of Tamil civilians by the Sri Lankan forces from December 1984 to the following May in Mullaitivu, Vavuniya and Mannar, areas singled out for demographic transformation under JOSSOP (10.6) and now given a fresh spurt. It is dangerous to bury history. These same massacres enabled the LTTE to push its claims as the sole champion of the Tamils – and their avengers, when in Anuradhapura they massacred 120 Sinhalese civilians in May 1985. Tamil sensibility crossed the threshold into menace.

To break the legacy taking us on the road to genocide, these relationships must be documented and understood by the Sinhalese. Instead, we are treated to discussions based on self-serving accounts by ex-military men mixed up in mass murder. This history makes it hard for Tamils to trust Sinhalese in the armed forces or in official positions, and renders reconciliation a Promethean task.





## End Note to Chapter 10

### The Gnarled Saga of the NCP Canal

#### EN 10.1: The Canal

The total water available for diversion from the Mahaveli basin in an average year is about 2,350 billion acre feet (2900 mcm) along with 700 mcm from medium-sized reservoirs in the system. Phase III, the NCP Canal, was to complete the Mahaveli project by bringing additional water to the North if feasible. The original NCP Canal in the 1969 Master Plan had been dropped along with the peasant settlements envisaged owing to water scarcity. But this has not deterred the Rajapakse government from proceeding with Sinhalese settlements in the North. In settlements that lock the settlers into poverty with no prospect of social advancement, water demands become increasingly insatiable. Even if the entire 1470 mcm p.a. of water generating hydropower at Victoria Reservoir is diverted to save the settlements, any relief would be merely transient.

Originally, the Canal was to proceed north along the island's central ridge, first to discharge on its left bank into Kapirogama Reservoir in Horowapotana, which connects with Malwathu Oya (Aruvi Aru). Then a little further north on the right bank into Yan River, and further on, east of Vavuniya, on the right bank into the proposed Mukunu and Kitulgala Tanks, which connect with Padaviya and System L. Finally, on reaching its northern extremity, it was to discharge into Kanagarayan River, which connects with Iranamadu Tank.<sup>238</sup>

The NCP canal was meant to provide water for Mahaveli Systems I (Aruvi or Malwathu River basin, Anuradhapura and Mannar Districts), J (Northwest Vanni), K (North Central Vanni, Kanagarayan Aru basin), L (Northeast Vanni – Padaviya North and Manal Aru), and M (North Trincomalee and NCP – Yan River basin). The Canal was in the Master Plan meant to develop 324,000 acres or 131,000 ha (Ratna S. Cooke, *Accelerated Mahaveli Development Project*, Institution of Engineers Sri Lanka, 1982). But the project developed in such a way that owing to strong preference by farmers, crops other than rice have been largely ruled out, making the annual water requirement of 2,440 mcm from the NCP Canal in the Initial Assessment Report<sup>239</sup> (IAR) by far out of the question.<sup>240</sup>

<sup>238</sup> <http://www.fao.org/docrep/X5648E/x5648e0e.gif>

<sup>239</sup> Initial Assessment Report – Updated Mahaweli Water Resources Development Plan, SMEC International Pty Ltd. in association with DHI Water and Environment (Denmark), Ocyana Consultants, Sri Lanka and Project Management Associates, Sri Lanka, Oct.2010

<sup>240</sup> The following from IAR gives the land area identified for cultivation in hectares (ha) and the amount of water each system was to receive from the NCP Canal to supplement local water availability in mega cubic metres (mcm – 1 mcm = 810.7 acre feet) and the additional reservoir

The current policy of extending settlements northward with far too little water, means that the original Sinhalese beneficiaries in System H of the NCP who face inbuilt shortages, have no recourse to rectify their scarcity. The original Master Plan gave low priority to Phase III and had doubts about its feasibility. *"After meeting the irrigation demand in Phases I & II [which includes System H], the surplus water is recommended for diversion to the North Central parts of the island in Phase III"* (Ratna Cooke, *ibid*).

To those who identified with the political agenda of the Mahaveli Project in the early 1980s and writhed under the humiliations it brought them, the end of the war in 2009 seemed too good an opportunity to miss. The agenda is based on Systems I, J, K and L of the Mahaveli Master Plan. By 2011, the Sri Lankan Army was quietly directed to ready the ground through land acquisitions. Some of the key milestones during 2012 are:

**8<sup>th</sup> June 2012:** China acquires the Moragahakande contract for \$382 million.

**18<sup>th</sup> August:** China given the Yan Oya Reservoir contract for \$210 million (which has more to do with colonisation in the North).

**26<sup>th</sup> August:** In a major gesture, **China agreed to spend \$100 million on army camps in the North** in addition to a large arms deal. Accordingly some of the lands robbed from the people as in Mullikulam and Kepapulavu are being developed as military townships.

**29<sup>th</sup> August 2012:** Chinese Defence Chief Liang Guanglie arrived on a five-day visit to Lanka.

### **Significant Administrative Changes & Land Aggression**

A means used to advance Sinhalese was for the Military to take control of local water sources and land in strategic locations. A precursor to the fate of Tamils in Welioya was the Air Force dominating the Mudalikulam-Morawewa head works in Trincomalee District from the latter 1960s.<sup>241</sup> The Vanni recently saw two significant administrative changes. On 21<sup>st</sup> November 2011 Sarath Ravindra was appointed GA Mannar, followed on 21<sup>st</sup> May 2012 by Mr. Bandula Harischandra as GA Vavuniya. The Malwathu (Aruvi) scheme (System I) comes under them. Back in the

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capacity needed: I – 914 mcm, 52 900 ha, two reservoirs 294 mcm; J – 377 mcm, 22 8000 ha, two reservoirs 504 mcm; K – 166 mcm, 8100 ha, one reservoir 124 mcm; L – 985 mcm, 39 000 ha, two reservoirs 291 mcm; M – 106 mcm, 11 300 ha, one reservoir 235 mcm.

<sup>241</sup> UTHR Report No.11: "From that time Tamils became subject to small scale attacks by air force men and Sinhalese hooligans. The largest number of killings of Tamils took place along the Anuradhapura Road and the matter was raised in Parliament. This was the first instance in the island of the armed forces being stationed permanently in the middle of an agricultural scheme. The proportion of Tamils kept falling."



1960s, the appointment of Sinhalese GAs to the majority Tamil-speaking districts of Trincomalee and Amparai facilitated the induction of Sinhalese settlers into new colonisation schemes. Sarath Ravindra was later moved out because he did not conform to the agenda he was meant to enforce and replaced with an ex-military officer (Ch.9.2).

## **EN 10.2: Systems I, J & K and the Sri Lankan Army's Land Acquisitions**

**System I:** The area west of Vavuniya was already targeted by JOSSOP (Joint Special Services Operations) as soon as it began operations in October 1983. It evicted Hill Country Tamil refugees settled on lands held on permit by Tamils (Appendix 9).

At the end of September 2012, Manik Farm was cleared of IDPs from the recent war. *The Sunday Times* (30 Sept. 2012) reported that top Sinhalese officials including the new GA Vavuniya, Harishchandra, met to decide on the disposal of 6,000 acres of lands directly below the Malwathu dam site at Kappachchi (see Appendix 9).<sup>242</sup>

**System J:** The *Uthayan* daily of 21<sup>st</sup> January 2012 gave details of lands taken over by, or on request from, the Sri Lankan Army.<sup>243</sup> These areas come within settlement schemes under Pali Aru and Parangi Aru (System J).

Among the uses of the military to spearhead changes is to turn independent or potentially independent farmers into wage labourers for private capital. In Thevamutty, Vellankulam, the permit holders had left or become refugees and the LTTE had cultivated a large measure of the land. After the war, the Agriculture Department was the first to clear the land intending to use local people to restore it, and in time making them owner-cultivators. On learning of this, a government order from high up forced the Agriculture Department to desist. Using the land powers the Governor exercises in lieu of the vacant provincial council, the President's son Namal Rajapakse gave 100 acres of the land to the private company CIC, to open its Seed and Planting Material Production Farm. The people now work for

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<sup>242</sup> According to the report, apart from Tamil families (some of whom had fled to India) wanting their lands returned, notable applications were to regularise 200 acres the Sri Lankan Army had been using as a farming school, 40 acres for the archaeology department, and land to set up an army training camp.

<sup>243</sup> Amaithipuram (7 mi north of Old Murikandi in the Thunukkai DS Division): 200 acres for the Commando Regiment. Kottaikattiyakulam (8 mi West of Old Murikandi): 150 acres on demand. Thenniankulam (7 mi NNW of Thunukkai): 46 acres for the armed services. Old Murikandy: 80 acres for the armed services. Therankandal (3 mi NNE of Thunukkai): 250 acres for the 53<sup>rd</sup> Division and 50 acres for the armed services. Alankulam (1 ½ mi NNE of Thunukkai): 112 acres on demand

the CIC as wage labourers as they had previously done for the LTTE. This area is downstream of the projected Pali Aru reservoir.

**System K:** Four thousand acres of land have been taken over in Murukandi and Kilinochchi to build a new military cantonment, dispossessing inhabitants of three villages (Ranga Jayasuriya in *Lakbimanews*, 25 July 2010). The Army Commander said at Suthanthirapuram (22 July 2010), “... once married quarters of the officers and the other ranks are set up in respective areas, they would... live with their families... while serving the areas (defence.lk).” Media reports spoke of 12,000 prefabricated army houses in the three confiscated villages in Murukandi. “The implication is that the soldiers, instead of serving short stints in the North (as is the norm), will become permanent settlers together with their families, ushering in a new wave of state-aided and mandated colonisation (Tisaranee Gunasekara, *Sunday Leader* 1 August 2010).”

The lands mentioned above, confiscated from Tamils, lie downstream (north) of Kanagarayan Aru (River), where the System K dam has been planned. Similarly 900 acres have been ear-marked with housing for 450 soldier families at Akkarayan.

### **EN 10.3: Example of System I: Phony Schemes and Parching of the North**

From about 2007 until May 2012, the Rajapakse government was loquacious on reviving the NCP Canal Project of the Mahaveli Scheme. The proposed Malwathu dam on Aruvi River, System I of the NCP Canal Project, and further irrigation works in Mannar District were advertised with much fanfare and the President was billed to declare open the construction of the dam. The Mannar farmers were promised water for 40,000 acres under Giant's Tank and Akatthimurippu Kulam<sup>244</sup> to cultivate round the year, requiring 490 mcm of water. And then it all vanished into silence. The Japanese who agreed to fund the Moragahakande dam, had pulled out in early 2011. Minister de Silva's *Island* interview of 1st October 2012 (*'Moragahakanda: Govt. opted for China as Japan delayed funding'*) confirmed the abandonment of the Canal once more. But he still insisted on the construction of Malwathu Reservoir to take over from the NCP Canal the task of supplying water to System K on Kanagarayan River north of Vavuniya. Neither the Minister, nor anyone else in authority, has disclosed where the additional water needed would come from.

What was clear is that the Government had made plans for large Sinhalese settlements in the North and was determined to carry them through with

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<sup>244</sup> Irrigation Secretary Ivan de Silva, quoted in *Daily News* 29 May 2012



or without water. Months later, the Government Agent (GA), Anuradhapura, told a low level briefing (*Daily News* 24 Jul.2013) that the construction of the Malwathu Reservoir by the Irrigation and Water Resources Management Ministry was to begin with plans for a settlement of 2100 ha just below the reservoir around Manik Farm (water requirement 63 mcm). The GA gave the estimated cost of the construction as Rs. 7.5 billion for the 285 mcm reservoir as against the Rs.28 billion contract to the Chinese for the 169 mcm Yan Oya reservoir. Evidently even China did not want to fund the Malwathu Oya Reservoir - one that appears to involve building the reservoir first and looking for the water later.<sup>245</sup>

Aruvi-Malwathu River (known by its Tamil name downstream) feeds several medium-sized tanks.<sup>246</sup> We will use the information in the 1995 paper of Sakthivadivel et al<sup>247</sup>, which relies on the measurements taken at the only river gauge at Kappachchi, just below the dam site for System I.<sup>248</sup>

The Aruvi's annual river flow is 713 mcm<sup>249</sup> of which 564 mcm or 79 percent of the total is used for irrigation. "*Almost all the surface water potential in the four basins [of the NCP] (except Yan Oya) is [fully] utilised*" (Sakthivadivel et al, *ibid* p.31). The 235 mcm mean annual flow at Kappachchi, becomes in two out of four years less than 159 mcm (the 50 percent dependable flow) and in one out of four, less than 84 mcm (the 75 percent dependable flow). The nature of the terrain is such that a marginal drop in rainfall leads to a disproportionately sharper drop in river flow; the proportion of the reduction in river flow to reduction in rainfall, is far more drastic in the Malwathu-Aruvi Basin than for the Mahaveli Basin.<sup>250</sup> Owing

<sup>245</sup> In 1961 the Soviet (now Russian) consultants Technopromexports prepared a project for Malwathu Reservoir with storage capacity 347 mcm (Arumugam), but other details such as sources of water are not easily accessible. Under the NCP Canal Project in the 1969 Master Plan there were to be two reservoirs Malwathu Reservoir with 275 mcm and Kapirigama upstream, near the Canal discharge, with 91 mcm.

<sup>246</sup> Among these tanks are Nachchaduwa, Mahakandarawa, Nuwarawewa, Iratperiyakulam, Pavatukulam, Akattimurippukulam, and finally Giant's Tank, 32,000 ac. ft. or 40 mcm). According to IAR about 360 mcm is already used to irrigate 12,270 ha under medium-sized tanks and 8,830 ha under small tanks.

<sup>247</sup> R. Sakthivadivel, C.R. Panabokke, C.M. Wijeratna, Nihal Fernando, K. Jinapala, R.B. Bandula Sirimal; Pre-Project Technical Assistance Study for Proposed Area Development Project of North Central Province, Prepared for RH&H Consultant/ ADB, 1995

<sup>248</sup> The river basin area for Malwathu-Aruvi River is 1,210 sq. miles (3134 sq. km); the net catchment area has been estimated at 691 sq. mi (1790 sq. km) by Sakthi (FN.247).

<sup>249</sup> 101.6 mcm, from the Polgolla Diversion of 875 mcm, flows into Malwathu-Aruvi Subsystem (Table 2.5 & Plate 4 of Sakthivadivel et al, FN.247). This water is used to support cultivation under Nachchaduwa, Nuwara Wewa and Tissa Wewa Tanks coming under System H, but has not added to cultivation in the Lower Basin. The area cultivated under IH remains at the pre-Mahaveli 4510 ha.

<sup>250</sup> Considering the mean, 50% and 75% dependable rainfall variations in Anuradhapura and Vavuniya from Table 2.3 of FN.247 with the mean, 50% and 75% dependable river flow in Aruvi River from Table 2.2 *ibid*; we see that a reduction of rainfall by 3.6 percent from the mean causes a reduction in river flow by about 32 percent from the mean. A reduction of rainfall by 19 percent



to the heavy fluctuations, the 50 percent dependable flow, rather than the mean flow, is the basis for planning (Table 2.8, Surface Water Availability in FN.247).<sup>251</sup>

Out of the flow at Kappachchi, 84 mcm is diverted downstream at Madhu Road to Giant's Tank and Akattimurippu Kulam (Table 2.9 of FN.247). This is accomplished by the device of a *tekkam*, a barrage 12 feet high, across the flow of the river, which raises its level and permits lateral flow to the tanks along the channels (– designed by Henry Parker in 1881, S. Arumugam, Water Resources of Ceylon, p.331). The nature of the device ensures that irrespective of the river flow, a relatively constant quantity of water is sent to the two tanks. Given that more than 12,460 ha is cultivated under Giant's tank, assuming the water duty for winter is 0.82 m as in Huruluwewa, the tank needs about 125 mcm for one season's (winter's) cultivation (it in fact receives 84 mcm p.a. from the *Tekkam* augmented by about 13 mcm of local flows<sup>252</sup>). We ignore the 16.6 mcm from 900 mm p.a. of precipitation on the surface of 4550 acres that is less than the average loss of about 1436 mm p.a. from evaporation.<sup>253</sup> The low water duty is suggested by the soils being mainly grumusols.<sup>254</sup>

Thus in a year of 50% dependable flow in Aruvi River (159 mcm), after the diversion to Giant's tank, 75 mcm flows to the sea (total flow to the sea augmented by contributions downstream = 150 mcm, Tables 2.8 & 2.9, FN.247). Once in four years when the river flow is less than the 75% dependable flow of 84 mcm, there will almost be no water left after diversion to Giant's Tank.

**Consequences of Malwathu Reservoir for farmers under Giant's Tank:** What the foregoing tells us is that if the flow to Giant's and Akaththimurippu Tanks is not meddled with, only a 75 mcm is available in a year of 50% dependable flow and none whatsoever in a year of 75% dependable flow.

The World Bank Report 'Major Irrigation Rehabilitation Project' of 6<sup>th</sup> November 1984 (No. 5231-CE)<sup>255</sup> was the last major study involving the

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from the mean results in a reduction of river flow by about 64 percent from the mean. From Table 2.2 of IAR (FN.239), a reduction of 10% in rainfall in the Mahaveli basin caused a reduction of about 20% in river flow.

<sup>251</sup> "The strategy for water resources development should be to maximise productivity per unit of water in the Malwathu-Aruvi basin and to maximize productivity per unit of land in the Polonnaruwa District" – FN.247.

<sup>252</sup> 13.3 mcm, local flow from the 38 sq. mi. of catchment area (Arumugam) assuming 15% runoff compatible with Table 2.2 of Manchanayake and Bandara (op. cit.).

<sup>253</sup> Water Statistics Handbook, Irrigation Department, Colombo, 1988

<sup>254</sup> Grumusols (clay loam to clay) are characterized by low permeability and high available water and are very suitable for rice cultivation but need puddling for land preparation (WB 84 op. cit.).

<sup>255</sup> [http://www.worldbank.org/external/default/WDSContentServer/WDSP/IB/1984/11/01/0000092653970904162309/Rendered/PDF/multi\\_page.pdf](http://www.worldbank.org/external/default/WDSContentServer/WDSP/IB/1984/11/01/0000092653970904162309/Rendered/PDF/multi_page.pdf)

North before 25 years of war enveloped the region (hereafter referred to as WB 84). The irrigation systems dealt with are Kantalai (then 25 percent Muslim, 25 Tamil and 50 Sinhalese), Morawewa (then 40% Tamil and 25% Muslim), Iranamadu, Giant's Tank (35 percent Muslim, 65 percent Tamil), Rajangana, Nachchaduwa (10 percent Muslim, 90 Sinhalese) and Huruluwewa.

WB 84 gave the cultivation intensity under Giant's Tank as 88% (0.88) and placed 40 percent of the beneficiary population to be living below poverty level. Others in the low range of cultivation intensity were Morawewa 90% and Huruluwewa 100%. The rest were 120% and above. The greater contrast was in the per capita (annual) income per family member, which was Rs.400 p.a. for Giant's Tank as against Rs.1830 in Iranamadu and Rs. 2060 for Rajangana, although the average land holdings were respectively 3.2 ha, 2.0 and 0.9. The last, Rajangana, had a cropping intensity of 1.63. All had average family sizes of 5.5, then compatible with Maritimepattu in Mullaitivu. The project sought to increase incomes by improving water supply and cropping intensity through the introduction of soya for alternative cropping during summer and improved agricultural practices (envisaged increases in income were 156% for Giant's Tank, 64% for Iranamadu and 36% for Rajangana). The project was to last six years and owing to the constraint on water, the assured cropping intensities on completion of the whole project based on hydrological studies have been estimated as: Kantalai, 150%; Huruluwewa, 150%; Nachchaduwa, 150%; Rajangana, 188%; Iranamadu, 143%; Giant's, 95%; and Morawewa, 150%.

For 25 years since that time, the people under Giant's Tank suffered under both the Army and the LTTE, and particularly during the last phase of the war. The Muslims had been driven out by the LTTE in 1990. The consequences of the Malwathu dam would threaten these people's tenuous existence. Notwithstanding promises of plenty of water and prosperity by the government, the people under Giant's Tank, require an altogether new scheme as the principle of the present *tekkam* itself limits the flow p.a. to around 84 mcm.

WB 84 sought to improve the performance at Giant's Tank System (p.16) by: raising the full supply level of tank by one foot and re-modelling the tank feeder to convey 28.3 cubic metres/ sec (1,000 cubic feet/s) to divert to the tank part of the spill at *Tekkam* anicut (then about 40% of inflow).

What was envisaged were modest improvements possible within the existing framework. Alternative cropping with Soya during summer (*yala*), was not recommended for the Giant's Tank System, owing to the low availability of water in summer. Postwar, government ministers and irrigation officials have promised the Giant's Tank farmers round the year



cultivation, while in reality the outcome would be to take away even the little they have.

Besides, similar promises were made to hard pressed Sinhalese farmers in Padaviya with cropping intensities well below 1.0. The source of water has been identified – namely Moragahakande – however it turns out that these farmers would only get water to top up their cropping intensities to 1.0, because the bulk of the water has been reserved for the ideological settlement of Weli Oya. What chance do forgotten Tamil farmers under Giant's Tank have of any good coming from the Government's promises?

Given the nature of politics of this country, once Malwathu Reservoir is built there would be pressure to maximise the impounding of water with or without an alternative source, and maximise Sinhalese settlement. As we pointed out earlier, diverting more Mahaveli water would mean a phenomenal rise in the cost of electricity and it is for this reason that even Sinhalese farmers in the NCP have been denied additional water for nearly 30 years.

The only justification one could find for the Malwathu Reservoir is the estimated figure of Aruvi River's discharge to the sea of 568 mcm p.a. (Survey Department's Sri Lanka Atlas 1988). This is not supported by the 159 mcm 50% dependable flow at Kappachchi (minus the diversion) based on actual river gauge measurements. The wide divergence in estimates by experts is a warning on the dangers these projects pose to the most helpless sections. Looking through irrigation literature, one finds careless guess work being passed on as authoritative figures for areas that are peripheral to politics.

#### **EN 10.4: System K and the Fate of the Iranamadu Farmer**

In the absence of the NCP Canal the plan as presented by Minister de Silva (*Island* 1. Oct.2012) is for the putative Malwathu reservoir to feed System K (Kokkavil, Murikandi). In the 1969 Master Plan (see IAR), System K proposed to cultivate 8100 ha upstream of Iranamadu Tank below a dam to be built on Kanagarayan River, which also feeds Iranamadu Tank downstream to its north. According to IAR (*op. cit.*), of the annual 231 mcm of water the settlement requires, 166 mcm was to come from NCP Canal (no longer available) and the balance 65 mcm from local flow in Kanagarayan River. Even the 21,000 acres (8518 ha) of paddy land under Iranamadu requires annually 260 mcm; a minimum of 104 mcm just for the winter crop. The Iranamadu soils being mainly alluvial, we shall use Arumugam's 4 ft. of water for winter cultivation and 6 ft. for summer, in our estimates.<sup>256</sup> The current project funded by the ADB envisages an annual 10 mcm of water to be sent from Iranamadu to Jaffna (IFAD).<sup>257</sup>

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<sup>256</sup> Alluvial soils (sandy clay loam to sandy clays) have higher infiltration rates and less available water. However, these soils are also being used entirely for paddy cultivation. Iranamadu soils are alluvial (deep sandy, shallow to moderately deep sandy) and clayey. The alluvial soils occur at



Kanagarayan River basin has an average annual runoff of 242 mcm<sup>258</sup> as estimated by P. Manchanayake and C.M. Madduma Bandara<sup>259</sup>, and 220 mcm as given by U.A. Amarasinghe, L. Mutuwatta and R. Sakthivadivel.<sup>260</sup> The latter further tells us that the 75% dependable river flow is 120 mcm, while the 50% dependable flow, 180 mcm.<sup>261</sup> There is a catch in this. The river basin map for Kanagarayan River is narrow in the south and broadens towards the sea. The river basin of 896 sq. km (*ibid*) can be divided into three portions as could be seen from p.92 of WB 84 (*op. cit.*): The first from the southern tip (beginning) of the basin to the location of Kanagarayan Tank that was part of the NCP Canal Project covers 95 sq. km, the second from Kanagarayan Tank to Iranamadu Tank covers 506 sq. km. The flow from the balance 295 sq. km simply goes to the sea.

The foregoing tells us that the average local flow into the intended Kanagarayan Tank is roughly is 25 mcm (as distinct from the 65 mcm envisaged in IAR, *op. cit.*). The average flow into Iranamadu Tank obtained by reducing the total runoff in proportion to the catchment areas concerned, using the river flows from Amerasinghe *et. al.*, is 147 mcm without Kanagarayan Tank and 123 mcm with Kanagarayan Tank; the corresponding 50% dependable flows are 121 mcm and 102 mcm and the 75% dependable flows 80 mcm and 68 mcm. We can check that the average of 147 mcm corresponds closely with the cropping intensity of 95% for winter and 30% for summer given by WB 84 (total 125%). In this respect IFAD's cropping intensity of 150% for 2011 is not representative. We will look at the two sets of recommendations:

**WB 84 (November 1984):** Raising the full supply level by a foot to utilize part of the spill (about 30% of inflow), repairs to spillway damage (1984 floods), and providing inverted filter at dam toe in areas showing seepage;

**IFAD (2010):** Under the ADB, AFD and Government financed Jaffna and Kilinochchi Water Supply and Sanitation Project of USD 134 million, about

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higher levels. These permit tillage under dry conditions, can be maintained under saturated conditions because of clays below, and are therefore used extensively for rice in Maha. The clayey soils occur in valleys. (WB 84)

<sup>257</sup> The International Fund for Agricultural Development, Iranamadu Irrigation Development Project, October 2011: <http://www.ifad.org/operations/projects/design/104/srilanka.pdf>

<sup>258</sup> The average rainfall (1265 mm), river runoff (19.1%) and catchment area (907 sq. km.) for Kanagarayan Basin, given by Manchanayake and Madduma Bandara, yields a river runoff volume of 219 mcm.

<sup>259</sup> Water Resources of Sri Lanka, National Science Foundation, 1999

[http://dl.nsf.ac.lk/bitstream/1/5406/1/NA\\_202.pdf](http://dl.nsf.ac.lk/bitstream/1/5406/1/NA_202.pdf)

<sup>260</sup> Water Scarcity Variations within a Country: A Case Study of Sri Lanka, IWMI, 1999 <http://dlc.dlib.indiana.edu/dlc/bitstream/handle/10535/3642/Report32.pdf>

<sup>261</sup> We ignore the 25.6 mcm the 5750 acres of the tank spread receives from an average rainfall of 43.3 in p.a. since this is less than the average evaporation of 56.5 in

USD 10.6 million will be used to increase the capacity of the Iranamadu tank by 16.3 mcm to 148.1 mcm by raising the bund to 31.40 msl (103 feet). This will allow an extraction of water for Jaffna of 9.85 mcm per year (and an additional 6.45 mcm for the local farmer).

Raising the bund by 1 foot (30 ft. of water to 31 ft., water spread = 5750 acres – S. Arumugam) makes room for an additional 7.1 mcm. But the second plan envisages an additional 16.3 mcm of water out of which 9.85 mcm is sent to Jaffna. From the data above, even without Kanagarayan Tank, this would mean sending 9.85 mcm to Jaffna out of a 50% dependable flow of 121 mcm or in the one in four bad years, 9.85 mcm out of 68 mcm. In neither case would the Iranamadu farmer obtain the additional 6.45 mcm promised for local use as even the average annual flow without Kanagarayan Tank is just about adequate to fill the enlarged storage capacity of the tank and half the time the flow is much less. In other words, the tank will only exceptionally fill up. The 58 mcm of water left in a bad year after supplying Jaffna is just about enough for half the winter crop. **We must remember that WB 84 judged the water situation in Iranamadu as 'relatively short'** and the improvements suggested were modest and practical. In seeking to improve cropping intensity from 1.25 to 1.425, 0.025 was to be attained by improving rice cultivation in winter and 0.15 in summer by introducing soya cultivation. Kanagarayan Tank is not viable without an external source of water, and that source cannot be the Malwathu dam, whose viability is in grave doubt as explained.

We seem to have modern planners who do not look at past studies, fail to consult local expertise, and move ahead on their own fantasies. Way back in 1971, the equivalent of Engineer in Society was introduced as a subject in the University of Ceylon to stress the importance of engineers being socially aware and responsible. The students at the time prided themselves that engineers as a profession in this country were head and shoulders above corruption and observed high ethical standards. We now see the consequences of engineers becoming mixed up in politics and pelf.

The foregoing suggests that advancing Sinhhalisation in the name of rehabilitating the war-affected, risks creating conditions of famine during periods of prolonged low rainfall. We need to keep in mind that small perturbations of conditions in the dry zone lead to drastic changes in the environment. A safety factor appropriate to the dry zone has been totally disregarded in pressing ahead with settlements. An observed trend in the last several decades (not necessarily long term) is declining average rainfall. Deforestation and other activities in the watershed, such as construction and intensive cultivation, degrade the water in rivers and interfere with flows.



## Chapter 11

### Rajani's Vision: Local as the Agent of Broader Change

*Thus when one appraises the political bleakness that confronts this community and this land, the women's history does have a triumph. There is powerlessness, disappointment and disillusionment, but also hope. We have done it... a little bit...*

- Rajani Thiranagama in No more tears sister, *The Broken Palmyra*

#### 11.1 The Realm of Freedom

For Rajani, politics was about being committed to humanity and paying the price that commitment entailed. This meant that every commitment, whether to a person or to a group, deserved the zeal that most only afford to religion. She believed that she could only realise a Marxian 'kingdom of freedom' – that of creative human endeavour embracing all spheres including art and culture – by being responsible to her commitments and honest to her intellect. Karl Popper – who nonetheless disagreed with Marx's economic determinism – said of him:

*"...he recognised in practice (as a practical dualist) that we are spirit and flesh, and, realistically enough, that the flesh is the fundamental of these two...But although he realised that the material world and its necessities are fundamental, he did not feel any love for the 'kingdom of necessity', as he called a society which is in bondage to its material needs. He cherished the spiritual world, the 'kingdom of freedom', and the spiritual side of 'human nature' as much as any Christian dualist; and in his writings there are even traces of hatred and contempt for the material (The Open Society and its Enemies Vol. II, p103)."*

For Marx, Rajani and many other seers, the search for the 'kingdom of freedom' impelled them to confront injustice. They saw personal freedom as meaningless in the face of systemic degradation of one's fellows. Rajani's commentary was that of a sensitive insider; she spoke from within a 'benumbed community' literally and metaphorically standing in the midst of 'debris and crumbling structures'. History for her, rather than episodic; was manifested in the way social forces had developed and interacted over many years. For Rajani, probing this offered more than an intellectual challenge: it was an act of compassion for all whose lives were placed on the line by narrow ideologies. These ideologies having brought us to mutual ruin, we rave at external conspiracies, refusing to face the reality that the choice of how to be a nation was ultimately ours.

#### 11.2 The University and the Struggle for Tamil Identity

In facing challenges of the modern world, we frequently look to the past for inspiration. We readily find it in the universal ethics of the *Silappathikaram*



and *Kural* that transcend caste and nation and in the poetry of Subramanya Bharathy. For Bharathy the realisation of freedom was inseparable from absolute fidelity to truth and the eradication of evils that cripple individuals and communities. In our immediate setting, we find exemplars in the legacy of the scholar-statesman Sir Ponnambalam Arunachalam and in the Gandhi-inspired Jaffna Youth Congress. Hardly any one of the foregoing is now given the importance in the University of Jaffna that is lavished on Arunachalam's brother Sir Ponnambalam Ramanathan and, his mentor, Arumuga Navalar – mainly as props for a socially retrograde, partisan, post-militancy agenda.

Well into the 1980s, however, the University of Jaffna remained a place of hope; it held a central place in Rajani's vision for meeting the challenges faced by broader society. Twenty years under LTTE tutelage helped to freeze worst tendencies and quench the better. Few academics have any sense of their function as autonomous agents; fewer still are willing to voice independent opinions. In other troubled societies, local universities rise to become leading voices of defence, for pluralism and freedom.

Certainly it is easy to identify and criticise political charades like the university vice chancellors frogmarched to attack the UNSG's advisory report on the last months of the war. But academics also face peer pressure to conform, which is certainly more subtle and perhaps just as insidious. We are encouraged to soften our stances through superficial pretensions to 'inclusiveness, shared culture and coexistence'. The catch? A damper on truth. While not explicitly taboo, peer pressure to conform<sup>262</sup> and the resultant self-censorship keeps truth – especially truth related to enormous loss of life – and its crude suppression – well at bay. Without truth, the legacy of violence can scarcely admit reconciliation; the most oppressed of people who were brutally silenced during the war by the LTTE, continue to struggle, but against a different purveyor of silence. After its opportunistic adulation of the LTTE, the University bears a heavy responsibility for the plight of the Vanni.

In the University's present passive state, it is helpful to recall its people-centred actions of earlier years. In fact it has a significant history of supporting Jaffna society and promoting sound responses to political pressure. In April 1977, for example, when a leading SLFP politician dispatched mobs to evict Hill Country Tamils from Delta and Sanquhar estates in Pusellawa, University students rushed there in solidarity with the Tamils, and subsequently issued a well-received report on the violence. And during the state-instigated 1977 communal violence, staff and students worked as one body to protect Sinhalese students and send them

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<sup>262</sup> "As much as Sri Lanka will not have a 'Truth Commission' in the lines of South Africa (even there, has black or white apartheid ended?) a slow process of reconciliation is on track in Sri Lanka and this must be supported and nurtured in order to counter and dilute parochialisms [among Sinhalese and Tamils]..." – Sudharshan Seneviratne, Professor of Archaeology, University of Peradeniya, *The Island* 21. Apr.2010.

safely home. Although elements in the South launched a hate campaign alleging that Sinhalese students were attacked in Jaffna, the Sansoni Commission vindicated the University.

The following year, during Batticaloa's devastating cyclone, the University community was at the forefront in providing relief to the victims. They were the first to cut through the jungle, and provide relief to certain marooned villages – before state agencies could act. Varatharajaperumal and Nithyanandan were among the persons leading the effort.

When the LTTE killed St. John's College Principal Mr. Anandarajah in 1985 and massacred members of TELO in 1986, university students protested, while the rest of society was terrorised. In November 1986, when the LTTE abducted student Arunagirinathan Vijitharan (whom it later killed), the LTTE's terror was almost absolute. But University students mounted a massive protest in Jaffna, and schools and the general public joined them. And in the wake of Rajani's murder, the students rallied, despite mounting terror. Given the special historical circumstances in which the University found itself, it had a tradition of providing leadership to the community and acting as a forum to maintain healthy criticism of Tamil nationalism, through discussion rooted in our political history.

### **11.3 When Jaffna Was the Light of Lanka: The Legacy of Secularism**

*For last year's words belong to last year's language  
And next year's words await another voice - T.S. Eliot*

In the wake of the Vaddukkottai Resolution of 1974, fetishisation of the right to self-determination gave the Government an alibi to perpetuate status quo. Any movement for meaningful self-determination must be argued on its common merits, and should canvas agreement of substantial sections of Sinhalese, Muslims, and Hill-Country Tamils.

Every generation must find its voice to address pressing issues of its time and leave behind a legacy to enable another generation to find its feet. The Gandhi-inspired Jaffna Youth Congress was in the 1920s far ahead of any local movement. The Jaffna Youth Congress fought caste oppression and spread the cooperative movement; some of its members became eminent school principals, who extended the practice begun by several Christian mission schools, of admitting oppressed castes to Hindu Board schools<sup>263</sup>: Notably Orator Subramaniam's Skandavarodhaya College, which produced

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<sup>263</sup>This may have been done first at Jaffna Central College under Peter Percival, then in Jaffna College under John Bicknell and St. John's under Henry Peto and perhaps earlier at several Roman Catholic schools.



some eminent left activists, including N. Shanmugathan, who carried the fight against caste to the next phase among the peasantry.

The core of the Youth Congress was born in the Jaffna College of Principal John Bicknell, a Yale graduate. The intellectual freedom Jaffna College accorded its students would be the envy of any one of our universities today. To quote the historian Santasilan Kadirgamar: *"The freedom to think and discuss at Jaffna College is illustrated by the kind of subjects debated at the meetings of the literary societies. Beginning with subjects like 'Home rule should be granted to Ireland,' and 'Labouring men have a right to strike,' the students of Jaffna College went on to debate as early as 1920 subjects like 'Territorial representation is better than racial'...By 1921-22 they were debating such radical subjects bordering on the treasonable, such as: 'Gandhi was justified in burning foreign clothes' and 'Self-government should be granted to Ceylon'...In 1923 the students had debated, 'Mahatma Gandhi in prison is more dangerous than Mahatma Gandhi out of prison.'"*<sup>264</sup>

Among the most important principles bequeathed by the Youth Congress is secularism. This enables persons with different religious backgrounds to work shoulder to shoulder. The powerful legacy of the Youth Congress has meant that since its heyday, nearly all major political movements among the Tamils from the TULF to the militant movements, including the LTTE, have avowed secularism.

Until the early 1980s, the University of Jaffna held lively discussions featuring self-determination and among Tamils this was seen as meaningful only in a secular context. Their object lesson was the misery brought about by the Sri Lankan state as seen in the affirmation of secularism in the Vaddukkottai Resolution of 1976:

*"[Sinhalese governments] by giving the foremost place to Buddhism under the Republican Constitution [have] thereby reduce[d] the Hindus, Christians, and Muslims to second class status in this country...Tamil Eelam shall be a secular state giving equal protection and assistance to all religions to which the people of the State may belong."*

For the more radical, and particularly left oriented, secularism went further, towards building bridges to the Hill Country Tamils and Muslims, for more than merely pragmatic reasons, and to an eradication of caste. Sadly, many in our educational establishments today are ready to throw overboard the hard-earned lessons of the Tamil people on secularism, despite their vocal anger over the rulers' proliferation of Buddha statues as symbols of conquest. Do we need to further polarise our society through erection of Hindu statues in former Christian mission schools in the name

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<sup>264</sup><http://www.island.lk/2008/09/07/features10.html>



of fostering Tamil culture; and by obliterating the phenomenal contribution of mission schools that sought out and catered to educational needs in obscure corners, by giving them new mainly Hindu names<sup>265</sup>? What does the University's development of the modest Hindu shrine in former Parameswara College into its centrepiece have to do with its secular mission of furthering academic excellence? Are we fostering a culture where decadence of copious religiosity becomes a substitute for rigorous intellectual endeavour that uplifts? Unlike the University today, the Hindu Board which ran Parameswara gave precedence to modern secular education, and frequently employed Christians as principals.

The current and aggressive identification of Tamil culture with Hinduism is an absurdity too close to the surface to deserve comment. It writes off the early Tamil literary genius dominated by Jainism and Buddhism that gave us the *Kural*, *Manimehalai*, and *Silappathikaram*. Indeed, the Jain gift of the Tamil *brahmi* script that made us literate was a fruit of the mission to the Tamil country led by Visakacharya.<sup>266</sup>

After the anarchy and violence of the partition of India, the breakup of Yugoslavia (once a model for effectively negotiating diversity) and not least our own tragedy, the quest for self-determination calls for far greater judgment. Its pursuit must seek to recover rather than sunder earlier healthy relationships among peoples: ones that have been temporarily eclipsed by the mischief of extreme nationalisms. Self-determination enhances a community's freedom and control over environment. To derive it as a reaction to something we dislike makes us even narrower. Regaining our democratic will is an onerous task after the havoc of extreme nationalism, and it is here that the University must give the younger generation a modern and secular message, one that creates the ground for engagement with the Muslims, Hill Country Tamils, and Sinhalese.

When the Tigers dominated Jaffna, they defined a Tamil narrowly, as one who toed the ideological line of the state power they represented. Others were rendered targets of hate – traitors. Many leading university figures toed the Tiger line in the movement's heyday. It helped them to maintain their privileged status. Now the defence of privilege, post-LTTE, appears to demand another sectarian cause – religious obscurantism.

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<sup>265</sup> Examples of the former name followed by the new: Avarankal Methodist Mission School – Nadarajar Vidyalayam, Ariyakulam Methodist Mission School – Sanmarkam Mahavidyalayam, Atchuvely American Mission School – Atchuvely Mahavidyalayam, Velanai American Mission School – Velanai Saraswathy Vidyalayam, Allaipiddy Methodist Mission School, Allaipiddy Parasakthy Vidyalayam.

<sup>266</sup> K.N. Sivaraja Pillai, *Agastya in Tamil Land*, Madras University, 1923

## 11.4 The University and Postwar Ideological Battles

A University exhibition in 2011 featured posters from the Government Archaeology Department claiming Kantharodai, as it has been known for centuries, as the Sinhalese Buddhist site 'Kadurugoda'.<sup>267</sup> Another poster on Jaffna heritage by the University deprecated the contribution of Christian missions. As the selective histories of the Kadurugoda/Kantharodai poster and the Jaffna heritage poster show, the ideological battles of postwar Jaffna continue. In one case, a façade of partnership masks cleavages with peers in the hegemonic Sinhalese state, whose patronage is important for career advancement. In the other, an incomplete story represents the sectarian cover of a post-LTTE elitist Tamil nationalism that has lost its illusory bulwark.

**11.4.1 Compromising Heritage for Buddhist-State Archaeological Narratives:** The Archaeology Department's was a game of turning Buddhist remains that were contiguous with South India, the banks of Tamraparni and Vaigai rivers<sup>268</sup>, into 'Sinhala Buddhist' ones. The identification was asserted for Kantharodai by Charles Godakumbura, the archaeological commissioner, in the paper titled *Kantharodai* he read at the Royal Asiatic Society, Ceylon, on 7<sup>th</sup> November 1967<sup>269</sup>: "With this information before us, there is no difficulty in identifying the *Nagarkovila* and the *Kadurugoda-viharaya* of the *Demalapattana* (Tamil City) in the Sinhalese [book] *Nampotha*<sup>270</sup>."

Godakumbura, earlier in the paper, described his source of information – the fleetingly famous Sanskrit 'Interlinear Inscriptions' of Senerat Paranavitana: "What is most important in the history of Nagavihara and Kadurugoda is the later writings in very small characters executed between the lines of the original inscription given in the *Compendium of Stone Inscriptions* compiled by Sumangala Sthavira. The inscription has been copied after a collation of the text as it was found in the two copies of the

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<sup>267</sup> Postwar, the Archaeology Department is being used in a big way to convert historic sites in the North-East having long recognised plural traditions into Sinhalese-Buddhist sites. Another instance is the official replacement of the Kanniya Hot-Wells traditionally linked to the Ravana legend as the site of a Buddhist monastery. There were undoubtedly Buddhist connections to the region, but largely Mahayana.

<sup>268</sup> Paulinus Tambimuttu, *Had the North a Buddhist Background?* *The Observer* of 14 Oct. 1949

<sup>269</sup> *Journal of the R.A.S. Vol. XII, (New Series) 1968*

<sup>270</sup> The *Nam Potha* lists all the important temples in Sri Lanka. It was compiled during the Buddhist revival, which began with Welivita Saranankara in the last half of the 18th century, which also saw the revival of the Sinhala language. Children after learning the *hodiya* used the *Nam Potha* to learn words – Ananda Meegama

(<http://www.island.lk/2005/08/20/satmag1.html>). Scholars familiar with *Nam Potha* have said that the traditions in the book date back to the Kingdoms of Kotte and Jaffna, circa 14<sup>th</sup> and 15<sup>th</sup> Centuries AD, and it duly refers to the latter as a Tamil kingdom – similar to *Yalpana Vaipava Malai*, the history of Jaffna written during the Dutch period, giving place names and traditions pertaining to the Chola period 700 years earlier.



"*Corpus of Inscriptions*", namely the one at Mandalagiri Vihara in Ceylon and the other at Suvarnapura (Palembang in the Sumatra). Both versions agree in giving the name of the village which was the recipient of immunities as "*Kadurugoda*" in the district of Valvita in the "*Northern Quarter*", but the Suvarnapura text has the words *Na-veherbad*, meaning belonging to Naga-vihara, before the name Kadurugoda."

Paranavitana supposedly discovered the inscriptions from 1964 on. From as early as 1967, other scholars subjected Paranavitana's estampages of the *Abhayagiri* and *Bolana* slab-inscriptions to minute scrutiny. The general conclusion was that: **"No epigraphist has yet succeeded in seeing what Paranavitana had seen, leave aside deciphering any inscriptions or verifying the accuracy of Paranavitana's work"** – Ananda Guruge<sup>271</sup>.

Paranavitana's claim that Suvarnapura above, which has one mention in a Nepali Buddhist text, is identical to Palembang, the capital of Sri Vijaya (in Sumatra), and was a flourishing centre of Greek, Arabic and Persian learning is not verifiable from any other source. D.P.M. Weerakkody in 1986 called Paranavitana's Interlinear Inscriptions a '**consummate concoction**' (Ancient Ceylon, No. 6, 1986, pp. 259 – 273).

Why did Paranavitana do it? Weerakkody provides a plausible answer: that the discovery provided textual support for his (Paranavitana's) own theories and one is "left with the conviction that these theories were read back into fabricated documents for which great antiquity and learned authorship are claimed." One of his contentious theories was placing medieval references to Kalinga from the Ceylon Chronicles in Malaysia rather than Orissa.

*Nampotha's* reference to Kadurugoda in the 'Tamil City' is likely the blending of the Tamil name with Sinhalese sounds in a children's text – as with Gdansk and Danzig. However, Paranavitana's invisible sources provided further references to Kadurugoda and posited a Naga-vihara on the site of the Buddhist remains. Paul E. Peiris, who first studied the site in 1919 had remarked, "*I venture to express the conviction that the archaeology of Ceylon cannot be understood, and should not be studied, apart from the Archaeology of India and that it is a pity that the great knowledge, and experience which is available in India should not be taken advantage of in the work here*".

Godakumbura who succeeded Paranavitana as archaeological commissioner in 1956 must have known about the deep reservations expressed over his peer's interlinear inscriptions well before his Kantharodai paper of 1967. While commissioner he commenced building modern stupas on excavated circular

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<sup>271</sup> Ananda Guruge, *Senerat Paranavitana as a writer of Historical Fiction in Sanskrit*, Vidyodaya Journal of Social Science, Vol.7 1&2 1996 pp.159 - 179



rims in Kantharodai, which was subsequently stopped. Recently the site was given a new Buddha statue and an army post.

Paranavitana had deciphered the 12<sup>th</sup> Century Koneswaram Sanskrit inscription in 1955, which named the site in Fort Frederick, Trincomalee, as Gokarna (*Epigraphia Zeylanica* V Part I p.170 ff) and affirmed the site as that of the famed Sivaite shrine. Unaccountably, he also posited a Buddhist temple near Koneswaram as the one built by King Mahasen (3<sup>rd</sup> Century AD), as stated in the Mahavamsa: after destroying the Hindu shrine at a place called Gokarna. Of the putative Buddhist temple, there is no trace. Paranavitana would well have known that Gokarna of the early Christian centuries in the *Mahavamsa* is near Magama in Hambantota as attested by several references in the later work *Culavamsa* and by Henry Parker (*Ancient Ceylon* p.235 ff).<sup>272</sup> Gokarna is a generic name for a shrine of Siva and the Gokarna in Trincomalee is a manifestation of Pallava influence from Kanchipuram, in the 7<sup>th</sup> Century.<sup>273</sup>

Upon his retirement Godakumbura launched a vigorous press tirade asserting that Koneswaram Temple is a fabrication and the famed temple destroyed by the Portuguese was in fact Buddhist (*The Sun*, 17.Sept.1968 and 9.Dec.1968). Godakumbura warned that recognition of Koneswaram as a Hindu sacred area would facilitate an Indian invasion using the sacred area as the launching pad for invaders, aided by fifth columnists, to arrive in the guise of pilgrims<sup>274</sup>. For his pains, a new prominent Buddhist temple, without precedent, now stands in Fort Frederick, which the Army occupies.

**The Kadurugoda posters of the Archaeology Department show that once fictitious claims are imposed by persons in authority, they are purposefully repeated by zealots as part of an agenda for aggression. Thus, pseudo-scholars blessed by state patronage produce copious paper positing Sinhalese Buddhist claims on selected sites in the North-East. The Army follows with takeover of lands and building Buddhist monuments. It is a game in which sheer quantity of paper overwhelms quality. In Kokkilai (Ch.9.2&9.6) and Mathagal for example the Army discovers Buddhist sites where none existed. The majority of**

<sup>272</sup> Geiger's Mahavamsa and Culavamsa Ch.37: 40-41, 48:5, 49: 1-15 and 57:5 and the author's Gokarnas of Lanka, unpublished.

<sup>273</sup> Raghavan, M.D., *Tamil Culture in Ceylon*, Kalai Nilayam, Colombo, 1972, pp.233 & 234

<sup>274</sup> Dr. C.E. Godakumbura on declaring Koneswaram Temple, Trincomalee, a Hindu sacred area: "[It] can easily give shelter in advance to quislings, collaborationists and fifth columnists, who will welcome the invading enemy and assist them against the Sinhalese" (*The Sun*, 18 Sept.1968). He speculated on a possible boom of Indian tourists/ pilgrims to Trincomalee, like Russian tourists to Czechoslovakia earlier that year, to prepare the ground for the invasion. Prime Minister Dudley Senanayake refused the request for the sacred area made by the Federal Party on grounds of 'national security'. Similar sentiments were expressed in the Citizenship debates (see Kumari Jayawardena op. cit.).

**scholars acquiesce through silence. Piety as a front for greed is the real significance of the proliferating Buddha statues. As in Sampoor, crony capitalists now or later move into the lands the Army acquired.**

**11.4.2 Overthrow of Secularism and Reassertion of Caste and Religious Hegemony:** On the opposite pole, a University poster about Jaffna's heritage at the same exhibition to which schools were invited describes Arumuga Navalar as the leader of the Tamil renaissance and credits him with defending Hinduism against Christian missionaries. The same poster anoints Ramanathan as Navalar's heir in the political arena. This advisory on Jaffna's heritage stops dead in the 19<sup>th</sup> Century, and misses an opportunity to describe how the Youth Congress fostered Jaffna's secular and liberal values.

Under a scholarly veneer, the University advocates the sectarian Navalar-Pon Ramanathan mystique, denying Tamilness explicitly to one who is not a Hindu and implicitly to those of the wrong caste. The results of the mystique have little to do with Navalar or Ramanathan *per se*. Navalar's important ethical injunction to vegetarianism is today largely ignored by his advocates, in whose hands the Navalar-Ramanathan canon fosters, like all narrow ideologies, animosity against the excluded. Papering over its elitist core, anachronistic content and caste-exclusion, it appeals to the broader mass of Hindus through feel-good slogans. Co-opting upcoming members of oppressed groups into a corrupt establishment actually reinforces barriers – the Plantation Tamils are a good example.

The University's role needs to be questioned on the current disturbing level of anti-Christian propaganda coming from the elite. One finds among the same officials involved in erasing the record of Christian missions in education, the practice of ganging up to prevent oppressed castes from being appointed principals of prestigious schools or to plot the removal of those in such rank. These moves of an educational mafia inevitably poison politics and corrupt education to a point beyond repair (Appendix 11).

The Tamil renaissance pre-dates Navalar and was too diffuse a movement to originate with a single individual. The missionaries played a significant role in it, and there would have been no Arumuga Navalar without Peter Percival, Principal of Jaffna Central College. As much as one could sympathise with the dilemmas and sense of hurt Navalar faced in his time, we no longer live in the era of Hindu-Christian polemics, and there is no need to thrust our young into them. To say the least, today's Ramanathan-Navalar mystique amounts to an attack on secularism. Its mindset dooms the liberal humanities as an academic discipline by replacing analytical content with rhetorical advocacy.



An ironical role in the Hinduisation of the University was played by the EPDP, an ostensibly left-oriented party opposed to the LTTE with a largely oppressed caste base. Being part of the Government and wielding considerable patronage over Jaffna University, it tried to shed its outcaste image through association with narrower elements of the Hindu establishment as seen in its appointments to the University Council. The University was long regarded a secular institution, although founded on the premises of a Hindu Board school. Previous attempts to give the University a Hindu façade by making its temple the centre-piece had been firmly resisted, as by students in 1988 who angrily stymied the Registrar's attempt to do so in the confusion following the Indian military offensive. For the opening of the new engineering and agriculture faculties in Kilinochchi in February 2014, Brahmins performed an elaborate devil-chasing ceremony the previous night, followed in the morning by a ninety minute Hindu ritual before the guests. What was resisted by mainstream Tamil politics for decades was accomplished overnight with political backing. Religious zeal is frequently a cloak for rampant favouritism in appointments, consequently defrauding the community of its future by lowering standards precipitously.

V. Tharmaratnam, Professor of Mathematics Emeritus, told a seminar at the University sponsored by the Science Teachers' Association on the subject of disregard for rules in recruitment to the University: "Our educational establishment managing state schools is hopelessly corrupt. The mission institution Jaffna College where I studied was in my time so renowned that students used to come from other parts of Asia and the world to study there. Later the school suffered from the narrow interests of a few dominant families and is now hardly better than a central school. Still, when choosing schools for your children, there is choice. But we have only one university. If current malpractices in recruitment remain unchecked by the academic community, there is no hope for our education."<sup>275</sup>

Also at issue is the sheer opportunism of academics who guide the EPDP; who seek to build power bases through introducing courses of dubious

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<sup>275</sup> To cite one of the many recent examples of the Jaffna university authorities' wanton disregard for rules, selection procedures and the future standing of the University, is the October 2013 selection for probationary lecturer in Zoology. Of the eleven interviewed, all women, the outstanding candidate with a first class from Jaffna, the award for best performance and evidence of considerable research interest was turned down in favour of one who came about lowest in all these measures. The leading candidate wrote an appeal to the Council to reconsider the matter. It was not presented to the Council the first time in December 2013 although one member tried unsuccessfully to raise it under any other business. It was again not presented to the Council in February 2014, and the appeal had thus been placed on the back burner. What began with the arbitrary overruling of council-approved selections to the non-academic staff in mid-2011, with political connivance, now threatens to become a flood engulfing the quality of academics.



academic merit, some having a definite religious and caste bias as an envisaged Faculty of Hinduism.<sup>276</sup> These blows signal worse to come, particularly for the academic standing of the University.<sup>277</sup> The electoral results show that the EPDP which got only 2 out of 38 seats in the 2013 provincial election received no dividends for its contribution to the Sanskritisation of public life, which is an attempt by the high castes to assert Hindu religious supremacy while holding out to the oppressed castes an illusion of social upliftment. Thus Jaffna University's role is now one that undermines the Tamil-speaking people by dividing them further, and in so doing provides justification for state ideology advancing Sinhalese-Buddhist hegemony, which a secular Tamil polity could well resist.

The task of an academic institution is to study the renaissance of the Tamil language in a secular way, without counter-posing missionary with native. The 14 years Navalar was associated with Percival, first as a student and then as co-worker, are far more important than the sequel of unedifying polemics. One generous assessment of the missionaries' role was offered by N. Sabaratnam, a distinguished principal of Jaffna Hindu College from the Youth Congress: *"At the dawn of the 19th century the American Missionaries came to Jaffna to preach the Christian Gospel, but in actual fact they propagated the ideals of a new nation, pulsating with life."*<sup>278</sup>

Today's leaders in education are so wilfully ignorant as to have forgotten that the pioneer Tamil University Movement was a secular movement comprising leading Tamil scholars and professionals in the late 1950s. It was a reaction to attempts at cutting down the number of Tamil entrants to the University of Ceylon (which became a reality with language-based standardisation in 1970). The Tamil University Movement was undermined chiefly by G.G. Ponnambalam and groups with marginal appeal trying to boost their following by playing the religious card and demanding a Hindu University in Jaffna instead.

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<sup>276</sup> Former university professor Balasundarampillai was a key man of the EPDP's for University affairs, who has been vocally advocating a Hindu University or a Faculty of Hinduism (e.g. *Uthayan*, 28 Jan. 2014, the professor enjoining leading Hindus to do the same), even as Jaffna University is being covertly driven in that direction. What this means for standards is indicated by the 2010 Quality Assurance Review by the University Grants Commission of the Department of Hindu Civilization at Jaffna University: "The quality of students... is unimpressive... The students who obtain high Grades in Hindu Civilization and Hinduism at the G.C.E. A.L. Examination are not opting to study these subjects at the university."

<sup>277</sup> See letter of 4<sup>th</sup> December 2013 signed by 86 members of the university community including 69 academics on abuse through manipulation of selection procedures: <https://www.colombotelegraph.com/index.php/justa-faults-selection-procedure-for-academic-positions-on-campus/>

<sup>278</sup> For the Youth Congress, Nation meant Ceylonese Nation, an ideal many of them held on to through the separatist tide.

Present attempts to steer Jaffna University in the direction of opponents of the Tamil University Movement has inevitably its social counterpart. Forgetting our progressive history from Arunachalam and the Youth Congress that led to universal adult franchise, caste emancipation and made room for the left movements that followed, the decadence symbolised by the University today is as though to erase from our social consciousness gains ushered in by the Donoughmore reforms of 1931. A culture where recognised merit is in disfavour becomes mediocre and unfriendly.

The fact that scholars cohabit with so much blatant fraud, which poisoned our politics and led to a bloody harvest and bleak present, is a comment on our common national character well captured in Tennyson's *Lotus Eaters*:

*What pleasure can we have  
To war with evil? Is there any peace  
In ever climbing up the climbing wave?  
Give us long rest or death, dark death, or dreamful ease.*

### 11.5 Azeez and Arunachalam

Is Tamil scholarship paying enough attention to the large Muslim population's contribution to the enrichment of Tamil life and language? The educationist and literary figure A.M.A. Azeez is one of the greatest sons of Jaffna. Prof. W.L. Jeyasingham spoke at the first convocation of the University of Jaffna in 1980, when Azeez, an old boy of Vaideeswara College, was posthumously awarded the *D. Litt. honoris causa*:

*"Mr. Azeez was a distinguished Tamil scholar and an eminent literary figure who wrote extensively on literary, cultural and historical matters. His article "Ceylon" in the Encyclopaedia of Islam and the books titled "The West Re-appraised", "Islam in Ceylon", "Misrin Vasiyam" and Tamil Yathirai are noteworthy contributions. He was an extremely cultivated man who left a deep impression on the intellectual history of Sri Lanka. His close familial and cultural links with Jaffna naturally makes him specially endearing to the University of Jaffna."* (13<sup>th</sup> September 1980)

Ponnambalam Arunachalam, whom the University of Jaffna and Tamil intellectuals have largely ignored, was one whose intellect was sharpened by his concern for his fellows. We quote from Kumari Jayawardena:<sup>279</sup>

*'Ponnambalam Arunachalam was a pioneer, not only of political and social reform, but also of labour organisations in Sri Lanka...Unlike the moderate Sri Lanka leadership of the period, Arunachalam took a radical line on many issues, being forthright especially in questions affecting the working people. He was far ahead of his colleagues in championing self-government and universal*

<sup>279</sup> Ethnic Consciousness in Sri Lanka: Continuity and Change, Navrang, New Delhi, 1984



suffrage...he had through the Social Service League, constantly highlighted the iniquities of the Master and Servant Ordinance of 1865, under which plantation workers who left their estates could be charged in court for breach of contract and returned to their former employers. In 1916 he spoke out against the conditions in the plantations, stating that "*Being poor, ignorant and helpless, he is unable to protect himself against the cupidity and tyranny of the unscrupulous recruiters and bad employers...*"

The power of Arunachalam's intellect appears in the Ceylon Census of 1901. Our grasp of history is built on fragments; we all have a curiosity about who we are and where we come from. What we build is an image, which may or may not stand the test of time. A man with a large heart keen on giving others their due is more likely to create an image that withstands this test. Arunachalam was familiar with the known history of India and Ceylon and saw developments in both as being complementary from pre-Christian times. Here is an excerpt from the history section of the 1901 Census, which he compiled:

*"The Tamils however [in the pre-Christian centuries] made great advance in rice cultivation...Tamil colonies of agriculturalists and artificers were introduced [to Ceylon] in large numbers, and rice and other cultivation introduced. Irrigation works were constructed. In order to secure the organised and continuous labour necessary for their maintenance, the patriarchal village system, which still remains in modified form, was introduced. Large military forces were subsidised, and the highest offices of state thrown open to the new allies. The civil and military organisation of the Island thus organised and the resources developed, Ceylon rose gradually to a high state of prosperity and civilisation."*

Arunachalam's picture is consonant with that of his eminent Sinhalese contemporary Mudaliyar W.F. Gunawardhana:

*"Scientifically therefore the determining factor of a language is not its vocabulary, but its structure viz., that aspect of it which is concerned with the arrangement and mutual adjustment of words in the expression of thought; and in this respect, it must be said, that Sinhalese is essentially a Dravidian language. This is not all. Its evolution too seems to have been on a Tamil basis. And so we seem safe in saying that, while in regard to word equipment, Sinhalese is the child of Pali and Sanskrit, it is, with regard to **physical structure**, essentially the daughter of Tamil."*<sup>280</sup>

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<sup>280</sup> 1918 lecture at Ananda College, Colombo, from pp 91-92, *India in Ceylonese History, Society and Culture* by M.D. Raghavan.



The two writers above have avoided ideologically congenial stereotypes and claims to ancient possession that hold sway; and have left open novel possibilities.<sup>281</sup>

Ethnicity has positive aspects: it represents poetry, literature, music, the beauty of a landscape, and art, fashioned by many generations for all who claim it. These features of ethnic identification belong to the realm of freedom, which we would dearly love to foster and protect while respecting others' corresponding desires. But we Tamils went about this entirely the wrong way, by a destructive response that mutually reinforced chauvinism.

The foreboding and despair of Sinhalese who have kept their humanity intact over several trying decades is reflected by Tisaranee Gunasekera's words on the current "post-conflict" scenario<sup>282</sup>: *"Today the past is returning. Like then, decent, respectable middleclass people are talking about the 'Muslim menace'. The same apocryphal charges can be heard across Sinhala society: 'They' are everywhere; 'They' are taking over our land, our resources and, this time, our women; 'They' must be stopped...We lost this sense of common humanity in Black July and became lost in a moral-ethical wasteland. We were too busy being Sinhala patriots to be human – a fate that befalls any people who lapses into fanaticism.*

*"Are we going to allow the barbarians within to decide our destiny, again? Are we going to be amoral and stupid, again?"*

The University forgot its plural heritage. The majority of Tamil-speaking people, including secular Hindus, would run away from the current narrowly sectarian outlook and the blighted vision of 'self-determination' it entails. In this sectarian dispensation, a Tamil-speaking entity would be a nightmare! In the larger Tamil polity such attitudes lead to apathy over the urgent need to mend fences with the Muslims.

### 11.6 The Muslim Question and Tamil Chauvinism

When the LTTE expelled Muslims from the North in late 1990, Tamils and their leaders, especially the Roman Catholic Church in Mannar, though

<sup>281</sup> On the peopling of Britain for example, archaeological evidence rules out 'the popular model of Britons being ethnically cleansed or annihilated by waves of Saxon invaders' moving from east to west (Carolyne Larrington on Guy Halsall's *'Worlds of Arthur'*, TLS 4 Oct.2013). An alternative model argued is that a considerable number of Saxons had been inducted into Britain by the Roman Empire, by 300 AD, as mercenary troops or auxiliaries along frontiers. The old English language being predominantly Saxon with few Celtic loan words, as opposed to Latin, is explained by a kind of Low Latin having been the *lingua franca*. Celtic influence on English shows regional variations and is held to be much greater than originally thought. See Stephen Laker, University of Leiden, <http://www.news.leiden.edu/news/celtic-influence-on-english-greater-than-previously-thought.html>

<sup>282</sup> "Barbarians Within," Colombo Telegraph, 31 Mar.2013  
<https://www.colombotelegraph.com/index.php/the-barbarians-within/>

afraid, opposed it (UTHR(J) Report No.6). Local LTTE leader Suresh told these critics that a Batticaloa group had been put in charge of the expulsion. The Tamil leaders could not stop it, but the Muslims were grateful that many Tamils sincerely tried. But today many Muslims, who returned to the North with little to call their own, face a lack of sympathy from Tamil politicians and administrators, forcing many of them to go back south.

Regrettably, no section of the Tamil community – neither the Tamil National Alliance (TNA) nor the Church – has made a statement welcoming the Muslims back. Nor has the Tamil community helped its Muslim countrymen to repossess what is theirs. The TNA's statements on returning IDPs and issues in the North-East rarely if ever take Northern Muslims into account; Tamil politicians generally mention the Muslim community when doing so supports a case against the State. No one has properly acknowledged all that Tamil nationalism cost the Muslims.

Tamils feel strongly, and rightly so, about government attempts to Sinhalise traditional Tamil areas. But the LTTE in its heyday certainly perpetrated similar wrongs. Uppukulam, for example, was a Muslim fishing village in Mannar District. When the LTTE evicted Muslims from this village, those fleeing brokered a deal with Tamil fishermen displaced from Vidathalthivu for them to use the land temporarily. But post war the Muslims returned, and the issue, which a fair-minded Church and TNA might have resolved amicably, turned instead into an ugly dispute.

The courts should not have been brought into this atmosphere fraught with suspicion; a Magistrate found himself forced to play a role where community leaders had failed. On 17<sup>th</sup> July 2012, the Magistrate gave an order for status quo, providing time to resolve the dispute through arbitration. He also ordered that Muslims demonstrating outside the Court be dispersed by force. The demonstration was ill-advised as it appeared an instigated attempt to arm-twist the judge. To the further detriment of the Muslims, government MP Rishard Bathiudeen made phone calls to the Magistrate threatening to set Mannar on fire if he did not change his verdict.<sup>283</sup> This provoked a nationwide protest.

Consequent to the Tamil leadership's failure of generosity was the Muslims' unfortunate dependence on government protégés whose unruliness and aggressiveness in politicising every issue played into the hands of Tamil nationalists. Each side has erred in trying to grab favours from the Government to the disadvantage of the other. On the Tamil side, for example, St. Xavier's Mannar asked the EPDP minister for land for its

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<sup>283</sup> Many Muslims loathe Bathiudeen, whom they consider the Defence Ministry's cat's-paw against the Muslim NGO Community Trust Fund (CTF). They also consider Bathiudeen answerable for the murder of human rights defender Pattani Razeek (Appendix 2).



swimming pool – and got it, but from an allotment that had originally been set aside for housing 27 poor Muslim families. The Government, in its turn, camouflages its agenda of Sinhalisation by giving its Muslim protégés *carte blanche* to dispense government job vacancies and housing in Mannar district in a manner that makes Tamils angry.

An unruly Muslim garners nationwide publicity, which veils other incidents of Buddhist monks close to the Rajapakses leading attacks on Muslim places of worship and businesses. One of these extremist organisations is the Bodu Bala Sena. Had it not been close to the rulers, it would have been categorised as a criminal organisation. The State's indulgent attitude to the Bodu Bala Sena is seen in Defence Secretary Gotabhaya Rajapakse's answers in an interview to the *Daily Mirror* (4<sup>th</sup> July 2013): "*Remember the majority community is 78% but if some 8% or 10%<sup>284</sup> of the community tries to bring various issues all the time it creates a suspicion among the majority community. It creates insecurity within the majority community and obviously there will be sections reacting to that... I did not create the Bodu Bala Sena, it was a creation as a reaction to what was happening.*" The same mindset is reflected in President Mahinda Rajapakse's Al Jazeera interview ('*Democracy Thrives in Sri Lanka*', *Daily News*, 30 Sept.2013).<sup>285</sup>

It would indeed be shortsighted for Tamils to fall victim to the Government's devices and deny justice to Muslims. How can we forget that we lived amicably together for centuries? If Tamils cannot show fairness to Muslims in the North, this will endanger relations between Eastern Tamils and Muslims, and place a peaceful and prosperous North-East beyond our reach.

In the East, though tensions between Tamils and Muslims have a longer history, the situation at present is largely the result of the great harm inflicted upon Tamils by a nationalism that under the LTTE behaved like its savage Sinhalese counterpart. Tamils readily remember the massacres of Tamils by Muslim home guards and thugs in the early 1990s, but few remember that these were reprisals for senseless LTTE massacres of Muslims. Moreover, rather than the work of Muslim leaders, these were instigated or supported by the Armed Forces – unlike massacres of Muslims by putative sole leaders of the Tamils. It is mainly the Tamils who are holding back on a dialogue.

<sup>284</sup> 8 or 10 percent is about the proportion of Muslims in the country.

<sup>285</sup> Responding to the interviewer's question on what the President was doing to stop attacks on minorities, the President said, "*There were some incidents and you have to go into the background of why they were attacked. A seven year old girl was raped. It is natural they will go and attack them no matter what community or religion they belong to.*" The President had used a totally false incident where a love affair between a Muslim youth and a Sinhalese girl had been turned into a child rape story.

<sup>285</sup> [http://www.unicef.org/srilanka/2013\\_OSS.pdf](http://www.unicef.org/srilanka/2013_OSS.pdf)



As with Tamil and Indian Tamil children in rural or conflict-ridden areas, Muslim children from such backgrounds too have been disadvantaged<sup>286</sup>, but the advancement of the urban, advantaged Muslims, no less than their Tamil or Sinhalese counterparts, has given rise to politics of hate directed against Muslims by extremist organisations like the Bodu Bala Sena. The latter are moreover busy trying to induce Tamils to follow suit. Both Tamil politics and society, lack the stature to create an atmosphere in which Tamil students could regain the tradition of hard work. The anarchy of religious extravaganzas, noise and competitive consumerism in Jaffna, is fertile ground for envy and hate against a vulnerable group like the Muslims.

The Muslim leadership, dominated by its business elite, has identified Muslim interests narrowly with buying patronage from the rulers regardless of the cost to others, as reflected in this leadership's obsequious support for the 1948 Citizenship Bills, like the majority of Ceylon Tamil representatives no less. The fallacy of playing it safe has been dashed by Sinhalese mobs – with the rulers' backing – attacking Muslim places of worship and commerce, as they did Tamils on several occasions starting from 1956. In turn, Tamil nationalist leaders, waxing in righteous indignation, have told Muslim leaders to withdraw their support for the Rajapakse regime, forgetting their own duplicity over the final ignominy in Mullivaykkal. This fatal arrogance towards Muslims is aided by expatriate influence and money, and the Tamil media.

### **11.7: The Oppressed Castes and Tamil Nationalism**

The organised militancy in Jaffna began with the caste struggles of the 1960s. The violence of the high castes drove the struggle against untouchability in a militant direction. Sporadic murder of oppressed castes remained largely unnoticed. The militant stance began with the Communist Party (Peking Wing or CPP) led by N. Shanmugathasan. The earlier strand which had begun in the 1940s was led by Joel Paul and M.C. Subramaniam. Their strategy was to explain the deprivation suffered by the oppressed castes to rulers in Colombo and seek affirmative action, which resulted in political alliances outside mainstream Tamil Nationalism. This brought benefits to the people, especially in education under Prime Minister Mrs. Sirimavo Bandaranaike. It was a situation where oppressed castes were forced to seek legitimate help from outside, and in doing so they became vulnerable to being branded as traitors by the nationalist camp that did not want to look squarely at caste oppression.

When ethnic oppression became severe with the 1977 communal violence, the left oriented groups which took to militancy inevitably drew on the

tradition of militant mobilisation against caste oppression. Many from the oppressed castes joined these formations in the hope that their contribution to Tamil liberation would also liberate them politically. From 1986, when the LTTE moved to wipe out its rivals, many of them perished ignominiously, branded as traitors because they were not in the LTTE. In the political vacuum that resulted, the LTTE recruited many from the oppressed castes who hoped for better things, once more to perish.

Several influential elites in Jaffna would be quick to swear that caste is no longer an issue, but is something harped on by trouble makers. Many Hindu Temples with an oppressed caste base are thriving owing to former devotees' munificence from abroad and a general increase in religiosity. Those from the oppressed castes are more enthusiastically participating in Hindu ceremonies, conducting age-attaining ceremonies for girls and disporting themselves in saffron and holy ash.

In Jaffna itself this phenomenon of attempting caste liberation by adopting high caste values and practices is one of passive acceptance of Hindu upper caste ideology that demeans them. The LTTE was critical of the caste system, but without political substance it had no agenda for caste liberation. During its domination the high castes sought its patronage and even manipulated it, but their room for mobilisation was limited.

The LTTE is gone now, but how the oppressed castes who now comprise up to an estimated half of the population fare postwar could be gauged from their representation in the recently (September 2013) elected Northern Provincial Council.<sup>287</sup> The Tamil National Alliance controls 30 of the 36 seats; of them the number of oppressed caste members is only three. Of the five provincial ministers, none is from the oppressed castes. Though hardly anyone talks about it, it is a token of what imitation of high caste ideology and religious ritual really means to the oppressed castes.

The militant movements failed the oppressed castes by trying to use them by talking about caste liberation without any programme or political content. A glance at the phenomenon of caste violence will show that the militant groups were mainly used to tighten upper caste domination. Violence against oppressed castes is much older than the militant phenomenon. In the latter 1960s, the oppressed castes fought battles for temple entry and challenged other restrictions against them; the latter included inferior vessels in which tea was served to them in tea shops and

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<sup>287</sup> In the caste structure of the Sri Lankan Tamils, the Vellala elite occupy the peak position as the dominant caste. Vellalas at the next levels and the Brahmins are also considered to be upper caste. In all they comprise 40% of the Tamil population. The middle castes comprise 30%. The remaining 30% are the downtrodden people who toil at the lowest level – S.K. Senthivel (FN.288). The five service castes who toil at the lowest level – Pallar, Nalavar (Toddy Tappers), Paraiar, Vannar (washermen) and Ambattar (Barbers) – are known as the Panjamar



work places, and services performed by washer men and barbers being denied to them. A major incident in 1964 was when in Punnalaiyadu 65 houses of oppressed castes were burnt by a high caste mob. The victims fled through Mylankadu and settled down in Erlalai. Nevertheless, victory against open discrimination was total. A notable struggle against untouchability was launched on 21<sup>st</sup> October 1966.<sup>288</sup> A leading role in this battle was played by the Communist Party, Peking Wing (CPP).

The oppressed castes being deprived and far behind in education, their leader Mr. M.C. Subramaniam appealed to Prime Minister Mrs. Bandaranaike, who made him a nominated Member of Parliament in 1970. Mrs. Bandaranaike gave them 15 primary schools including in Kuttapulam, Mattuvil and Sandilipay; and 225 persons from these castes were admitted for teachers' training at colleges in Palaly, Kopay and Colombogam (Karaiyoor). For the oppressed castes in backward areas these gifts were too wonderful to be true, even though free education had entitled them to these. More than a thousand people without education were further given jobs as railway labourers.

Mr. Seeniyar Kunasingam (Kunanayagam), an oppressed caste activist, took part in oppressed caste struggles from an early age, had become Northern Secretary of the CPP. He explained that of Joel Paul and M.C. Subramaniam, the pioneers in the pre-independence caste struggle, Paul was from Tellipalai and could not, because of his caste, take up a position as teacher for which he was trained. But he did extremely well as a contractor and became influential, along with his brother Samuel.<sup>289</sup> Kunasingam relates that by arrangement, Paul and Subramaniam met a leading English official in Nelliady and took him to Kanpollai, a nearby oppressed caste village, to show him the conditions there. Later, the high castes tied both Paul and Subramaniam with their shawls and doused them in petrol prior to burning, but the Police rescued them in the nick of time.

Being of the traditional democratic disposition M.C. Subramaniam could not go beyond a limit in struggling against the violence of the high castes, resulting in persons including S.T. Nagaratnam, K. Daniel, Thangavadiel and Krishnapillai Master leaving him from 1964. However while he was MP in the early 1970s, high castes approached Subramaniam, as they approached Duraiappah, for government jobs and favours such as transfers, where he readily obliged. Kunasingam adds bitterly that after getting these favours, they spread false stories that Subramaniam did this for money. Kunasingam recalled that when oppressed castes obtained educational facilities from the Government, Tamil Nationalist leader A. Amirthalingam denounced this through the party paper, the *Suthanthiran*,

<sup>288</sup> <http://www.bannedthought.net/SriLanka/NDP/ND23.pdf>

<sup>289</sup> <http://daisydharmaraj.blogspot.com/2010/11/growing-up-in-jaffna.html>



in a derogatory tone. Tamil nationalism too came, by implication, to regard these people as outcastes, and even traitors.

**1970s and Continuing Violence:** Violence against the oppressed castes continued with impunity in those times that still had functioning law and order, despite the LTTE becoming active with the murder of Alfred Duraipappah in 1975. During 1977, in Mylankadu, Erlalai, thugs working for the high castes, burnt a house on land where the high caste land owner had been trying to evict the tenant, killing Veeramuththu's two children and his mother-in-law. Kunasingam remembers the corpses looking like roasted pigs. No arrests were made.

In January 1982, Annasamy, a driver attached to the Ceylon Transport Board from Punnalaikadduvan North, was returning home to Eevinai after work, when he was intercepted by thugs working for the high castes and cut to pieces. Kunasingam took the relatives of the deceased to Chunnakam Police Station and made a complaint. Arrests were made and the case was heard in the Mallakam Magistrate's Court by Judge C.V. Wigneswaran, who had earlier viewed the remains at the site.

By this time the militant groups had become active and it was easy for high castes who had the ear of the militant groups to brand active persons who fought on oppressed caste issues as traitors or informants and have them killed. Asked if it was the main nationalist groups, PLOTE, LTTE and TELO who did this as opposed to the more left groups, Kunasingam said he would not exclude the latter, all were capable of it. One of those killed in 1982 was Rasasekaran from Eevinai, who was active with Kunasingam. He was taken from his village by the LTTE, shot and burnt in a hole. The local situation had become too dangerous for Kunasingam, who left for employment in Saudi Arabia in early 1984. When he returned in 1987, he found those arrested for Annasamy's murder at large. Apparently, the case had been dropped. He said there are many instances of such killings, which were hardly reported or investigated.

Kunasingam told us, "I do not blame Judge Wigneswaran personally for the failure to bring Annasamy's killers to book. There was a worsening situation in the North and by mid-1983 routine police work was at a standstill. But there was a general systemic trend. Were the victim of high caste, the case would have been wrapped up speedily and there were several months in which the job could have been done. It is the same even today. When the oppressed castes go to the Human Rights Commission or to the courts, they seldom get fair treatment."

**Post May 2009:** When the war ended all sections of Jaffna society were faced with an uncertain future. Those who had relied on LTTE patronage had to realign themselves. Religious groups had to think of new alignments to look after their interests in a field where the Government, Army and the

EPDP were the main dispensers of patronage. And certainly Christian dignitaries too made their own useful contacts at the top.

The direction of the society however is determined by how in the absence of moderating principles, dormant prejudices, weaknesses, interests and ambitions of the leading forces coalesce to marginalise others. As regards caste, the process of acculturation, co-optation and patronage confuse the scene and make it harder to discern discrimination. Tamils as a whole have faced institutionalised discrimination in Sri Lanka, which is commonplace and well-known. But what the oppressed castes, whom we consider part of the Tamil nation suffer, is both devious and largely suppressed.

We give the cases of Miss. Malar Sinniah who was principal of Kopay Teachers Training College and Mrs. Navamany Santhirasekaran, principal of Imayanan (1C<sup>290</sup>) School in Vadamaratchy; both oppressed caste women in top rank jobs suffered devious acts of discrimination on account of it. Miss. Sinniah was removed from her post and ordered to spend the last one and a half years before retirement signing at an office, overnight reduced to a nondescript, without any charges being made or, reasons for the action being inquired into within the mandatory three months. In her place a far less qualified high caste person was made principal. Going deeper into Miss. Sinniah's case shows caste discrimination to be part and parcel of far reaching corruption in our educational establishment, where mafia-type intimidation is deployed by our putative educators (see Appendix 11). A body of high caste officials seems to have canvassed her superiors in Colombo and got them to act against her as Tiger woman. Were the Tigers in power, they would have branded her as anti-Tiger to the same end. Petty vindictiveness is seen in the manner the local authorities have hounded her.

Mrs. Santhirasekaran, though qualified was denied the principalship of her old school, Udupiddy American Mission Girls' (1 AB) School (AMGS), vacant from March 2010. Though a trained teacher without a degree, she had been principal and earned Grade 1 in the Sri Lanka Principals' Service (SLPS 1) in 2004. She was offered a posting to Valvettithurai Girl's School, which she did not take up; as she expected to be interviewed for the vacancy in AMGS. Mrs. Santhirasekaran was rejected for AMGS without even being called for an interview. Meanwhile the school was placed in the hands of the Acting Principal Mrs. Joseph, who though Grade 1 in the Teachers' Service, was unqualified without SLPS 1. A leading former principal in Vadamaratchy quoted Mr. V.T. Selvaratnam, Additional Provincial Director of Education covering the area, as having told him that they could have appointed Navamany, if only she had a degree.

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<sup>290</sup> IC, having A. Level Commerce, but not Science, 1 AB, having A. Level Science



A senior education officer told us that Selvaratnam's could not be the true reason, as the advertisement for the principal's post had called for SLPS 1, which only Mrs. Santhirasekaran among the applicants had. The concerned circular had a point system where 10 points were awarded for the degree and diploma, but in the absence of competition only the SLPS 1 mattered.

One may contend that though an irregularity had occurred, caste was not the issue here. This is to ignore the fact that there were already lobbies opposing the appointment of principals from the oppressed castes to prestigious schools. Another education official who was present when the matter was discussed, heard Selvaratnam say, "Let's keep her out" – done by the simple expedient of putting the interview on hold.

A friend pointed out to Mrs. Santhirasekaran that the Provincial Education authorities had appointed two Grade 1 principals without degrees to Grade 1 AB schools in Valikamam during 2011; these were Victoria College and Vaddu Hindu. He advised her to cite these and appeal, but she did not. After 2 ½ years of dragging, time had come for the Acting Principal to retire – on 12<sup>th</sup> November 2012. Once more Mrs. Santhirasekaran hoped to be made principal. She was still the only applicant with SLPS 1. Besides she had obtained her Bachelor's in Education, which covered the diploma as well. But in the new advertisement for the principal, ostensibly as requested by the school societies, old girls and parent-teachers, made the stipulation that in addition to the degree and diploma, the person appointed principal should be of an age to serve three years before retirement. This was deliberate as the former Acting Principal, who had only 2 ½ years to serve was appointed simply to keep Mrs. Santhirasekaran out, and during that period her application was gathering dust on the tray. The new conditions were again tailor-made to keep her out as her date of retirement upon reaching 60 was 26<sup>th</sup> September 2014. Mr. Sathyaseelan, Secretary of Education Northern Province appointed as principal Gowri Sethurajah, who was only Principal Grade 2/2. The drama of mobilising high caste interests was the work of education officials, whose duty is simply to check minimum requirements and make appointments based on the points system.

This was the time the matter caught public attention as a divisive caste issue, when supporters of Navamany Santhirasekaran demonstrated on the streets, demanding that the school be given its due by appointing a Grade I Principal as stipulated for 1 AB schools. The issue became further politicised as the Northern Provincial Council elections approached in mid-2013. Representations were made to Governor Chandrasiri who issued a letter to the Provincial Secretary of Education on 4<sup>th</sup> July 2013 ordering Mrs. Santhirasekaran's appointment as principal. The next day provincial elections were called and the Secretary issued his letter on 13<sup>th</sup> August



asking her to take over as principal on 23<sup>rd</sup> September. The school societies in turn confronted her in court demanding that her appointment be voided owing to its being done during the electioneering period.

Caste mentality is the thin end of the wedge that opens the door to widespread disregard for the rules, rank favouritism and debasement of merit in our educational environment. The most subtle weapon in the hands of those in power is deniability, by distorting the rules and maliciously throwing doubt on the credentials of those who have been cheated.

**Rajadurai and Sivalingam:** Kunasingam holds that the targeting of oppressed caste folk who come up in life has not ceased to this day. He gave the example of Central College Principal Rajadurai and Education officer Sivalingam. It is true, he said, that Kanapathy Rajadurai was killed on 12<sup>th</sup> October 2005 by the LTTE, ostensibly as reprisal for the State's killing of Principal Sivakadatcham, but it could not have happened that way unless plans for Rajadurai's murder had already been in place, awaiting a pretext. This reading has similarities to the murder of Principal Anandarajah in 1985 (see FN.70 of Ch.3). Kunasingam added that the LTTE had no reason to target Rajadurai and they usually made allowances for people in positions; Rajadurai had no more contact with the Government, Army or the EPDP than others in his position (e.g. Principal Sivakadatcham) had, and Rajadurai was certainly not an army spy. Kunasingam is certain that some who did not like persons of Rajadurai's caste in high positions had fed stories to the LTTE to have him killed.

Markandu Sivalingam (52) was Deputy Director of Education in Jaffna, from an oppressed caste, and was shot dead by gunmen who entered his house on the night of 26<sup>th</sup> December 2010. No one was arrested. It was amply clear that unless the killing was done by agents of the state, the Government would have left no stone unturned to find the killers at a time it claimed to be in complete control. Concerned observers dismiss rumours floated, purporting to explain the killing: one held that Sivalingam had spoken out against the order to have the National Anthem sung in Sinhala-only. Kunasingam, who knew Sivalingam well, said that he was a retiring man of moderate habits not given to political posturing, one who suffered in silence insults alluding to caste.

Kunasingam added that before he was killed, Sivalingam had told him that he faced threats to his life from several persons, including X, who was senior in the educational field. Kunasingam knew X as one connected to the SLFP like himself, but also as one who helped the LTTE in logistics. Moreover, Sivalingam was promoted and was to assume the post of director of education the next day, which has left Kunasingam convinced that it was a caste killing done by priming official killers with false stories

about Sivalingam. Moreover, Kunasingam said, X had told him that Sivalingam was killed because he had made a pro-LTTE speech at a function the previous day.

When told that those who knew X, did not regard him capable of such harm, Kunasingam responded, "There were serious problems in what he told me. Sivalingam had neither gone to a function, nor made such a provocative speech. Even if X was not directly involved, he was spreading a false story intended to shift the blame. Look, the ethnic problem is a grave one, but the Sinhalese will neither admit that, nor their connivance (whether active or passive) in impunity and violence against Tamils. They don't want to let go short term benefits that come from denying another community its rights. Caste is like that. It is a bigger issue here [in Jaffna] than the ethnic problem."

The feelings and judgments of a man like Kunasingam who has dealt with countless cases of caste abuse and discrimination need to be taken seriously by those who mean Tamil society well: "We have won several battles. Formally there are no barriers now. The high castes sit with us and eat with us at functions, but that is deceptive; what is in their heart is quite different. Their intention is to use invisible means of manipulation to keep us in the role of pet dogs. When there is a hue and cry of opposition when an oppressed caste person is about to become a school principal or a high ranking educational official, or when the system of representation is manipulated to ensure no more than a token presence of the oppressed castes, these are all moves meant to keep the doors to our advancement closed as far as possible.

"How the system works against us is very evident in the outlying villages in Jaffna. Many of our people live in crowded dwellings with hardly any room for a lavatory or a well. If our people move into vacant crown land, immediately the Headman or Divisional Secretary would take legal action. A high caste person doing this would be helped by officials to legalise his occupation. Take the Valikamam High Security Zone (HSZ). The Army is wrong to occupy the lands. But when the [nationalist] TNA brings foreign dignitaries to see the displaced, they take them to the squalor of IDP camps, almost exclusively occupied by oppressed castes from the HSZ. When protests are mounted, it is they who are mobilised to defy the security forces. The title holders to occupied lands are mainly high castes, who have largely moved to suburban Jaffna or far beyond.

"The question is what is in it for the oppressed castes, whose misery and desperation are exhibited to redeem the land? It is they who broke the rocks, made the land fit for cultivation, and labour to make it produce, but barely own a viable patch of land. We only want to live in dignity and equality with others. But this is not what the TNA wants. The Tamil



nationalists have offered token representation to a few from the oppressed castes. They are then used to consolidate high caste ideology and politics. Individually they and their families might do well. When those who are co-opted commit abuses they are protected. But their record is one of betrayal. I would frankly support the Government rather than a high-caste dominated polity. Even governments bow down to high caste pressure, but what benefits we have, we got mainly from governments. The TNA wants to get rid of Major-General Chandrasiri from the post of governor. I could any time talk to Chandrasiri in a friendly and companionable manner. Could I do likewise with our elected Chief Minister, Wigneswaran?"

The suggestion was put to Kunasingam that even well-meaning members of the high castes would dismiss what he has said as one-sided and many of the cases as having another side to them. He answered, "Take the lifting of a heavy stone. As one not directly involved, you would see that the stone that was on the ground had been lifted up. But he who lifts the stone knows how his muscles and sinews were strained in the act and the pain various parts of his body endured."

### **Impact of Caste Mentality on the Quality of Society**

The continuing impact of caste may be identified as a sub-plot of inclusion of the race principle in the Citizenship Acts that are responsible for the moral and institutional degradation of Lanka. The admission of such a principle legitimizes disregard for rules and common standards in order to consolidate privilege of a group. Telling a person by words or signs that he or she is a lower ranking human being because of an accidental attribute of birth, is pregnant with violence and alienation, and brings tremendous loss to the entire community.

Jaffna and its institutions face a dire lack of competent talent in for example its educational and health services. Rather than face unpleasantness doctors and professionals who qualify from the oppressed castes prefer to stay out of Jaffna. Kunasingam explained that following the 1995 forced exodus to the Vanni, many from the oppressed castes joined schools there, studied in a less constrained atmosphere and have done well, but do not want to return to Jaffna. Caste mentality is licence for favouritism and abuse.

### **11.8 Masquerade for Power**

Tamil nationalism, like its counterparts, is drenched in hypocrisy. C. Suntheralingam, the pioneer of the Eelam slogan, voted for the 1948 Citizenship Bill (see FN.291). G.G. Ponnambalam, leader of the Tamil Congress, gave in 1947 the Indian Tamils a solemn written undertaking, "*I pledge to support and shall adhere to the demand of the Ceylon Indian Congress for the rights and status of Indians in Ceylon*" (S. Nadesan in the



Senate, 15 Nov.1949). But Ponnambalam's voting against the first Citizenship Bill appears merely a matter of timing. He was negotiating for a cabinet portfolio (as Muslim leaders have regularly done).

A few days after 20<sup>th</sup> August 1948, when the first Citizenship Bill was passed, Ponnambalam called on D.S. Senanayake. It was a 'historic' event, as related by Senanayake's valet Carolis to J.L. Fernando (*Three Prime Ministers of Ceylon*, p.26): "Sir, the Tamil worshipped the Sinhaya (Lion)". Ponnambalam on seeing Senanayake come out 'bent down and made obeisance in Oriental fashion'. Ponnambalam, with seven other Tamil<sup>291</sup> and six Muslim MPs<sup>292</sup> (who had already voted for the Citizenship Bill) voted for the next two bills that sealed the fate not just of the Indian Tamils, but of all the minorities. So much for our much vaunted Tamil intelligence! Prabhakaran, in 2009, sacrificing countless civilians in attempting to save himself followed in the same hallowed tradition.

The Rajapakses and their cronies relished the patriotic aura of having rid the country of Tamil terrorism. Their irrationality in blessing the Bodu Bala Sena's anti-Muslim rampage appears to have much to do with their need for another patriotic cause, given urgency by the unearthing of the Matale mass graves in November 2012. That discovery, of course, points to those Sinhalese youths horribly tortured and killed during the late 1980s JVP insurgency. Matale is a rural town in the Central Province, from where many deprived Sinhalese youths joined the insurgency. The same crew acclaimed the heroes of Mullivaykkal in 2009 was active in Matale in 1989.<sup>293</sup> Where does this leave the humanitarian war claims?

The top-level justification for the colossal extra-judicial killings, while crushing the JVP, was the speculative premise of 10 percent [resolute cadres] among those 'taken out' (Ranil Senanayake, *Groundviews*). Against its shameful past, the JVP's uncritical support for the Government's 'war against [Tamil] terrorism' has placed it in a pickle over the Matale graves.

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<sup>291</sup> Five Tamils who voted for the Citizenship Bill on 20<sup>th</sup> August 1947, are C. Suntheralingam (Independent, Vavuniya and minister), C. Sittampalam (Ind. Mannar, joined UNP, minister), V. Nalliah (Ind. Kalkudah, joined UNP), S.U. Ethirmanasingam (Ind., Paddiruppu) and A.L. Thambiyah (UNP, Kayts). C. Suntheralingam walked out when the vote was called on the Indian and Pakistani Residents (Citizenship) Bill on 10<sup>th</sup> December 1948. Eight Tamils, including the remaining four above with four Tamil Congress MPs, G.G. Ponnambalam (Jaffna), K. Kanagaratnam (Vaddukkottai), V. Kumaraswamy (Chavakacheri) and T. Ramalingam (Pt. Pedro) voted for it. S.J.V. Chelvanayakam (KKS), C. Vanniasingam (Kopay) and S. Sivapalan (Trincomalee) voted against and left the TC. The same eight Tamil MPs voted for the Parliamentary Elections Amendment Bill on 18<sup>th</sup> October 1949, but Suntheralingam voted against it.

<sup>292</sup> T.B. Jayah (Colombo Central), Gate Mudaliyar M.S. Kariappan (Kalmunai), A.R.A.M. Aboobucker (Muttur), Mudaliar M.M. Ebrahim (Pottuvil), H.S. Ismail MBE (Puttalam), Mudaliar A. Sinnalebbe (Batticaloa)

<sup>293</sup> The Defence Secretary and the commanders of the 53<sup>rd</sup>, 57<sup>th</sup> and 58<sup>th</sup> Divisions involved in the last phase of the war have been named in *Gota's War* or by the Government's media spokesman.

While immediate responsibility for the crimes lies with those giving the orders and the armed men under them, the greater share of the blame belongs to members of the intelligentsia who forged ideologies of murder. Their fantasies of wish fulfilment poisoned the masses and egged on politicians looking for means to consolidate power.

A young Sinhalese man asked his colleague, a senior engineer and Marxist who stayed in Jaffna through the worst years, for his view of changes after the war. The senior replied, *"Murder has greatly diminished, but the rest of the rot remains intact."* He later explained, *"It was not merely a few who implicitly supported the LTTE's murders. But it was only a few that kept their moral convictions and quietly opposed its actions."* Jaffna now faces dilemmas similar to postwar Germany. The victorious government sought outward demonstrations of support only as a cover for its repression, a practice that made it easy for those complicit with the LTTE to change masks and be rewarded. Both opportunism and moral cowardice stymies the need for self-examination.

Two leading churchmen, a vicar-general and a protestant bishop, once converted, became prominent lobbyists for the LTTE. The former had written to the *Tamil Times* editor in 1990 that he was heartbroken at the pitiful state of the evicted Muslims in Vavuniya. The late Ben Bavinck, trying to understand them, told us that in November 1993, they were both at St. Xavier's Seminary, and from this vantage point saw the Air Force bombing Jaffna Town two miles west, killing over a dozen civilians by hitting St. James' Church. Horrific though the incident was, it gave no cause for adulation of the LTTE. The failure of community leadership, particularly after the LTTE imposed its supremacy in 1986, drove several children and young women who witnessed the State's brutality into the LTTE's arms. Who will now answer for these young killed, maimed or thrown on society's dust-heap, after being cheated with false hopes?

Similarly, the Government's monstrous approach to Lanka's minorities has enabled expatriate LTTE supporters who lied about the fate of the people in the last stages of the war to change masks and emerge as champions of human rights. These same groups previously reviled those who exposed the LTTE for what it really was.

The survival of any society demands civic sense. It should be obvious to those with such sense that a prevailing order founded on murder cannot be sustained. For Tamils who were blind to the LTTE's public atrocities and recruitment of children, the killing of Rajani was a final warning. The story of Tamil dissent needs a comprehensive treatment; a good deal has been lost and what we know is chiefly through personal contacts. That said, many were killed within the LTTE through devious stratagems. A number of individuals had come to the conclusion that Prabhakaran had to be



killed for the good of Tamil society. We have here the dilemma of responsible action that we encountered in the Introduction. This is a dilemma of individuals who see that there can be no possibility of the rule of law under an oppressive regime that has closed all avenues for peaceful change. In doing such a deed the individuals act on their own responsibility in a lawless environment without any possibility of institutional support, ready to answer for their own actions.<sup>294</sup> This is very different from an established state killing those who had surrendered – an act totally repugnant to the rule of law.

Scarred by its opportunistic dalliance with the LTTE, the Tamil National Alliance (TNA), post war, had an opportunity to exorcise this legacy. It needed to open its doors to persons who had stood up to the LTTE, be responsible in public utterances and build bridges to other communities. Instead the TNA has without any soul searching harped on the same rhetoric that spawned the LTTE for cheap gains. TNA has kept out the very persons who consistently defied the LTTE's terror and would have brought with them an agenda for social emancipation, badly lacking in the TNA. With characteristic double-speak the TNA would go on avoiding the question whether its leaders killed by the LTTE were traitors or martyrs. It is a lurch to the right with nothing to offer the Tamils.

The TNA's September 2013 NPC election rhetoric capitalised on latent nostalgia for the LTTE in the barren aftermath of its end. Their campaign was high on Tamil military valour with little on the reality of actual suffering. More abhorrent was the TNA trying to score points over the civilian dead in the final blistering ignominy of 2009, who were victims of Tamil nationalist egotism and cowardice, no less; and its glaringly insensitive use of the Tiger dead, many of them cynically conscripted after all hope was lost. Far from model heroes of platform rhetoric, these wretches wanted to, if possible, throw their guns and run away. The lies of convenience and empty rhetoric piled on these hapless victims will cost us dearly in the coming years. The violent fragmentation of Tamil politics began in 1972 with the *fatwa* against 'traitors' from a Federal Party platform.

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<sup>294</sup> One can find illuminating analogies in the history of Germany and its Nazi movement. In the late 1930s, the German Army's Commander-in-chief Werner von Fritsch and Chief-of-staff Ludwig Beck, while in sympathy with ideological elements of Nazi propaganda, had begun to be uneasy. In a move to enforce Nazi control on the Army, the regime in 1938 framed Fritsch in a scandal. Other officers knew the accusations to be completely untrue. For Germans who had been blind to the treatment of Jews, this was another clear danger signal. But in the Prussian tradition of obedience Beck refused to let Franz Halder, a later commander-in-chief, talk to him about their chief Hitler's shameful treatment of Fritsch. With this choice, this obedience, these men lost the opportunity to check Hitler. Helmut Thielicke observes (*Between Heaven and Earth*, James Clarke & Co, London, 1967), "One can only guess how thorny was the inner path that led this Prussian officer [Beck, in 1944.] to become the military head of a rebellion and to approve the attempt on Hitler's life. He too paid for it with his life."



Instead of looking inward, our politics are stuck in the mire of the pot calling the kettle black. We have all been criminals in word. Deeds are a mere corollary. After eight decades of experiencing Sinhalese and Tamil nationalisms, what is most evident is that Sri Lankan experience of nationalism has been primarily a negative phenomenon. The Tamil-speaking people will do well to seek a leader outside mainstream Tamil society – a Hill Country Tamil or a Muslim, pragmatic, but firm on principle.

This book began with an analysis of state racism through the legal instruments of the Citizenship Acts, and the institutionalisation of militarisation through state practices of Sinhalisation which exclude Muslims and Tamils. The analysis in this chapter comes full circle by focusing on the exclusionary impulse within Tamil nationalism that produces a mirror image of Hindu majoritarian casteism as a form of racism directed at oppressed castes, Christians and Muslims.

### **11.9 Hope and Betrayal: the Militancy of Rajani's Generation**

Born in 1954, Rajani's generation occupies a central place in the early militant struggle, which Rajani's daughter Sharika Thiranagama calls the 'popular militancy' of the 1980s in her book *'In my Mother's House'* (Pennsylvania University Press, 2012). She distinguishes this from the LTTE-monopolised militancy of the 1990s centred on recruitment through a quasi-state structure, tending increasingly to conscription.

The popular phase was marked by a yearning for egalitarian social transformation, besides liberation from Sinhalese chauvinism. Spontaneous public support refused to distinguish one militant group from another and longed for unity. This is illustrated in what the mother and aunt of Sakthi, of the EPRLF women's wing, told LTTE cadres who came to arrest her niece in December 1986: *"If you are going to shoot, then shoot us."* *"Who are you? You are not the only people in the struggle. We have helped your movement and we will help other movements too, they have come to fight, just like you"...*The aunt even grabbed their shirt and told them *"If you shoot, then shoot me."*

*"Thus in the 1970s and the 1980s, the LTTE was one of the many different militant groups rather than the only significant one...Thus the widespread mobilisation of Tamil youth into militancy cannot be explained through the LTTE's own account of its rise to power as an organic fact of evolution of Tamil nationalism and Sinhala chauvinism ...Moreover, Sivaram's figure of 44,800 people [in the militant movements] is around 2.8 percent of the overall 1984-1985 Sri Lankan Tamil population of the northeast. This 2.8 percent were almost all from the same generation – approximately ages 16 – 29. [The LTTE had in the mid-1980s, less than 3000 full-time trained cadres.] This concentration of*

*militancy in a particular sizeable age range gave it intensity and high visibility in Tamil life in the north as a whole."*

As Sharika recounts in her book,

*"This...illuminates how central and yet completely unexamined the phenomenon of popular Tamil militancy was, one that haunts the lives of Tamils in their forties and fifties. The LTTE rise to supremacy saw 80-90 percent of those who had 'risen up' against state discrimination imagining themselves freedom fighters become labelled potential Tamil traitors instead. While current accounts have treated other Tamil militant groups as marginal to the story of Tamil nationalism, and the LTTE, I attempt to shed light on the marginal who were in fact the majority."*

And yet the dedication of the best of a generation became an embarrassment to the Tamil elite, who buried their memory under a mass of calumny, strewn with epithets such as traitor and quisling. What Sharika does in her book is attempt an archaeological exploration into this human debris. The betrayal of the generation was multi-layered. Indian tutelage was among the severest strains placed on the popular militancy. Its leaders became obliged to Indian handlers rather than to their grass roots. Sharika quotes a former TELO militant:

*"The problem was that all the movements quickly turned to violence for everything. Whenever anyone talked something different, they said he was...against the movement ...[and] the response was to chase [them] out or kill them. [We are answerable.] We could have changed it and we didn't." The LTTE alone had a clear notion of where it was headed:*

*"The LTTE disavowed any hint of the agenda of social transformation that had characterised youth mobilisation, and concentrated on building the vertical ties of Tamil nationalism. LTTE settled on the pursuit of land, tradition, and inheritance, all that the 1980s youth were frustrated with. The lives and deaths of traitors and martyrs, lives that were sacrificeable without retribution, became the central premise around which politics and Tamil life could be produced." Its constituency is immediately evident.*

Two events in Jaffna at the end of 1986 could be seen as the last gasp of the popular militancy before the LTTE's final crackdown. One was the students' protest over LTTE's abduction of the student Vijitharan. Those who actively participated were ordinary people and young students, many of whom had militant links, but were disillusioned with their India-based leaderships. The other was the women's protest on 12<sup>th</sup> December led by the EPRLF Women's Wing. Sharika quotes Sakthi:

*"...we wanted to be united, to discuss our nation and women together, and we wanted to say that you shouldn't use violence against each other. The march wasn't just women in our movement; it was also women from*



*outside the movement who supported us. Many women came for that march from all ages: young, old and middle-aged."*

The following day the LTTE banned the EPRLF. The women who took part in the march had to go into hiding. Some were protected by their homes and villages in defiance of the LTTE. The success of the LTTE's repression left the society facing moral anarchy as betrayal became nothing to be ashamed of. Sakthi was in her village when the IPKF (Indian Army) advanced in 1987:

"We were at home; the command was all in India...we were so angry. We had suffered already under the IPKF; we could not believe it. Not just our family, but we had seen what had happened in front of our eyes. All the deaths...we were so affected by this and on the radio they [EPRLF in India] were saying that the IPKF had not hurt anybody; that women had not been raped and so on, just lies...We were telling them [the EPRLF leadership] that people won't accept us if we ally with the IPKF." <sup>295</sup>

Despite internal misgivings the EPRLF allied with the IPKF: in a betrayal of its original vision of being a people's democratic movement. The move was enjoined by the logic of militarisation, which led to distancing itself from the people and total dependence on India, especially after the LTTE cut off by violence all its political space on the ground.

During 2004, preparing for another round of war after the Karuna split, the LTTE unleashed another spree of assassinations targeting political opposition. Many of the victims were from the 'popular militancy' of the 1980s who painfully underwent soul searching and were an asset the society could ill afford to lose. Sharika observes:

*"As assassinations increased...the LTTE labeled all these as killings by 'paramilitaries', recusing themselves from such a label. Groups such as Amnesty International would only report the deaths of those who were not members or attributed members of formerly arms bearing groups ('paramilitaries')...the SLMM (Sri Lanka Monitoring Mission) comprised of five Nordic nations overseeing the ceasefire did not count these assassinations as violations of the ceasefire. These deaths [which reached deep into the roots of Sri Lankan community owing to the wide prevalence of some form of militant politics among both Tamils and Sinhalese] were considered flotsam and jetsam from another era."*

Ultimately the dishonour heaped on the idealism and sacrifice of our lost generation of the popular militancy, owes much to the influence of the Tamil

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<sup>295</sup> The advance party of Tamil speaking soldiers of the Indian Army who entered Urumpirai were restrained and told the people to move away, warning them that those coming behind are unpredictable. Those who remained suffered many atrocities.



elite on foreigners: a cold hearted elite with no empathy for the lives or the suffering of people at home, having not the least sense of responsibility.

Sharika finally poses a question to survivors from the lost generation of the popular militancy, the generation of her mother, who, like several others of her time, wanted a united people's struggle with its accent on social transformation; and tasted the sting of its perversion from within and without:

*"...this past militancy and shared biography, in ambiguous ways ties even those who oppose the LTTE to the LTTE. Now they, like all of us contemplate a new future. If fear of the LTTE imprisoned so many ex-militants in Sri Lanka and colonised the pasts of those abroad, then what will the sudden collapse of the feared but heavily invested presence of the LTTE do? Will this mean that Tamils will have to reflect more on their culpability for a culture of violence? If many saw their withdrawal from public life as the result of LTTE violence, now what will happen? One of the things I hope I have done here is to make it possible to understand and formulate more critically some of the pressing concerns for Sri Lanka today, not least the way Tamil political culture has been shaped and why it continues to produce particular politics of guilt, nostalgia, 'failure' and grief."*

#### **11.10 Rajani's Vision**

Like the Youth Congress, Rajani – a graduate of Jaffna College – continually pressed for greater openness, finding strength in doing so. She advocated not grand initiatives but change through local initiatives in all concerns of life. We give below the words she penned for UTHR(J) Report No. 2 in early 1989:

*"In the aftermath of the October (1987) war amidst the feeling of near complete collapse (structurally, functionally and spiritually), the University community was ready to clutch at any straw. Thus, unlike in the past the University community was ready to listen to arguments for non-partisan attitudes and collective action. The first moves to assert institutional self-will, and collective activity started against the currents of the external situation of IPKF's pervasive presence and terror, LTTE's boycott campaign and the internally debilitating culture of patronage. It was also felt that the University should not only put forward its case, but also the case of the larger community, especially in instances of human rights violations. Though at first these suggestions were viewed with antipathy, the reality of the entwined destinies of the University as a community and the voicelessness of ordinary people convinced the majority.*

*[The problems faced daily by students and employees] led the University community to organise and act with its limitations of its members. This process led to much disagreement, as well as debate. It was held by many that the principal aim of the University was to survive, and must therefore desist*

*from getting involved with problems of the wider community...The view that finally held sway was that: Survival for its own sake was meaningless unless it was survival for the good of the community. We could not therefore separate ourselves from it. Moreover, outside our narrow walls we too were ordinary citizens. [Our persistent efforts at challenging the authorities and representing our problems] helped in creating an atmosphere of dignity for the institution and the University community.*

*Concurrently we strove to strengthen our unions, tried to organize our energies to approach problems in a wider context. One cannot say that the going was easy. Past experiences, mistrust, inbuilt frustrations and prejudice were in the way of coming together. Again reality proved that moves in this direction were our only hope of survival.*

*On another but complementary direction we started a process of self-criticism through dialogue and discussion and tried to re-examine our past and look into future – not directed by fear, but by fundamental principles of justice to the people. Thus we were critical of local militant groups, both with regard to their terror and murder as well as the actions that create conditions resulting in wanton, purposeless sacrifice of ordinary people.”*

Our crude form of democracy fosters the illusion of judging the strength of a community by head counts. But hasn't being the majority been the downfall of the Sinhalese, by allowing unscrupulous persons to wield unchecked power in their name? For minority communities, to be weak or strong is a matter of choice. Strength comes from our ethical standards and the incomparable asset of a reputation for being trustworthy. Rajani believed that with a democratic culture and greater openness Tamils could stand up once more as a people that matter.

### **11.11 A Last Word**

In the preceding chapters we have dwelt on events and developments linked to Rajani's assassination and her several premonitions of death. Did she receive definite signs and yet return to Jaffna and continue her work despite these? As far as we know, she did not confide in anyone about any specific warning portending her death. She valued life and was mindful of her responsibility towards her two daughters.

Her sister Nirmala too is unable to explain these premonitions, except to observe that unlike her, Rajani had something of a religious temperament. Every responsible person must of necessity carry a reserve, a reserve that is sacred ground, where other mortals must fear to tread. Dietrich Bonhoeffer, who represented the best in German culture, put it aptly in his *Letters and Papers from Prison*<sup>296</sup>: “I believe we Germans have never properly understood

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<sup>296</sup> Having been a pacifist and become familiar with Nazi atrocities, Bonhoeffer concluded, “the ultimate question for a responsible man to ask is not how he is to extricate himself heroically from

*the meaning of reticence, and that means in the last resort that we have not understood the status corruption is of the world. Somewhere in his Anthropology [Immanuel] Kant makes the shrewd observation that the man who ignores outward appearances and repudiates everything external is a traitor against humanity."* Elsewhere he adds:

*"...In a flower garden they grub around for the dung on which the flowers grow. The less responsible a man's life, the more easily he falls victim to this attitude...It is as though a beautiful house could only be known after a cobweb has been found in the furthestmost corner of the cellar, or as though a good play can only be appreciated after one had seen how the actors behave off-stage."*

Like the rest of us Rajani was human. She will be remembered for her sensitivity, deep concern for people, and for her tremendous sense of responsibility in standing up for her principles in a time and situation where few others dared.

Rajani's considerable talents, education, and career were avoidably dashed to the grave – and by this reckoning, one might judge her life a failure. But such an assessment would fail to account for the powerful example she sets even in death. Above all, Rajani sought humanity; she acted decisively and honestly when, all around her, others were being degraded by poverty and systemic violence. She understood that a community's greatness depends on all its members finding justice.

Our hope: that every generation will yield men and women who can rise with principle to learn from the examples of courage that have preceded them – men and women like Rajani Thiranaganama.

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the affair, but how the coming generation shall continue to live." He became active in the German resistance, which also smuggled out Jews. His specific role was through his church contacts, to inform and place the case of the German resistance before the Allies. By 1942, it was clear to thinking Germans that the war was lost. The idea was that a promise of generous terms by the Allies would tip German officers sitting on the fence to aid the resistance and end the war sooner. Bonhoeffer had a committed ally in George Bell, Bishop of Chichester and member of the House of Lords, but the British government ignored the resistance. One may compare this with the fate of the democratic Tamil resistance, which was largely ignored.



## Afterword

### Code of Vengeance versus the Rule of Law

*A prince Elara by name, who came from the Chola-country, reigned righteously for forty-four years. Avoiding the paths of lust, hatred, fear and ignorance, this incomparable monarch reigned righteously, with even justice toward friend and foe, on occasions of disputes at law. Only because he freed himself from the guilt of walking in the path of evil did [Elara], though he had not put aside false beliefs, gain such miraculous power [over the elements]. How should not then, an understanding man established in the pure belief [of Buddhism], renounce here the guilt of walking in the path of evil?*

- from *The Dipavamsa* and *The Mahavamsa*

*I was born in Puhar, that well known capital [of the Cholas], the names of whose kings remain unsullied [in the dutiful performance of justice]...Today we have seen the evidence of the sage's warning: The Divine Law appears in the form of death before the man who fails in his duty.*

- Kannaki to the Pandyan King Neduncheliyan, Ilango's *The Silappathikaram*

*(On society when rulers are just): Behold, a king shall reign in righteousness, and princes shall rule in judgment. And a man shall be as a hiding place from the wind, and a covert from the tempest; as rivers of water in a dry place, as the shadow of a great rock in a weary land. And the eyes of them that see shall not be dim, and the ears of them that hear shall hearken. The heart also of the rash shall understand knowledge, and the tongue of the stammerers shall be ready to speak plainly. The vile person shall be no more called liberal, nor the churl said [to be] bountiful.*

- The Book of Isaiah, 32: 1 – 5 (Circa 600 BC)

#### 1. Blood Hath Been Shed

The wisdom of the Prophet from 600 BC above warns us that an unjust political order destroys humanity, leaves minds addled and degrades intelligence, even as self-destructing vengeance becomes a chief obsession.

The country's fateful embrace of impunity remains the major stumbling block for the viability of the Lankan state. The Sinhalese ruling class has failed to comprehend the gravity of the communal violence in 1958, 1977 and 1983, where the country's leaders surrendered to vengeful fits against a minority. The leaders had forgotten one of the oldest and recurring lessons in history: Once the rule of law is banished, what we are left with is the terrifying code of vengeance. Such a legacy inevitably corrupts and dooms generations to a stunted humanity.

On 14<sup>th</sup> May 1985, a group of LTTE men drove into Anuradhapura Town and got away after massacring over 120 Sinhalese civilians, Buddhist pilgrims, women and children. Nearly every Tamil militant group, other

than the LTTE, formally condemned the atrocity. But the reality was that most decent Tamils, though shocked, remained ambivalent. Most Sinhalese then took state propaganda at face value and hardly a voice censured the state forces' ongoing massacres of Tamils. Others who understood feared that the State's descent to savagery boded ill for everyone. The result was a moral and political vacuum leading to the second JVP uprising of 1987.

Most left-oriented Tamil groups tried to steer clear of communalism and bring Sinhalese into their struggle. The LTTE's overt appeal to the code of vengeance found congenial resonance among Tamil nationalists, especially the expatriates. It was the code on which the LTTE thrived, wiped out its militant rivals and spurned all counsel for moderation and caution.

Of Ireland early in the 20<sup>th</sup> Century, William Butler Yeats wrote thus of the debasement of humanity when the code of vengeance holds sway:

*The best lack all conviction, while the worst  
Are full of passionate intensity*

Such was the fate that overtook the Tamils in Lanka. In the second play of Aeschylus's *Orestia*, *The Libation Bearers*, one of the oldest extant tragedies, Orestes when about to kill his reprobate mother Clytemnestra, paused to question the morality of the deed, and might have broken the circle of violence. At this juncture, he is counselled, "*Make all mankind your enemy, not the gods.*" This notion of honour demands putting away all caution prompted by humanity. Thus Orestes fulfilled the divine command and honour was satisfied. Aeschylus however shows that the house of Atreus was snared in a pernicious circle of violence for generations.

In a revolutionary restatement of the Mosaic tribal code, Saul of Tarsus (St. Paul) says in the spirit of the Sermon on the Mount ("*Love your enemies, bless them that curse you*"), "*Recompense to no man evil for evil. Provide things honest in the sight of all men... Vengeance is mine; I will repay saith the Lord. Therefore if thine enemy hunger feed him; if he thirsts, give him drink...*" (Epistle to the Romans 12: 17-19). Significantly, the writer follows this ethical injunction by immediately urging upon his audience, conditional respect for rulers and magistrates.

This new code was a creative Jewish response to an increasingly plural world, starting with the Prophets from the time of the Assyrian conquest. Paul's injunction was viable, mainly because of the rigors of the Roman legal system, which provided an adequate basis peaceably to get on with the common business of life. Such high standards would be unthinkable in an anarchic world, where survival dictated ruthless individual violence for the duration of a life that was short and brutish.

## 2. Phantoms of the Mind

The attitude of vengeance is a social phenomenon born of a long history of insensitivity. The faults are hard to disentangle and for this reason, when it comes to clemency, there is ambivalence. Vengeance is often not regarded as dishonourable even when clearly abominable. This is why the Government of Lanka failed. World opinion has little sympathy for a State that is so brazenly contemptuous of its own laws. Whence Shakespeare's Macbeth, increasingly troubled by his descent to serial murder, reflects:

*Blood hath been shed ere now i'th' olden time,  
Ere humane statute purged the gentle weal*

("Blood has been freely shed in times past, before the rule of law cleansed the state and made it gentle.") As with Macbeth, those who commit hideous crimes can never remain easy in mind. The communal violence of July 1983, like the previous one of 1977, was an outburst of insanity at the highest levels. A sane leadership could have addressed the failure of law enforcement and succoured the victims. The Government instead let loose among the victims a desire for vengeance; and the victims' appeal to the world community and India for justice made them angrier still and nervous. It drove the State to imagine the worst and act pre-emptively, with further massacres and evictions of Tamils in Mullaitivu South and Trincomalee. These actions brought the phantoms of its mind vividly to life. Within three years a separate state for the Tamils became a close call aborted principally by the LTTE's excesses. Justice is a sacred obligation for a wise ruler.

## 3. Kannaki, Elara and the Tradition of Justice in Poompuhar

The story of Kannaki as related in the Jain author Ilango Adigal's *Silappathikaram* (The Lay of the Anklet) enables us to glean some shared antecedents of the Tamils and Sinhalese. Kannaki and Kovalan, both Jain natives of the Chola port city of Poompuhar, went to Madurai to start a new life as traders. Miscarriage of justice by its hot headed and credulous king Neduncheliyan condemned Kovalan to death for the alleged theft of his queen's anklet. Kannaki confronted Neduncheliyan and proved his error. After the code of honour of faithful women of Poompuhar, Kannaki demanded divine justice, that Madurai, the scene of crime and profligacy, be destroyed, sparing the Brahmins, good men, cows, truthful women, cripples, old men and children.

Apart from its lyrical poetry descriptive of the three divisions of the Tamil country and its peoples, the *Silappathikaram* is literature of the highest eminence. No character is a perfect villain, and the good are not without their faults. Whatever shades of good and bad, the evil we do must be paid for. As in George Meredith's *Modern Love*:



*In tragic life, God wot,  
No villain need be! Passions spin the plot:  
We are betray'd by what is false within*

Historical allusions in *Silappathikaram* are of considerable interest. The Jain inscriptions in Mankulam, east of Madurai, the earliest in Tamil, names Pandyan king Neduncheliyan as a benefactor. Iravatham Mahadevan, a leading authority on inscriptions believes 'that the Mankulam Tamil-Brahmi inscription of [Pandyan king] Nedunchezhiyan is older than the Karavela inscription at Udayagiri in Orissa' (*Frontline*, 4<sup>th</sup> – 17<sup>th</sup> July 2009). Kharavela was a Jain monarch of Kalinga in early 2<sup>nd</sup> Century BC<sup>297</sup>.

The time of writing of the *Silappathikaram* was probably around 450 AD, after the other famous Tamil Jain work, the *Thirukkural* (Kamil Zvevibel), but the traditions on which it was based are much older and appear to be authentic. One of its traditions is the presence of Gajabahu of Lanka (circa 2<sup>nd</sup> Century AD) when Cheran Senguttuvan gave his royal imprimatur to the Kannaki (Patthini) cult in Vanji, suggesting the cult was already in existence for some centuries. Further evidence of the antiquity of *Silappathikaram's* traditions comes from those preserved in the *Mahavamsa*.

The Poompuhar of the *Silappathikaram* was a secular polity like Pandukabhaya's Anuradhapura of the *Mahavamsa* and both contained among their inhabitants the same religious sects, Jains being prominent in both. Others included *Ajivikas*, Brahmins and Buddhists. Kovalan's father became an *Ajivika* and Mathavi, a Buddhist nun.

More revealing is the fact that the *Mahavamsa* identifies King Elara who ruled Lanka during the 2<sup>nd</sup> Century BC as a Chola prince, and is superlative in praise of his just rule. Among three instances of his justice, it describes the cow, whose calf was killed under the wheel of Elara's son's chariot, appealing to the King, who punished his son in like fashion. The same story of the cow is repeated by Kannaki to the Pandyan king in the *Silappathikaram* in describing the high standards of justice observed by the Chola rulers of Poompuhar. In this instance it was *Manunithikanda Cholan*. Jain ideals are stated by the votaress Kavunthi and by the author in person at the end of the work:

*Do not lie  
Avoid eating animal flesh  
Cause no pain to any living thing*

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<sup>297</sup> Udayagiri inscription of Kharavela, circa 157 BC, G. Joveau-Dubreuil, *Ancient History of the Deccan*, Colonial College, Pondicherry, 1920

Both Ilango and the lore from which the *Mahavamsa* was compiled have drawn from the traditions about Puhar (Kaveripattinam) and the model Jain virtues of its rulers. Notably, the Pali *Dipavamsa*, which was very likely composed before the time of *Silappathikaram*, makes the same allusions about Elara as a virtuous ruler. Traders Sena and Guttika, two previous rulers of Anuradhapura who followed in the wake of Devanampiyatissa, were also likely from Puhar, and are also credited with being just. The context for this political instability in Lanka may be seen in the Asokan interlude, which abolished the earlier secularism of the rulers and, one expects, directed royal patronage to Buddhist traders. While he patronised Buddhism, Elara tried to restore Pandukabhaya's *status quo*.

We may make a fair inference that Elara was from Puhar, whose religious leanings were towards Jainism, but was already familiar with Buddhism. There is every good reason to hold that Buddhism followed Jainism to Poompuhar along the Cauvery Basin decades before Asoka.<sup>298</sup> Moreover, Puhar and Anuradhapura had very close cultural and trading relations. None of Elara, Sena or Guttika appears in the *Mahavamsa* as an alien. The Buddhist chroniclers, despite religious differences, had been imbued with such respect for the traditions of justice among rulers of Puhar that they could not help but preserve this memory. The ethnic differences we speak of today were alien to that world, where cities were called into being by shared trading links spread across Southern India and beyond, and trade was the main source of government revenue.

A message the *Silappathikaram* presses home is the gravity of justice. Honour for rulers is far less about success on the battlefield, than being faithful to the highest conceptions of justice. The greatest dishonour a ruler could incur is to swerve from this duty. Only by death could one who grievously harms the innocent redeem himself. In Neduncheliyan's death, there is a hint of Jain '*santhara*' – voluntary death by fasting, as reputedly undertaken by Asoka's grandfather, Emperor Chandragupta, in Shravanabelagola, Karnataka. Justice is a dire responsibility upon a ruler.

Kannaki's anguished cry upon seeing her husband's corpse in the dust of Madurai in the *Silappathikaram* is raised from the commonplace to the majestic – with unfaltering dignity Kannaki transcends personal grief to

<sup>298</sup> The route of the Bo sapling to Lanka suggested by the *Dipavamsa*, which preceded the *Mahavamsa*, points to its journey to the west coast of India after crossing the Vindya Mountains, then south to Karnataka where was situated the southernmost Buddhist outpost at Banavasi, and so to Puhar or Kaveripattinam through the Cauvery basin. That is consistent with the close trade links between Anuradhapura and Kaveripattinam. It is notable that the earliest layer of Buddhist literature, the Jataka Tales based on traditions extant in the 3<sup>rd</sup> Century BC (T.W. Rhys-Davids' *Buddhist India*, Ch.11), mentions Kaveripattinam in Akitta Jataka. Evidence suggests that Buddhist missionaries came to know Lanka through Kaveripattinam. The 7<sup>th</sup> Century AD Chinese scholar Hiuen Tsiang attests to early Buddhist monuments in the Cauvery Delta, particularly Kumbakonam, which he attributes to Asoka Raja (King).

propound a universal ethic of collective responsibility. To do justice to the passage we try to translate it so as not to obscure its true meaning:

*Was there none to warn  
the Pandyan Monarch?: that when,  
justice founders and by his apathy  
an innocent man is slain,  
his throne flounders in shame  
Are there in the city no chaste women  
who forgive their spouse's wrongs?  
Are there no virtuous men  
to succour a castoff waif; and  
nurture it as their own?  
Is this city forsaken of God?*

Even as the ruler is answerable to the people, the people too are answerable for their rulers. The destruction of Madurai that followed was divine vengeance against a society that had become frivolous and immoral. The theme is reminiscent of the Book of Genesis 19:26, where God said, "If I find in Sodom fifty righteous within the city, then will I spare all the place for their sakes." On Abraham's interceding the number was reduced to ten, but to no avail.

The *Silappathikaram* is no idle tale. The gravity of justice appears in nearly all our traditions. Its standard, the standard of the princes of Puhar and of Elara, has been endorsed by the *Mahavamsa*, which shows no similar enthusiasm for the character of any of its other subjects. It is a shared standard that holds fidelity to justice as the supreme honour of a prince, rather than commonplace success in battle. It was a standard endorsed by the victorious adversary Dutugemunu, who erected a memorial for the fallen Elara and decreed that all who pass by alight from their conveyance and observe the utmost reverence, a practice observed by Kandyan elites into the 19<sup>th</sup> Century. Dutugemunu had the humility not to erect any triumphal monument for himself.

Victory in battle was then an occasion for remorse and reflection, to preserve for the good of posterity the memory of a singularly just ruler. Triumph in battle was neither an occasion to bask in vainglory nor a licence for impunity. For Tamils, who have been the main pretext for the prevailing impunity but not exclusively its victims, it is going to be a long haul.

#### **4. The Need for an Open Assessment of Tamil Militancy**

State orthodoxy dismisses militants of all shades as terrorists. There is frequently a thin line dividing revenge and the right of self-defence. A state that has abdicated its duty to uphold the law, and has viciously attacked a



minority, has sanctified vengeance. One may also find it puzzling that the great teachers have been guarded in condemning revenge that was specific to the doer of hurt as immoral or ignoble. In Lanka, both sides deliberately blurred the distinction. The Government referred even to LTTE attacks on its armed forces as 'terrorism', while the LTTE lumped all its attacks, including heinous ones on civilians, as part of the freedom struggle.

The great teachers, and Aeschylus, understood that revenge is self-destructive and self-defeating, even when the gods, or a code of honour, demand it, but hesitated to call it immoral or dishonourable. Jesus of Nazareth and his followers did not condemn or disannul the Mosaic Law, "*Eye for an eye...*" Jesus carefully superseded it with a new commandment to his followers, "*Love thine enemy.*" He avoided directly confronting the Roman rulers or their armed adversaries ("*My kingdom is not of this world*"). When confronted by an angry man wanting an eye for an eye, Gandhi answered pithily, "*Eye for an eye, and we will all be blind.*" Gandhi condemned revenge when it was an indiscriminate attack on civilians.

The terrorism paradigm misses the point that pursuit of revenge is not perforce ignoble, it is often heroic if not directed against innocents; but yet futile and destructive of all we value most. In *Hamlet* – Shakespeare's study of a prince's single-minded obsession with revenge against a murderer – Ophelia laments the change that has come over Hamlet:

*Now see that noble and most sovereign reason,  
Like sweet bells jangled out of tune, and harsh;  
That unmatched form and feature of blown youth  
Blasted with ecstasy; Oh, woe is me,  
To have seen what I have seen and see what I see!*

After August 1977 and July 1983 many Tamils felt a keen desire for revenge. Even after the 1977 violence, many Tamils, particularly those overseas, preferred to succour the victims of violence through groups like the Tamil Refugees' Rehabilitation Organisation (TRRO) and Gandhiyam, than violence itself. The marked change came with July 1983. It was the leaders of civil society who should have called for pause and reflection. That did not happen. By flirting with political violence, the constitutional movement among the Tamils bankrupted itself. The loss was irreplaceable.

In the early 1970s, Tamil militancy was largely a romantic movement, contemplating armed struggle and also many development initiatives. It brought in many youths of unimpeachable character, both talented and highly dedicated. Among them Ponnudurai Sivakumaran was like the Irish rebel Patrick Pearse, a poet, besides being a social activist and reformer, and was the first, in 1974, to swallow cyanide after capture by the Police. Identifying certain parliamentary politicians as traitors had already begun.

The Tamil militancy was just a short step away from Pearse's doctrine: "*[In the coming revolution] we may make mistakes in the beginning and shoot the wrong people; but bloodshed is a cleansing and sanctifying thing, and the nation which regards it as the final horror has lost its manhood.*"

When differences over symbols rather than substance, arose between Irish factions over the treaty with the British government, De Valera spoke to Republican rejectionists in 1922 that regardless of the electorate's acceptance of the treaty, "*[The Republicans] would have to wade through the blood of the soldiers of the Irish Government, and perhaps through that of some members of the Irish Government to get their freedom.*"

Once spilling of blood is advanced as the means for change, too much blood as Yeats said makes hearts of stone, and when might it suffice? At least the Irish civil war factions called it a day and agreed to coexist under constitutional rule. A year after the Anuradhapura massacre, the Tigers, by then seasoned in bloodletting, massacred cadres of the fraternal (at least among cadres) militant group, TELO. Though initially shocked, Tamil society doomed itself grievously by coming to terms with the Tigers' right to kill anyone they deemed a traitor. The quotations from Pearse and De Valera above have a strong resonance with the rhetoric of the Tigers and their supporters, with whom bloodletting signified fatal political bankruptcy.

The constitutional nationalists among Tamils, apart from their self-inflicted wounds, suffered further when over the years the LTTE killed some and made others its mouth-pieces in the Tamil National Alliance.

The dangers are clearly apparent. Instead of self-assessment, there is an eerie silence on the violence Tamils inflicted on themselves, with even greater sadism and cruelty than in the supposed revenge killings of Muslim and Sinhalese women and children. On the Vanni, they speak of genocide by the State, but there is next to no real sympathy for the victims. **We do not lie about a tragedy suffered by those who really matter to us.**

Parallel to Sinhalese extremist propaganda, there is a subtle attempt at revisionist history by Tamil nationalists that shields their role in the suffering and ignominy faced by the Tamils. Their only possible excuse is a variant of no freedom without bloodshed. Pearse, like Sivakumaran, the pioneer Tamil militant, was sincere enough to die for his belief. They believed that their exemplary deaths would light the flame of freedom. Did they foresee the extent to which their logic would turn the guns inward?

The State's contemptuous approach to the Tamils would necessarily entail many more years of tragedy and uncertainty. Repression multiplies heroes among the oppressed, and one can foresee a revisionist history where Prabhakaran would be presented a martyr and even more the hero than he

ever was in life – the man who ignominiously held civilians hostage would be forgotten. The unwilling cadres, whose graves the State destroyed contemptuously, may in death become more potent than in life.

The failure of the Tamil intelligentsia was not so much in the violence suffered by the Tamils. As individuals or groups, we can do little about outbreaks of violence we are caught up in. But we fail in our responsibility when we do not question the logic of vengeance and fail to support every opportunity to break out of its circle. Such opportunities came and went with the Indo-Lanka Accord of 1987 and with President Chandrika Kumaratunge's proposals in 2000. With some goading from the LTTE, the Tamil intelligentsia and media took the path of least resistance in demonising everyone else but themselves. It should be stated in fairness to Kumaratunge that, despite her lack of conviction about impunity, she stands out as a Lankan and Sinhalese leader who tried earnestly to break out of the circle of violence.

Even as the Tamil-speaking people stand on the threshold of an uncertain future where numerous possibilities lay open, the best we could do is to stand up for justice uncompromisingly, against a culture of lies and injury, particularly among ourselves. The past speaks to us amply. We may yet then stave off the worst.

And at last the rending pain of re-enactment  
Of all that you have done, and been; the shame  
Of motives late revealed, and the awareness  
Of things ill done, and done to others' harm  
Which once you took for exercise of virtue.  
Then fools' approval stings and honour stains.

- T.S. Eliot, *Little Gidding*





## Appendix 1

### UTHR(J) After Rajani: A Historical Note

#### 1. Amparai District September 1990

The writer took three months' leave and went off to the United States in early March 1990 mainly with a view to publishing *The Broken Palmyra*. Sritharan remained in Jaffna where the LTTE began arresting a large number of people. Once the writer and his wife returned from the US in early July 1990, the war had already commenced and Sritharan wanted us to stay in Colombo and publish the information he sent, including on the large numbers being detained by the LTTE. One packet he sent was through Marilyn Weaver of the Canadian Christian Children's Fund. In early September we lost contact when the LTTE tried to arrest Sritharan and he had to go underground. Among those who helped him were Fr. Jayaceelan and George Manoharan of Pax Christi and members of the rural, grass-roots left in Jaffna and the Vanni, especially Manoranjan who later made an imprint as a journalist. The LTTE later detained several persons from the rural left on this score and later released them.

For our part, our friend Audrey Rebera put us in touch with Sister Angela, who took us along with a group of nuns to help with the numerous war refugees in Thirukkivil, Amparai District. It was understood by all that our task was to document the experiences of the mostly Tamil victims. The killings in the East in 1990 were direct face to face massacres, which resulted after the LTTE massacred hundreds of surrendered Sinhalese and Muslim policemen. The LTTE followed this up by further sporadic killings of Muslims and larger massacres as in Kurukkalmadam, Kattankudy and Eravur during July – August. The Army and STF used newly recruited Muslim home guards and local hoodlums to massacre Tamil civilians, including those at refugee camps as at the Veeramunai Temple. Often the victims (as in attacks by Tamil militant groups on Muslims) knew the killers and their families. An estimated 15,000 survivors were moved to Thirukkivil alone, all with their numbing horror stories (UTHR (J) Special Report No.3).

Among those worst affected were the Gypsies (Kuravar) of Aligampe who were Roman Catholics. They were the nearest the thugs could find to Tamils after the LTTE attacked Muslims nearby. An old lady Masakka, a grandmother whose son was a snake charmer, was virtually their spokesman. Though regarded as eccentric, she could be profound. She told us, *"The people who committed this violence think that they are hurting us. But they had really hurt and wounded God, who is watching from above."*

Several of the nuns in our team were Sinhalese, including Sister Angela who was fluent in all three languages. Our host was Fr. George Dissanayake, who ministered in Tamil, but was a Sinhalese from Pullumalai brought up in Gampaha and spoke all three languages fluently. Our local coordinator was Fr. Priyalal who was based in Amparai. They all showed the greatest solicitude and had espoused a calling that dispensed with narrow ethnic loyalties. It was also part of Rajani's vision that we should work with committed persons from the South.

Next door to the church was the STF camp under Inspector Ratnayake where those arrested on suspicion were constantly brought and tortured. After sunset one could hear from the camp muffled groans and sounds resembling a football being kicked, presumably prisoners being tortured with their mouths stuffed. By day we sat in the church and recorded the harrowing stories of those who came for help. Frequently we walked around refugee camps listening to their stories.

After a round up by the STF, a host of emaciated women, several of them clutching children, were crouching around the perimeter of the STF camp and at its entrance, which adjoined the church entrance, peering into the camp for a chance glimpse of a husband, son or brother. We spoke to a young woman, a graduate seeking news about her cousin-brother. She had seen two STF men carry an apparently lifeless body on a pole. Suddenly STF men rushed the entrance behind a hail of stones, swinging poles and one whirling a whip. The women carried their young and ran. Later the young lady who was talking to us crept back timidly to collect her slipper she lost upon being chased off. The humiliation we witnessed was only a dim reflection of the hideous brutality taking place within the camp and the hapless position to which the Tamils had been reduced by a mindlessly brutal state and a bankrupt liberator.

Two doors from the Roman Catholic Church was the Methodist Manse inhabited by Rev. Dayaseelan and his wife Kala. Dayaseelan worked closely with Fr. Dissanayake as citizens' representatives. In June 1990, it was in the jungle west of Thirukkivil that the policemen were massacred. The LTTE created panic saying that the advancing security forces would massacre the people; they claimed they would resist to the last and called the frightened youths out to prepare defences. Then they pulled out telling the terrified youth to follow them if they wanted to live.

Needing to act fast, the citizens' representatives went to Akkaraipattu, where they met Colonel Sarath Fonseka, explained their situation and asked him for a guarantee of safety for the young. From reports of what had already happened in Kalmunai and Akkaraipattu, they felt he could not be trusted. They then hastened to Komari and met the STF, which appeared more clement. In Thirukkivil, they busied themselves removing



the LTTE's flags and symbols left behind on the streets and the defences they abandoned, since they had learnt that these signs provoked the brutality of the security forces. However, the STF, through arrest and torture, hunted out the young – who had been called out by the LTTE, but had gone back home instead of going out to the jungle with them. Many of them disappeared or were found floating in the sea as beheaded corpses.

Upon appeals made by families, Fr. Dissanayake and Rev. Dayaseelan made representations to Inspector Ratnayake and had some persons released. When the LTTE massacred Sinhalese and Muslim policemen, they assaulted the Tamils among the policemen and chased them away. When the Army and STF took over they too detained and massacred Tamil policemen whom they picked up at refugee camps or from hiding. They were no less a communal armed group than the LTTE.

It was all crazy. The Government had been sweet to the LTTE to the point of helping it to hunt down its political adversaries and sundry 'traitors'. When the LTTE surrounded police stations in the East on 8<sup>th</sup> June 1990, the Government ordered the policemen to surrender. After the LTTE massacred Sinhalese and Muslim policemen, the Tamil policemen did not run away with the LTTE. They joined their families. The Government's muddle-headed and cynical dealings with the LTTE during the honeymoon were all over the heads of the Tamil civilians and policemen. But when the Army and STF moved in, they mercilessly took it out on the Tamil civilians and policemen. That explains in short the character of the Sinhalese State.

Two Tamil policemen, Dudley Dissanayake and Chadiran, both Methodists from Pottuvil, who were released by the LTTE, sought shelter at the Thirukkivil Methodist Church. Dayaseelan spoke to Inspector Ratnayake who agreed to let them stay at the Church. With a large refugee population, the Church was crowded during evening worship. Dudley once preached a sermon '*Aaruthalin Thevan (The God of Comfort)*.'

Three children who seemed to be on their own began coming to the church regularly. They were Sooriyaprabhakaran, Sridevi and Sharmila. Their father had been killed during one of the massacres at the Veeramunai Temple Refuge. Their mother went missing along with other women who went to inspect their houses in Mallikaitivu. They were orphans brought to Thirukkivil when the survivors were relocated. The Dayaseelans adopted them. Soori missed his home most and used to reflect wistfully on the '*aru*' (river or irrigation channel) where his father had taught him to swim. They are now all well settled.

During this time we heard rumours that prisoners, probably dead, were taken out by the STF at night in Buffel armoured cars, beheaded; and the sundered corpses were thrown into the sea. Once when we along with the nuns were taking a stroll by the beach at sunset, a wave brought ashore a

severed head. Reports placed the number of severed bodies at several score. Whenever a body was identified and threatened to become a legal matter, the STF rushed in to have the body cremated.

Mr. K.N. Tharmalingam was then Amparai correspondent of *The Island*. His political contacts were mainly with the UNP and SLFP which gave him some cover. Surprisingly, *The Island* published his story about headless bodies (*Island* 1<sup>st</sup> Nov. 1990 & UTHR(J) Report No.6), the count standing at 32: *"It appears that the necks have been cut with some guillotine type machine, as the cut appears very fine and smooth which is not possible with any sword. Fifty-year old Mrs. Periyathamby Marimuthu of Vinayagapuram identified one of the bodies washed ashore as one resembling that of her son Rejendiran...The Island understands that inquests were not held into these killings."*

The following day *The Island* carried an official denial after an 'inquiry' ordered by Deputy Defence Minister Ranjan Wijeratne, dubbing the report false and mischievous, along with alleged denials by the local AGA and the Citizens Committee for Peace and National Harmony, Akkaraipattu South and Thambiluvil, of which Tharmalingam was president. The AGA, including many others, had earlier confirmed the numerous headless bodies to us. One wonders if the Defence Ministry knew who *The Island's* Amparai correspondent was. Tharmalingam's smile said all when we met next and alluded to his report. Such was life in those parts.

Later during Chandrika Kumaratunge's presidency, the STF initially seemed better behaved, despite the war started by the LTTE in 1995. At that time there seemed some hope that the security forces might put behind the culture of being a Sinhalese armed group. On putting this question to Mr. Tharmalingam, who was a pragmatist and not a nationalist, he gave a pessimistic reply, *"Did they ever come here to do the Tamils any good?"* Subsequent experiences, including the STF's role in the execution of five students in Trincomalee in January 2006, speak against the security forces ever acquiring respect for the law, whose abuse begins at top level.

We must exercise some care in attributing ethnic causes to violence by armed groups. We have seen that both the Sri Lankan forces and the LTTE have demonstrated that they could act with equal ferocity against civilians irrespective of whether they are Sinhalese or Tamil. Thus Tamil policemen, who would have been allies of their Sinhalese colleagues in the face of an LTTE attack, came to be perceived as enemies, when a particular action of the LTTE left behind rage and fear among the security forces. The Sri Lankan forces have not risen above being a Sinhalese armed group, which is also a reflection of the character of the State.



**In Jaffna:** The time was about the first anniversary of Rajani's murder. Women surrounding the STF camp in Thirukkivil to catch a glimpse of their loved ones and being roughly chased off had also its counterpart in Jaffna. Vivekanandan, who belonged to a left group, was married and had a year-old-son, was taken prisoner by the LTTE. On 15<sup>th</sup> of September 1990, his wife Shanthi was among a large group of women at the LTTE camp in Thinnevely asking for news about their loved ones. At first they were reassured and sent off but as visit succeeded visit the LTTE became nastier. They were often treated brusquely as wives of traitors. One day, an LTTE man read out a list of over 200 names of persons they had sentenced to execution. The women threw sand into the air, cried, cursed the LTTE and went home. Vivekanandan, a friend of Sritharan's was reportedly later executed – according to one rumour, after he made an escape attempt. He had a stubborn and uncompromising nature.

In early October the LTTE, perhaps to release pressure, lifted the pass system for two days, giving Sritharan his chance. A host of persons streamed south, even as the LTTE constantly abused them through loudspeakers as traitors and cowards.

## **2. Batticaloa**

Batticaloa had seen many incidents of massacre and disappearance in the second half of 1990. It was in February 1991 that we were able to go there. The Eastern University had been reopened and our hosts were Sritharan's contemporaries at Peradeniya, Rabindranath and Jayasingham, who had attended the commemoration for Rajani in November 1989. Rabindranath became vice chancellor and disappeared in 2006 after being abducted reportedly by the Karuna group under licence from the Defence Ministry. They had detailed information on the abduction and disappearance of 159 refugees from Eastern University on 5<sup>th</sup> September 1990. With their help we interviewed students of Eastern University from various parts of Batticaloa (Report No.7). Anzar (if I remember the name correctly), a top ranking mathematics student enabled us to visit Kattankudy where there had been two massacres by the LTTE in mosques, where we also subsequently met widows of the victims. Rev. Arulrajah of the Methodist Church helped us to visit Eravur, where too there had been a massacre of Muslims. In its aftermath, the Army used Muslim home guards to massacre Tamils (Report No.7).

On a subsequent visit to Batticaloa in July 1991, we made contact with Fr. Harry Miller SJ of the Batticaloa Peace Committee, which was relentless in documenting disappearances and trying to deliver justice to the victims of the Sathurukondan Massacre by the Army, involving close to 200 persons, just after the disappearances at Eastern University. A lone survivor from the massacre testified before the Peace Committee. Amnesty International



got a pledge from the Government to investigate it. The Army then sent in bulldozers and destroyed the evidence.

We then became friends with Fr. Joseph Mary SJ and his twin brother Alphonse Mary, both ardent Federal Party supporters. Rural Batticaloa, of which they knew every nook and cranny, was poetically entwined with their being. While being strong advocates of the Tamil cause, they also wanted the LTTE's misdeeds exposed. In July 1991 there was an army massacre in Mahiladitivu, Kokkadichcholai. Despite LTTE movement in the area Fr. Joseph Mary thought we could risk a visit there across the lagoon. This was our first visit there with Joseph Mary.

The LTTE had at mid-day on 12<sup>th</sup> June 1991, set off a landmine and attacked an army tractor carrying supplies from the jetty, killing two soldiers. The Army then came to the village in large numbers, massacred over a hundred people, raped six women, looted, burnt several houses and withdrew. Joseph Mary took us to a leading man in the village, Veerasingam, who had details of what happened. As to how it began, Veerasingam said evasively that they did not know who did what and, there being so many parties in uniform, they could not tell one from another. We then had a demonstration of the authority the priest enjoyed. Joseph Mary cut in sternly, "*Veerasingam...the truth.*" Veerasingam's eloquence ceased mid-flight. He then said in a calmer and contrite tone, "*Yes it was the LTTE that attacked the Army. They ran away and simply watched from a distance. If they had fired just two shots the Army would never have come. However the LTTE came the next morning to take videos of the carnage.*"

The rationale for the carnage was a singular feature of the liberation struggle. From the State's standpoint, killing Tamils was ideologically congenial. For the LTTE, these killings meant recruits and propaganda videos. It is easy to see what a visiting peace group would have gathered on a visit to the area. Certainly they would have seen evidence of the carnage, but next to nothing about what the LTTE did. An army officer subsequently posted to the area tried to explain away the massacre as the work of village boys with inadequate training. But in fact it was a massacre planned and executed, led by a bearded man with a red cloth on his head. Ten Tamil boys from the PLOTE who were with the Army had been disarmed with forethought (see Report No.8).

On a later visit, Fr. Harry Miller remarked to us that some Tamil priests he met had been unhappy about our reports and asked the reasons for it. We were aware that the Church was divided and non-committal on the LTTE. This enabled some priests who supported the LTTE to speak as though they were the Church and the people. Fr. Miller then remarked that he had told them that where he was concerned, whatever he told us had been

reported accurately. He had the same reservations about the Tigers that we had. Our contact with Fr. Miller continued and we were happily on the same wavelength.

The Batticaloa Peace Committee collected a tremendous amount of information about atrocities by the security forces. Likewise it would have been easy to get hold of a large amount of information in the Amparai District. But the commissions of inquiry President Kumaratunge appointed in 1995 did very little to expose the truth. No senior officer of major general or brigadier rank, who was literally on the spot, was questioned. One needs to be pessimistic about Sri Lanka's ability to come to terms impartially with a host of dastardly official crimes.

In our reports we credited army officers who had acted professionally in trying situations to the benefit of the civilians. Some objected that it gave credit to an army whose record was abysmally bad, most of the time.

Sritharan said in response that had our liberation struggle been virtuous to the extent of being mindful of the lives of the people and, as far as possible, keeping them out of harm's way, we would have had no need to commend the actions of individual officers of the Army. But our struggle had in fact descended to the nadir of ethical conduct, deliberately provoking the Army in ways calculated to ensure huge reprisals that would maximise propaganda and net a catch of angry recruits. When our acclaimed defenders constantly resorted to such methods, the only protection the people had was the good sense of the few officers who refused to be provoked and thereby saved lives. It is then only right that we should express our appreciation and encourage such behaviour from more officers.

### **3. The Tamil Nationalist Legacy and its Other**

The general reporting of those violent events in 1990 caused the Muslims much hurt. With their better access to the West, it was often the Tamil side of the story that received prominence in the world media. It was the LTTE, extolled as their leaders by a large section of the Tamil intelligentsia, which was directly and calculatedly responsible for violence against Muslim civilians. But massacres of Tamils came not from the Muslim leadership, but from hoodlums acting mostly as agents of the Military. At the time we reported on the violence in the Amparai District, it was not physically possible to meet Muslims. Our report on the Amparai District lacked this balance. It did not deal with Muslims as persons in flesh and blood, also living through unduly trying times and like the Tamils responding in a multitude of ways, both noble and ignoble.

This imbalance was rightly pointed out by a group of citizens from Sammanthurai in their book in Tamil, *'From another Corner of Eelam'*



published in 1993. It recorded some of the violence that Muslims experienced at the hands of Tamil groups, pointing out that the number of those killed was 132 in Sammanthurai alone. It said:

*“On the other hand local and foreign information networks, international terrorist agents and those in authority who give them a voice, together with European Human Rights activists have in the name of reports spread mythical legends in this country, India and Western Europe. These have represented Muslims as murderers, informers, bandits and religious fanatics. More than all these, the Amparai District report of the UTHR (Jaffna), where it concerns Muslims, has the appearance of being both subjective and far from the truth. Like a bull trampling over one fallen from a tree, this international propaganda document which represents the victim as the oppressor, leaves us in a state of deep shock...This publication is not intended to be merely the saga of a people. But it is meant to lay the foundation for an ongoing dialogue that will bring about the rebirth of a new fraternal relationship...Again we must defend every community and isolate the forces of evil. Each community must respect the other and protect and uphold the other's communal, cultural and religious rights.”*

Accepting this invitation, through Muslim friends, Sritharan and I went to the Sammanthurai Mosque and had a warm discussion so that we could clear misapprehensions. We also met other Muslim leaders in the course of time.

We met Mr. M.M. Mustapha, who won the Pottuvil seat in 1956 as the Federal Party's candidate, at his home in Nintavur in 1994. He was a courteous avuncular figure, who explained almost in a note of apology that when the FP began the anti-Sri campaign against the Sinhalese Sri on vehicle number plates in 1958, *“I went to the Old Man and told him that my constituents did not vote for me to stand with a brush and tar number plates. I told him that I would join government ranks to do what they expect from me.”* He obviously retained a high regard and affection for the ‘Old Man’ – Mr. S.J.V. Chelvanayakam.

We encountered similar attitudes from other prominent Muslims such as Mr. Meera of Akkaraipattu, a retired principal whose brother had been killed by the LTTE while supervising his paddy field. He said, *“We have always supported the Tamil cause, but deplore what is happening in its name now.”*

Rauf Kariappar of Akkaraipattu, a cousin of M.H.M. Ashraf, who was very much at home in Tamil and Indian classics, made the point that while current Tamil-Muslim tensions created a distorting perception, in normal times the Tamil service castes felt more comfortable with Muslims than with Tamil high castes. He made the point that rather than write about the



ill others have done to us, we would be better off writing about the ills we have done.

Muslims were not alone. Similar reservations about the Federal Party's Tamil nationalist politics were shared by its senior party men in the East. Mr. A. Thangathurai, late MP for Mutur and Trincomalee told us, "*[During 1970 – 1977], the Party wanted us not to meet government ministers when they visited our electorate. I refused. You see, in Jaffna you could afford to stick to your emphasis on 'rights'. But here, people cannot live without canals, roads and bridges. You have to talk to ministers to get them.*"

Thangathurai, whose old Mutur constituency included both Sinhalese and Muslims, kept a close rapport with them. He related to the writer a moving encounter with Tamils who do not feature within the circle of concern in Tamil nationalist politics. He was approached by migrant fisher-folk from Negombo. They told him, "*Sir, our mother tongue is Tamil, but the Roman Catholic Church deprived us of worship in Tamil and forced our children to receive their education in Sinhalese. Now, your people and your officials too reject us. Please give our children places in your schools.*"<sup>299</sup>

In 1995, Thangathurai concentrated on rehabilitation and reconstruction that were essential for his constituents, who had been displaced to faraway places, including India. Thangathurai was a pragmatic man who maintained a good rapport with Muslim and Sinhalese colleagues. He said that SLMC leader Mr. M.H.M. Ashraf who was minister for reconstruction had approved all the money he had asked for. This along with his support for Chandrika Kumaratunga's efforts to forge a political settlement made him a 'traitor'. Rehabilitation of the victims outside the LTTE's control was treachery. He was shot dead by the LTTE on 5<sup>th</sup> July 1997 at the opening ceremony for a rehabilitated school in Trincomalee. Also killed were the lady principal Rajeswary Thanabalasingham and the engineer, Mr. Ratnarajah.

Even **among** Tamils who voted FP in the Pottuvil electorate, there were many who were happy that their MP Kanagaratnam crossed over to the Government. It brought them new schools, hospitals etc. 'instead of the Muslims alone getting these'. There is here a common thread that Federal Party politics did not take sufficient notice of: the different needs of the East. Once the word traitor came to be used in Northern political discourse to categorise opponents of the FP in parliamentary politics, its application to Muslims in the East was only a matter of time. Bloodshed, bitterness and division were the consequences. Once the word traitor began doing the

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<sup>299</sup><http://www.uthr.org/Rajan/Thanga.htm>

rounds, we lost the ability to recognise and allow for differences. The cause of the Tamil-speaking people became uncertain.

This is sad because many Tamil and Muslim leaders had excellent social relations, having grown up together studying in the same schools such as Sivananda (M.C. Ahmed, A.L.A. Majeed) and St. Michael's (SSP Majeed), Batticaloa and Wesley College, Kalmunai (M.H.M. Ashraf).

#### **4. Friends in Need**

We were much indebted to Audrey Rebera who kept up our morale and helped us in innumerable ways. Even earlier, particularly during the JVP insurgency, she had befriended those on the run.

Ben Bavinck had been Rajani's and Sritharan's teacher at Jaffna College and had worked for the Dutch Resistance during the Second World War. He attended Rajani's commemoration in 1989 and thereafter remained close to us until his death in August 2011 aged 87. In 1990 he took on the job of coordinating relief work for the Methodist Church and became our Flying Dutchman, one of the few at that time of war to criss-cross the country regularly driving his vehicle. We too took advantage of this to arrange our visits to the East so as to travel at least one way with him. We could not go regularly to Jaffna at that time and Ben contacted people for us taking the precaution to write his notes in 'Double Dutch'. Ben introduced us to Bonhoeffer's *Letters and Papers from Prison* by giving us his personal copy and remained a guardian angel through this period.

Anita Fernando and Paul Perera who ran the Community Development Centre with their staff readily came to our aid whenever needed. Chandra, who was on their staff was based in Moneragala and was among those who gave us information on LTTE massacres of Sinhalese civilians. Manoranjan helped us intimately from the time Rajani was killed by performing many services at enormous risk, particularly in relation to our security. For a time he travelled in and out of Jaffna maintaining contact with a network of dissidents, some of whom later disappeared. Also close to us were Wimal Fernando and Sivagurunathan from the Movement for the Defence of Democratic Rights, whose office was at our disposal.

Wimal and Sivagurunathan would always ask about "What next?" It was not that they did not agree with us, but like for everyone else, by the end of 1999, it all seemed like an impasse. Both were good-hearted men always willing to help those in need. The Government's military effort was in the doldrums. There was much international pressure upon the parties concerned to strike a deal with the LTTE by giving it virtual control of the North-East. Anyone urging caution was immediately labelled an enemy of peace. The NGOs were also under pressure to support Ranil Wickremasinghe at the 1999 presidential election. Wickremasinghe



ridiculed the idea of a political settlement, which most NGOs had worked toward initially, and proposed ending the war through appeasement of the LTTE as the means to realise a peace dividend in the South.

Many NGOs went Ranil's way and benefited from western funded projects aimed at peace along these lines. Some of them went on to oppose and ridicule the political settlement put forward by President Kumaratunge in 2000. Wimal had his principles and refused to jump on this lucrative bandwagon.

Sritharan told persons from NGOs that to represent the choice before us as one between war and appeasement was wrong and that the LTTE's internal workings would, whether they liked it or not, push the country repeatedly towards war. The Tamil people knew that. A political settlement was not an option but a precondition for Tamils to remain a part of Lanka. He added that talking to the LTTE was necessary, but terms of a ceasefire should minimise prospects of a return to war by making it costly to do so, and must create conditions to strengthen peace. The latter involved making it possible for people to express independent opinions and organise politically, free of constraints from the major actors. The most important precondition for this, he held, was the protection of dissent and enforcing the strongest political deterrents against assassinations.

In a private conversation after the publication of our Special Report No.13 early in the 'peace process' of 2002, the Norwegian Ambassador, Jon Westborg, said that the precautions we demanded amounted to asking for the induction of a peace keeping force and no one was going to put more money and effort into a peace process in Sri Lanka than what was then being done. It indicated how cheap Lanka had made itself in the eyes of the world by letting ethnic discord fester for half a century.

The Norwegian peace agreement ignored the interests of Tamil dissent, and all political opposition was lumped into the category of paramilitaries. The LTTE got on with child conscription and political killings without any inhibition. Some of our friends suffered the worst. We had become close to some in the Marxist EPRLF, particularly T. Sritharan, T. Subathiran and R. Thurairatnam, the latter from Batticaloa. They gave us much accurate information on child conscription and political killings by the LTTE as well as the state parties and took great pains to ensure that the information was accurate. Subathiran, who cracked the LTTE's shooting down of the Lionair passenger flight in 1998 (UTHR(J) Bull.19), was killed by the LTTE in 2003.

Thurairatnam pursued a politics centred on people's wellbeing, despite facing the wrath of the LTTE. We watched with alarm LTTE's terror attacks that he and his family had to experience, though the Tamil elite was quite unconcerned and had largely rejected people like him. The horror and



absurdity of the peace process becomes apparent when instead of protecting people like him, the Norway sponsored Sri Lanka Monitoring Mission told him that according to the MoU, his party are 'paramilitaries' and must leave Batticaloa and stay beyond Manampitiya!

Norway's culpability lay principally in their failure to admit that they could not influence the LTTE's compliance with even the weak human rights provisions of their ceasefire Memorandum, and pull out in good time. Instead they followed a course of appeasement of the LTTE. They closed their eyes to LTTE conscription of children and killing of political opponents (helpfully branded paramilitaries). When Karuna caused a split in the LTTE in early 2004, Norway moved to isolate Karuna; refused to deal with him and stepped aside, allowing the LTTE to massacre many of Karuna's child conscripts and brutally crush the rebellion, while the morally bankrupt government picked up Karuna's hounded remnants to serve as their assassins. The peace Monitors then declared "*We are back on track again*" (UTHR(J) Bulletin No.36). It was a shoddy affair that prepared the ground for a vicious end game.<sup>300</sup>

Ketheeswaran Loganathan too was isolated within the NGO sector, where he worked, when the Norwegian 'peace' process began. At a meeting he had challenged the Norwegian peace envoy Erik Solheim on child conscription by the LTTE, for which the Norwegians maintained they found no evidence. This isolation drove Kethees to accept the offer of a deputy directorship of the Rajapakse government's peace secretariat. Kethees felt that he might be able to influence things for the good. In early August 2006, Bhaskaran, the brother of Yogarajah Hemachandran, one of the five students killed by the STF on 2<sup>nd</sup> January, telephoned us from Trincomalee and told us that Kodeeswaran, another brother of his, was among the Action Contra la Faim (ACF) workers stranded in Mutur where the Army was advancing. We contacted Kethees and asked for his help. Kethees agonised about it. His concern was that a message passed on to the Army in the field, in the thick of battle, might be miscarried, making it worse for those needing help. Meanwhile the 17 ACF workers were killed. Kethees was distraught at hearing the news. A few days later, on 12<sup>th</sup> August 2006, he was killed by the LTTE at his home.

The LTTE that killed Rajani came to the end she clearly foresaw. It was as she pointed out a product of Tamil Nationalism and the intolerance and deep hatreds it engendered. The result was a cheapening of life and cynical use of children of the less privileged as cannon fodder. This nationalism is still very much alive. Rajani's story and struggle warn us to be intellectually

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<sup>300</sup> Rajan Hoole, Sri Lanka: Ethnic Strife, Fratricide, and the Peace vs. Human Rights Dilemma, *Journal of Human Rights Practice*, Vol.1, 2009  
<http://jhrp.oxfordjournals.org/cgi/content/full/1/1/120>

honest and committed without which we would be pushed back once more into tragedy. This is not to minimise the pathological nature of the Sri Lankan state, but rather to formulate a political and ethical line as to how we deal with it while protecting our future and our sanity.

Tamil Nationalism was not an illegitimate development, but its framework was flawed. One cannot dismiss the sacrifice and sincerity of several of its leaders. The fact that we do sometimes sharply criticise our parents does not mean ingratitude or the want of love. We must come to terms with their legacy with charity, as we wish our descendants would with our own.





## Appendix 2

### History as a Major Casualty of Terror

In this appendix we revisit some cases from 2005 to 2011 that illustrate the Defence Ministry's use of killer groups, irregulars and paramilitaries. After the war, the killer machine dovetailed into the Grease Devil Saga.

#### **1. Revisiting the Murder of Principal Nadarajah Sivakadatcham – 11<sup>th</sup> October 2005**

We covered the murder of the school principal in Bulletin No. 39 and again a year later in the Supplement to Special Report No. 23 of late 2006. Both these reports were based on circumstantial factors and local opinion, including that of someone who knew the victim well. While holding the case to be open, we were inclined to blame the LTTE. By 2008, when we asked around to cross check, we found that those who had earlier blamed the LTTE were reluctant to voice an opinion. In the interest of putting the record straight, we once more looked into the case, seeking out and speaking to those who were close to Nadarajah Sivakadatcham. Some pointed distinctly to the State, while others said that the case still stands on circumstantial evidence, and although there are gaps and certainty still evades us, the evidence points to the State.

Looking back at even pro-LTTE web sites at the time of the incident, one sees much confusion. It suggests that the reports, whether pro-government or pro-LTTE, provided little significant local information although they predictably pointed the finger at the other side. To most concerned locals, their opinions took on a decisive direction when they were confronted with subsequent events, whose significance was missed by others in the welter of ongoing killings, particularly in 2006.

In going over the matter again, we now have a clearer picture of the manner and spirit in which killings were then pursued.

For instance, *TamilNet* missed the significance of the murder of Arulratnam which threw new light on the murder of the principal, when it reported on 15<sup>th</sup> October 2006, almost on the first anniversary of the murder of Sivakadatcham: "...unknown gunmen who entered Kopay Christian College at 11:30 a.m. Sunday, while a Teacher Training Course conducted by the UNICEF was in progress, threatened the teachers before shooting dead the watcher, Sabaratnam Arulratnam, 30." Arulratnam, popularly known as Kannan, was not the watcher. He was Sivakadatcham's office peon who was his trusted lieutenant. This murder was, as we shall see, undoubtedly the work of the Sri Lankan forces. If Kannan committed any crime at all, it probably was at best showing his feelings at the Principal's funeral a year earlier.

The first thing everyone without exception says about Sivakadatcham is that he was a good man, completely dedicated to his school, where he could regularly be found from 7.00 AM to 7.00 PM. He graduated in science from Colombo University in 1974. Little is known about his political sympathies. However, the early 1970s was a time most students actively supported the Tamil nationalist movement. He kept his family out of his public life and his wife, Mani Acca, described by those who know her as a very innocent lady, accepted this role. She is the diminutive sort who avoided confrontation and preferred to agree with her interlocutor even when she disagreed, and walk away inconspicuously. His two daughters and son likewise were good school children with no interest in politics.

As a Justice of Peace, Sivakadatcham received people at all times of the day, but kept no office at home. As a man of Kopay, he was widely respected and people on business usually met him in his school office where he stayed late. If people came to his home with documents and a request for a letter, he took them and frequently delivered the letter back to their home. If someone wanted a signature, they often stopped him on the road and got it.

A practice of his, which the LTTE exploited, was that he hardly refused anyone and was ready to seek help from everyone for the good of the school. Those close to him are clear that he was not pro-LTTE. He accepted help from the EPDP for the school, asked the Sri Lankan Army for help in bringing materials when the school grounds were developed, permitted the Sri Lankan Army to use the school grounds for their sports events, and also took part in LTTE functions at their request, even allowing the school band to participate in some of these events. He saw it as his role to cooperate in any local public event. In addition, without favour, Sivakadatcham welcomed all who wanted to hold religious functions in his school.

In April/May 2000, when the LTTE invaded Thamaratchy and came within a whisker of overrunning Jaffna, the Sri Lankan Army brought cannon into the school's playing field and fired two shells at LTTE positions to the east. (Access to the school is chiefly from a lane to the south of the school and also from the north of the school through a house. Those coming in through the church entrance would reach a parapet wall overlooking the school's playing field.) Principal Sivakadatcham approached the Sri Lankan Army and asked them to stop because an examination was in progress. Soon afterwards he allowed the Sri Lankan Army to do their duty. When the school's playing field needed an extension, he approached the parish priest of St. Mary's Church (Kopay Christian College is separated from Pt Pedro Rd. by St. Mary's Church) and negotiated a mutual transfer of land for that purpose. His record is one of having dealt amicably with everyone without distinction. He had no sense of anyone having anything against him, and may have been naïve about the



nuances of late 2005, where the LTTE used all means to provoke the Sri Lankan Army.

**The Malathy Commemoration:** In early September 2005, the LTTE pulled out its political office from the main part of Jaffna and left behind its MPs and agent provocateurs to foment conflict between the people and the Sri Lankan Army. The LTTE did this by abusing the ceasefire in order to force many auto rickshaw drivers, fishermen and persons belonging to trades, mostly non-vellalas, to undergo some form of military training in the Vanni – not to fight but to stamp its mark on them and limit their choices. It left behind in army-controlled Jaffna hired local rowdies and intelligence cadres to instruct the former. While targeting military personnel, frequently through grenade attacks, the LTTE drove the public and especially students to organise provocative demonstrations and meetings and shout slogans.

The State responded by organising killer squads to target persons loosely suspected of LTTE involvement. In 2006, after Rajapakse became president and peace was only in name, killer squads and killing of suspects and those who had forcibly undergone LTTE training was expanded recklessly. In October 2005, it was still early stages.

Normally LTTE propaganda meetings were presided over by functionaries of the LTTE political wing. After it pulled its political wing out to Pallai in LTTE-controlled territory, while increasing the scale of provocations, it relied on agent provocateurs like Kuthirai (Horsy) Gajendran MP, TNA, to get naïve civilians to address meetings.

One of these meetings, on 10<sup>th</sup> October 2005, was the anniversary of Malathy, the first woman cadre to be killed, during the war with the Indian Army in 1987. The LTTE wanted Sivakadatcham to address the meeting. He went to the site of the statue in front of the army camp with the school and its band and conducted the meeting. Although Sivakadatcham was not one to make provocative speeches, others present at the meeting shouted threatening slogans. It was still nominally peace time. Had it been open, rather than proxy, war, the people would have been more careful.

**The Murder:** The following day, 11<sup>th</sup> October, was *Sivarathri* festival. Sivakadatcham personally soaked the gram, which was to be boiled, tempered and served in school the following day. As was his wont, he locked the school and went home about 7.30 PM. According to people of the neighbourhood, a van was parked in the lane adjoining his house. No one alighted from the van, but after he came home, the van drove away.

The family used the rear part of the house, some distance from the gate, as its living quarters. Sivakadatcham changed and was eating the festive food, while the rest of the family watched a religious programme on television.



His second daughter who was doing her Advanced Levels, and his eight-year-old son, were at home. No one else came home that evening. About 8.30 PM someone called from the gate, '*Sivakadatcham sir*', in respectful tones. His wife heard it and alerted her husband. Sivakadatcham, who felt he had no reason to fear anyone, promptly went to meet the caller. His wife heard him in conversation and paid no further attention.

Subsequently, on realising she heard no sound of talking for five minutes and her husband had not come back, she felt some anxiety and went to check. Her husband was also a sickly man with the usual ailments of age. As she moved towards the gate, three shots rang out. Evidently, her husband was with his back to the jack tree near the gate. He fell back against the tree and slid to the ground. The wife thought he might have fainted out of shock. As she lifted his head and placed it on her lap she felt a sticky fluid. The shock of her loss struck her hard. She screamed and cried.

Soon students and neighbours were at home and some rushed to Kopay Junction half a mile east to fetch an auto rickshaw to take Sivakadatcham to hospital. The auto rickshaw drivers informed them that two men had come and warned them not to go if they were summoned to the scene of the incident. Subsequently, someone phoned Mr. Gajendran, MP, who brought his vehicle and took the principal's body to hospital.

A circumstance not widely known then was that a displaced boy staying in a neighbouring house heard the shooting. He then saw on the road a motorcycle with two men, the pillion rider holding up a gun, speeding towards Kopay Junction, where there was a constant army presence. He went into the house cowering in fear. Those who knew that the killers had gone towards the junction formed a strong impression that the State was responsible for the murder. The killers themselves, or their accomplices, had warned auto rickshaw drivers not to go to the aid of the family.

A curious circumstance calls for explanation. Normally killers on a mission to kill would do it as soon as the victim is conveniently placed and would not spend time talking. In this instance the killers seemed to have conversed with the victim for some minutes. Then the victim and the killers, as inferred from what the victim's wife experienced, faced each other in silence for around five minutes, before a killer fired the fatal shots.

**The Funeral:** The slain principal's funeral was held on 13<sup>th</sup> October 2005. The body lay in the school hall for people to pay their respects. But much to the family's distress, LTTE agents – TNA MPs, Gajendran, Eelaventhan and Sivanesan – hijacked the funeral. The principal's body was draped in a Tiger flag and Gajendran MP, who presided at the funeral, got the students' union president to read out the tribute, which announced that the LTTE had conferred on him the title of *Maamanithan* (Supremely great man).

However nowhere it was said that the Leader conferred the title. One web site *Nitharsanam* said that Jaffna political leader Ilamparithy, who later switched his services to the security forces, conferred the title.

At this point Sivakadatcham's outraged eldest daughter, Pratheepa, who had come for the funeral from Britain, publicly objected to the proceedings. She said, *"After this, now that he has been shot dead, what is the point of awarding him a Maamanithan title? I have him no longer, why praise him now? He was only the school principal who dedicated himself to the school. That is all he was to me. I want nothing else."* She had spoken on behalf of the family and continued to cry inconsolably. The agent provocateurs who had hijacked the funeral took absolutely no notice. The Tiger flag in which he had been draped remained to the family's pain.

During the funeral Gajendran made a provocative speech, which set the scene for unruly behaviour by emotionally charged young persons. Even as the Sri Lankan Army took a video record, some young men bared their chests defiantly for the benefit of the cameraman. As the body was borne towards the crematorium, agent provocateurs got the students to shout anti-Sri Lankan Army slogans, such as, the "Students Force will now take revenge". An auto rickshaw in the procession was also blaring anti-Army slogans through a loudspeaker. The Sri Lankan Army was watching and did not allow the school band to proceed beyond Kopay Junction.

Those who instigated the provocations safely went away, but those who were provoked and had to live in Kopay paid a heavy price. Among those who took part in the funeral and were killed later by killers identified with security connections were four students who had sat for their Advanced Levels from the school, the school's office peon and an auto rickshaw driver and old boy, the twin brother of the intended target.

**Killings after the Funeral:** After mid-day on 23<sup>rd</sup> April 2006, Kurunathan Janarthan of Kopay, who was waiting for custom in his auto-rickshaw at Irupalai junction, was chased by gunmen and shot dead. This happened in the vicinity of an army camp. The murder, the locals believe, was based on mistaken identity, the intended victim being Jeyanthan, Janarthan's twin brother, who, through a loudspeaker fixed to an auto-rickshaw, had been shouting slogans at Sivakadatcham's funeral. Jeyanthan escaped to the Vanni. The State killers realised their mistake and continued looking for Jeyanthan. The latter having escaped, they shot dead his elder brother.

By this time killings had intensified. On 19<sup>th</sup> April 2006, state agents killed five persons in Puttur East. Two were auto rickshaw drivers who had taken part in LTTE demonstrations. The other three were killed as they were witnesses (UTHR(J) Special Report No.21). Sources in the area pointed to the main organiser behind these killings being an irregular they called



'Jayasuriya'. This was because he was bald, and though fair, was a spitting image of the Sri Lankan test cricketer Sanath Jayasuriya. It was believed that he was based in Achelu Camp. This 'Jayasuriya' was identified as the spotter who identified the targets and directed the killers.

The killings were frequently sadistic and based merely on suspicion. Travellers along the road were sometimes stopped on suspicion, and then disappeared. Ganesh was a young man stopped by the Sri Lankan Army near Kopay Junction during this period (early 2006). He was asked to get on the pillion of a motorcycle, and taken away, while being followed by two more men on another motorcycle. Guessing what was coming; Ganesh jumped off the motorcycle, and ran blindly in a bid to escape. Exhausted and frightened, he entered a newly built house at the junction of *Raja Pathai* (Royal Avenue) and Kondavil – Irupalai Road and resigned himself to a chair on the verandah. The gunmen followed and shot him. Ganesh's body was found in the sitting position with his head slumped forward.

In June 2006, Kutti Iyah, a Brahmin priest who used to return late along the Kopay – Kaithady Road, went missing. About 20 days later, on 8<sup>th</sup> June, people working in the area noticed a leg protruding from the ground near Kaithady Bridge. There were army posts 300 yards on either side of the bridge. Since the bridge was at the border of two divisions in Kopay and Kaithady, officials from both divisions were called in to carry out the exhumation. Mr. Joseph Ratnarajah, the village headman (GS) from the Kopay side, played an active role in the organisation. They found the bodies of Kutti Aiyah and of Visuvalingam Paranitharan, a student who went missing a month earlier on the Kopay-Neervely Rd. The following day, a gunman came to the gate of Joseph Ratnarajah's home, called him, and gave him a letter. He then shot him, injuring him in the neck and face. Joseph's son ran out and pulled him to safety. Later Joseph was hospitalised and afforded police protection, on the order of Additional District Judge, Jaffna, Mrs. Srinithy Nandasekaran. This enabled him to leave the country. Neighbours identified the gunman as a local youth, probably an ex-LITE cadre, who turned over to the Sri Lankan Army.

Kutti Iyah's house was opposite an army camp, in front of which schoolboys had demonstrated and burnt tires. Two grenades had been thrown from their midst injuring two soldiers. The Sri Lankan Army then opened fire, accidentally hitting Iyah's daughter who was bathing at the well. Her leg injury later healed. After the shooting, Kutti Iyah, who naturally was very upset, remonstrated with the Sri Lankan Army, which is believed locally to have been the cause of his fate.

**The Murder of Peon Arulratnam (Kannan):** Kannan was known among the school and staff as an innocent boy who was loyal to the principal. Following its same paranoid logic, the Sri Lankan Army which



appears to have branded Sivakadatcham an LTTE man, painted the same label on Kannan. In the course of the multitudinous demands of his work, 'Jayasuriya' the spotter for the state killers, fastened his attention on to Kannan. During this period there was activity in the church adjacent to the school owing to the building of a new parsonage. Jayasuriya used to enter the church premises, come up to the bordering wall, call Kannan and talk to him. Kannan became frightened and others feared for him; he then avoided going home and stayed mostly in the school premises.

On 15<sup>th</sup> October 2006, UNICEF held two seminars in English and Science at Kopay Christian College, for teachers from several schools. Kannan was on duty and served tea for the participants. Following signs of activity in the locality, two men on a motorcycle entered the school through the lane to the north and the private premises. Teachers who observed this told Kannan to escape through the banana plantation west of the school. Kannan replied that it would be useless as the Sri Lankan Army would undoubtedly be there; as in such events the Army was deployed to cover the killers and to intercept the quarry in the event of escape.

Of the two persons who came, the fairer man spoke fluent Tamil, while the dark man, whom the witnesses judged to be Sinhalese, spoke no Tamil. Kannan ran into one of the seminar halls, crept under the legs of the teachers seated there and pleaded with them to save him.

The fairer killer came up to the entrance of the seminar hall and fired his pistol upwards onto the flat sheltering the area below. The teachers in the seminar room, both men and women, fled in panic. Kannan rose from under the tables and ran to a steel cabinet that stood at the back, and hid behind it. The killer holding pistols in both hands fired at the cabinet, tracing it with bullet marks from top to bottom. Later, the teachers found Kannan squatting behind the cabinet, riddled with bullets, his head bowed.

And sure enough, as Kannan anticipated, soldiers soon entered the school from the banana garden to the west and wanted to know what happened. They claimed that they heard the sound of wood cracking. Kannan's murder was about the final act of the Sivakadatcham saga.

We have added some important pieces of circumstantial evidence to the murder of the principal and the reader is left to judge. One suggestion from a local observer was that the Sri Lankan Army became alarmed after the Malathy meeting, as the LTTE was pushing the public to demonstrate against them to create anarchy. Killing the principal may have been carried out as a deterrent against violent demonstrations. If so one immediately asks why the Government failed to use its emergency powers, declare curfew and force the people to stay at home?

That too is a pointer to what was wrong with the ongoing so-called peace process. Declaring curfew would have invited accusations from the peace community of spoiling the peace process. Both sides found it less costly to deal with thorny issues through deniable killings – like Kumar Ponnambalam's murder in 2000 that would never be investigated.

The reader could also see why many were initially convinced that the LTTE were the killers. The fact that the killers came home, talked to the victim casually and then faced him in silence before killing him suggests that they wanted him to do something which he was reluctant to acquiesce in. Someone who knew only this and the eldest daughter's outburst at the funeral against the LTTE hijacking the occasion, would have suspected the LTTE. Now the weight of circumstantial evidence, particularly the killers going to Kopay Junction that had an army presence and the threatening of auto rickshaw drivers there, and the subsequent murder of the innocent peon, strongly points the finger at the State. Some folk from Kopay when asked why there was so much uncertainty about the incident all this time, answered, *"We were afraid then. We are also afraid now."*

## **2. Fr. Jim Brown and the Dual Saga of Murder in Allaipiddy and Velanai: May – August 2006**

Fr. Thiruchchelvam Nihal Jim Brown was the parish priest at St. Philip Neri's Church in Allaipiddy, when the LTTE attempted a sea landing in Allaipiddy on 12<sup>th</sup> May 2006. The LTTE's plan appears to have been to neutralise the navy camp at Allaipiddy, dominate the area and bring in reinforcements. This was part of the LTTE's attempt to overrun Jaffna, which finally began on 9<sup>th</sup> August. According to local sources the LTTE landed at Allaipiddy beach and moved in quickly, hiding its weapons under bushes and changing into civilian clothes. In a confrontation, the local impression is that the Sri Lankan Navy sustained many casualties, while the LTTE's were relatively minor. A commando unit having to be inducted from Jaffna to support the Navy speaks for the gravity of the situation. After intense shelling and MBRL attacks from Palaly, the LTTE decided to withdraw in boats and our sources say that only one LTTE cadre was left behind; the cadre took cyanide.

The Allaipiddy incident gained publicity for two reasons. One was the shelling of the church from Palaly, resulting in four among the people who took shelter inside being killed. The church's coordinates would have been well known to the gunners. The second was the disappearance of Fr. Jim Brown on 20<sup>th</sup> August. Fr. Brown had passed the navy checkpoint on the main road from Jaffna to Velanai about 2.00 PM, and travelled along the road to Allaipiddy village to inspect the church. Other persons who were then on the road told another priest that two persons followed Fr. Jim on a motorcycle. Fr. Jim and Wenceslas Vines Vimalathas, a parishioner who



went with him, disappeared without a trace. The people of the area are unequivocal in their praise and are very grateful for the selfless service Fr. Jim rendered the injured and the displaced, especially in his final week.

Another reason for which the case gained notoriety was the high-level interference by no less a person than Chief Justice Sarath N. Silva to suppress the evidence. The Acting Magistrate Mrs. Srinithy Nandasekaran who was alerted about the disappearance, sent a police party to impound the logbook at the Allaipiddy Navy checkpoint.

The same night, by the order of the Judicial Service Commission (JSC) headed by Chief Justice Silva, Mrs. Nandasekaran was removed from her acting position and another magistrate was put in her place. The logbook was never secured. UTHR(J) has reported on the case before, but we place on record further testimony from witnesses that throws light on this second saga in Allaipiddy. The first began in May 2006.

**The First Saga: 13<sup>th</sup> May 2006:** A bomb explosion on the beach at Allaipiddy on 30<sup>th</sup> April 2006 injured two naval personnel. On the night of 13<sup>th</sup> May 2006, nearly 13 killings took place around Allaipiddy. The most horrific among them about 8.00 PM was the murder of the young couple, Ketheeswaran and Annette Esther, with their young son and infant child in a house barely 75 yards from the large Sri Lankan Navy camp. Although the area was dominated by the Sri Lankan Navy, no naval personnel came to check. Instead, the Sri Lankan Navy prevented the magistrate from coming to the spot for nearly 15 hours claiming that they were clearing the area.

On 19<sup>th</sup> May 2006 Annette Esther's mother Sellathurai Lillimalar and her sister Annette Violet, whose husband Robinson too was killed in the incident, gave damning testimony to the Kayts Magistrate Jayaraman Trotsky, implicating the Sri Lankan Navy. Lillimalar said that the armed persons who came into the house and did the killings were in uniform and regularly went patrolling past her house, but she could not identify them if they were paraded before her because she was too frightened at the time.

Annette Violet, who saw the killing of her husband Robinson and brother Amuthathas, asked the killers, whom she had seen plainly, why they did it. She identified the one carrying the petrol-max lamp as the one who earlier came to their shop for a purchase, and another as one who regularly went patrolling past their house. The third person spoke a peculiar kind of Tamil and was new to her. She said she could identify the two who were attached to the post near her house and the post at the beach on rotation.

**Naval Commander Nishantha Koggala's Testimony:** At the beginning of his testimony, Koggala said that at 8.00 PM there was an explosion at Allaipiddy. He told his men who were at mere hailing distance



from the incident not to leave the camp as he considered it too dangerous for them. The explosion story lacked support from any independent witnesses. Locals only spoke of small arms fire by naval personnel, also at 8.00 PM. In fact, Koggala knew about the incident and its nature. Magistrate Mrs. Nandasekaran, who was in Jaffna when she was informed of the killings, had at 8.45 PM informed her colleague Jayaraman Trotsky in Kayts, who in turn asked Kayts Hospital to send an ambulance and contacted the Police. The Police refused to accompany the ambulance. Ambulance driver Senthilselvan and his assistant Kunapalaruban went together at their own risk and by 10.00 PM informed the Magistrate that there were eight bodies in the house at Allaipiddy and the local populace had moved to St. Philip Neri's Church. The priest Fr. Amalraj too went to the house soon afterwards and later helped to move the injured to Jaffna Hospital.

The main navy camp was a mere 75 yards or so from the house and a smaller camp too was nearby, both visible from the house. Yet Koggala pretended not to know anything except a fictitious bomb blast. If there were terrorists holed up so close to the Navy, it was his business to know. That too did not seem to matter, not even that it was small arms fire and not a bomb. Magistrate Trotsky reported hearing a bomb explosion at Puliyanakoodal followed by gunfire close to his Kayts residence at 10.30 PM, where later three persons were reported killed. Koggala seems to have missed the explosion at Puliyanakoodal Junction, which he said was only 1200 metres from his camp. Instead, he heard a huge explosion at Velanai after 11.00 PM and claimed he heard about Puliyanakoodal through his communication set while he was dousing fires in Velanai. He made no mention of small arms fire or about the tea shop owner killed in Velanai.

Testifying in Court six days after the incident, Koggala did not seem any wiser about what was behind the incidents on his beat. He had seen such a serious security threat that he prevented the Police and the Magistrate from going to the scene for more than 12 hours. He did not claim there were terrorist attacks in the area. Thirteen persons were killed, all civilians, not a single terrorist. His story about his putting out fires in Velanai with its contradictions reads like an alibi for himself. Nor have the EPDP, who were the political authority in the area, said anything helpful.

The Police delayed the reports, and Magistrate Trotsky on 6<sup>th</sup> June pulled up the Police for claiming disingenuously that the details of the two navy camps referred to by Annette Violet were not specific enough for them to make any arrests. On 19<sup>th</sup> July 2006, Magistrate Trotsky had to threaten legal action against investigating police officers, led by SSP Mahes Perera of the CID, who failed to appear in court.

**A Less-known Side of May 13<sup>th</sup> Events and the Cover-Up:** Apart from the eight persons killed in the extended family mentioned above, there were about five other killings and the burning of about a dozen business premises. IGP Chandra Fernando's interview (Ranga Jayasuriya in *Sunday Observer* of 21<sup>st</sup> May) makes it clear that the State was distorting facts in the clumsiest fashion in a bid to cover up. Contrary to naval officer Koggala's testimony, the IGP claimed that two days before the killings, LTTE agents torched 10 to 12 shops in the area which were open despite a LTTE organised hartal. The LTTE had distributed notices on 11<sup>th</sup> May ordering all shops to be closed. But Koggala told the court that the shops were burnt on the 13<sup>th</sup> May night – the night of the killings. Naturally, despite three separate teams of police investigating, they found no evidence of the security forces' culpability. However the people of the area are clear that the Sri Lankan Navy was directly behind the incidents.

The LTTE had ordered the people to close their shops on the 11<sup>th</sup> May, and the traders were in a dilemma. Ratnam Senthuran (38), owner of Ambika Stores, Velanai, was the president of the traders' association in the area. According to locals, after consultation, he decided that all shops in the area should remain closed. His brother, sister and father said in evidence before the Magistrate that the assailants all wearing navy uniforms and carrying automatic rifles used by the navy, came looking for Senthuran, approximately at 4 PM. Thereafter they returned at 9.30 PM and shot the deceased who had gone to sleep in the tobacco hut where the tobacco crop was stored ([www.chrdsrilanka.org/](http://www.chrdsrilanka.org/)).

A youth from the area who had traded in the South said that he knew one of the naval personnel stationed there from his days in Galle. This man had told him, *"How can they close the shops on orders from the LTTE when we rule the place. Would it not make us angry?"* He also told us that navy personnel went into Senthuran's house. The latter jumped into the well and the Sri Lankan Navy agents shot down into the well. After the first action about 9.30 PM in Velanai, the assailants moved east to Puliyankoodal to a communication centre run by the youth Kantharooban. The latter had just returned home after chatting to a neighbour. The attackers shot him dead along with his father Murugesu Shanmugalingam (72) and mother Parameswari (65). Another son escaped as he was then in a neighbour's house. An elderly neighbour, when asked if they were LTTE supporters, replied, *"They are not that kind of people."*

The people are very clear that the Sri Lankan Navy set up the entire drama, witnessed by locals in Allaipiddy and Velanai. Of those identified, all are naval personnel, except one possible paramilitary type in Allaipiddy. When asked about possible involvement of the EPDP, which is at large in the area, people generally said, *"They are with the Navy."* There is no testimony on record pointing specifically to the EPDP.



**The Second Saga: 12<sup>th</sup> – 20<sup>th</sup> August 2006:** Fr. Amalraj was the parish priest of St. Philip Neri's Church in Allaipiddy during the first saga. Although the victim's family, that of Lillimalar, belonged to the Ceylon Pentecostal Mission, Fr. Amalraj visited the family the same night and played a leadership role in calming the people. According to those who knew him, he was not an LTTE supporter, and felt that the priesthood must remain neutral. He was an advocate of a third force – a force of the people. But the Sri Lankan Navy was hostile to him after the incident and the Bishop decided to move him. He was replaced with Fr. Jim Brown.

The Church knew that Fr. Jim Brown was no LTTE sympathiser. Given the stereotyping doing the rounds, those knew him a little may have thought otherwise, as he was from Manthuvil – Ward 8, Puthukkudiyiruppu. His mother was Rosaleen and Jim was the eldest, a brother of two boys and two girls. Natives of Puthukkudiyiruppu are aware of pockets of strong hostility to the LTTE. Its disgraced deputy leader Mahattaya's wife was from the area. Manthuvil was the native place of a senior PLOTE leader Alphonsus Ligouri Anton, Jim Brown's cousin-brother, whom the LTTE tortured and killed in 1984. Opposite Fr. Jim's house was a nun, whose brother was also killed by the LTTE. A senior church official who inquired about Fr. Jim said he had no LTTE sympathy and was with the people.

On Fr. Jim's disappearance, we quote from evidence compiled by the Church, which for some reason it decided to stop pursuing. We quote from the testimonies of a layman Theva and three priests, Fr. Peter, Fr. Xavier and Fr. Thasan, along with some additional information.

Government shells from Palaly Base began falling in Allaipiddy at 7.00 PM on the 12<sup>th</sup> August, and Theva went to St. Philip Neri's Church for shelter. At 9.00 PM a shell fell on a nearby house killing seven and wounding six persons. Since the church was no longer secure, Theva tried to flee with the others. At Allaipiddy Junction, a naval officer threatened them and ordered them to get back. They went back and dug pits near the church.

On Sunday the 13<sup>th</sup> of August at 4.35 AM shells fell on the church killing four and wounding others. Fr. Jim placed two injured persons on his motorcycle and attempted to take them to Jaffna Hospital. At Allaipiddy Junction, the naval officer threatened to shoot him should he advance one step. Fr. Jim knelt down and prayed with folded hands to be allowed to proceed to the hospital. After a small delay he was allowed to proceed towards Karuppachchi Amman Kovil.

On the morning of 13<sup>th</sup> August, Fr. Thasan helped Fr. Jim to transport the injured to Jaffna Hospital. The survivors moved to the church in Mankumban. That afternoon, the Acting Magistrate Mrs. Nandasekaran arrived and went to Mankumban where a shell falling on a house killed several inmates. Quite unusually, a naval man stopped her vehicle and told



her, as a concerned human being, that in a shelled, house close by, the parents were dead, but three young children were bleeding. He wanted her to take the children. One was a girl in need of surgery, one had a leg injury and the other was an infant of eight months. They now live with an aunt and the youngest is in school.

Mrs. Nandasekaran then met four priests at the Mankumban church, including Fr. Jim and Fr. Thasan, who wanted her to wait until they could move the people at the church to St. Mary's, Kayts. Without her presence, they feared that the naval commander Nishantha Koggala might stop them. They felt that the shelling of St. Philip Neri's Church the previous night was deliberate. By the same token they felt that the Mankumban church could also be shelled that night. St. Mary's, Kayts, appeared safe from this hazard, because the police station lay opposite.

Chief Inspector Gunasinghe of Kayts was regarded a very good man, but he was helpless to protect the victims. **The Navy prevented the Police from moving about during this as in the previous saga, insisting that they must first give security clearance.** The refugees were taken away to Kayts in four buses flying white flags. Mrs. Nandasekaran left them at 10.30 PM.

Fr. Jim stayed in Kayts from 13<sup>th</sup> to 20<sup>th</sup> August with Fr. Xavier and had occasion to relate his experience on the 13<sup>th</sup>. Fr. Jim said that Nishantha Koggala, the commander of the Velanai area, was very angry with him; and Koggala's behaviour that (13<sup>th</sup>) morning made him fear for his life. He added that martyrdom still awaited him.

On the morning of 17<sup>th</sup> August, Fr. Thasan accompanied Fr. Jim to Ganjandewa Camp at Velanai to meet the naval commanding officer Nishantha Koggala, whose conduct evinced distinct anger towards Fr. Jim, as evident in the drift of the conversation. Koggala asked him how he escaped the heavy shelling of the church. There resulted some miscommunication. On his escape from shelling, Fr. Jim was understood as saying that he was in a bunker. Koggala replied, "*Ah, so you dug bunkers for the LTTE.*" Koggala then became abusive and threatening. He claimed that the LTTE too came with the refugees to St. Anthony's, Kayts, and if an attack materialised from there, he would kill everyone in the church. Fr. Jim left very disturbed and frightened by this interview.

In their testimony to the judicial authorities, the people had said very clearly that the older folk were in the main body of the church, while the young dug bunkers outside the church and lay in them. Fr. Jim, they said, was not in a bunker, but in the vestry by the side of the altar. Others later told another priest who visited the church that Fr. Jim had indeed been in the vestry, but when shelling became heavy he slipped into a small ditch

just by the vestry's outer door. It was the kind of shallow ditch that stray dogs are wont to make, to snuggle into during windy nights.

Mrs. Nandasekaran met Fr. Jim and the other priests again either on the 18<sup>th</sup> or 19<sup>th</sup> August when she went to Kayts to arrange for the inquest. Informed of Fr. Jim's ordeal with Koggala, she told him that owing to it being widely known that Koggala had threatened him, Koggala was unlikely to act in haste. She urged Fr. Jim to meet Koggala again and explain his position. She also advised him to speak to Bishop Savundaranayagam to contact those higher up and to move him out of Allaipiddy.

On the morning of Sunday 20<sup>th</sup> August Fr. Jim was at Bishop's House, Jaffna, and despite reportedly being advised against going, he left for Allaipiddy, saying that he must take some water to people who are there and inspect the church. A layman, Wenceslas, went with him. Fr. Peter, the parish priest at Naranthanai, overtook Fr. Jim near the Mandativu checkpoint, where his motorbike had stalled. Fr. Jim said that he wished to shift some of the Allaipiddy refugees from Kayts to Naranthanai. He accompanied Fr. Jim up to the Allaipiddy checkpoint and left for Naranthanai about 2.00 PM. He noticed resentment and anger in the faces of the security men at the checkpoint. That was the last time Fr. Jim was seen by a witness who has come forward.

It was on 22<sup>nd</sup> August that alarm was raised about Fr. Jim's and Wenceslas's disappearance. In Kayts, a priest told Mrs. Nandasekaran that the two men were missing. She asked the priest to file an entry with the Police. In the afternoon, on her way back to Jaffna through Allaipiddy, she ordered the Police to take custody of the logbook maintained by the Sri Lankan Navy guard at the entrance to Allaipiddy, as it had a record of movements in and out. Later on the way to Jaffna, she heard a huge explosion and firing noises from the direction of Allaipiddy navy camp. These explosions seem to be the work of the Navy to create a distraction. The policemen who were with her understood this as a warning. Later the policemen who went to impound the logbook told her that the Navy set up the distraction to avoid handing over the logbook. The Navy got busy.

The very next day, the 23<sup>rd</sup> August, Magistrate Mrs. Nandasekaran was told of the order by the Chief Justice under the auspices of the Judicial Service Commission, to transfer her responsibilities as Acting Magistrate Kayts to the Jaffna Magistrate Mr. T. Vignarajah (Kayts Magistrate Trotsky was on leave from early August). The decision had nothing to do with her safety. Having been active in Jaffna she was thereafter confined to civil cases as Additional District Judge, Jaffna. The logbook was never secured.

**When the Rule of Law is in Abeyance:** The two sagas must be taken together. The first saga that included the killing of thirteen persons,



including the young family, aroused a great deal of local resentment against the Sri Lankan Navy. The people bore it in silence. The fact that Lillimalar and her daughter were challenging the Navy advanced further viciousness on the latter's part. It is galling for the aggressor when the worm turns. The LTTE's abortive landing made the Sri Lankan Navy angrier. Members of the resentful populace had offered aerated water and biscuits to the LTTE, who may have gone to the church and spoken to Fr. Jim. The Navy no doubt learnt of the goings on through its spies.

One story that needs to be treated as no better than gossip was told to local civilians by naval personnel: When Fr. Jim left with the civilian injured after the shelling of the church, he left behind his cellphone, which the Navy checked and found had several LTTE contacts, which apparently confirmed him an LTTE spy. In fact, Fr. Jim had been in the Vanni just before he came to Jaffna; living there entailed dealing with Tiger officials. A surfeit of modern gadgetry and excitable minds result in conclusions no better than gossip in which the Defence Ministry specialises.

We have a great deal of testimony about Fr. Jim from his fellow priests and the people who moved closely with him. There is nothing to suggest any empathy between him and the LTTE. The people knew him only as a good priest and a good human being. They recall with gratitude his selfless services during those harrowing days, where he proved his mettle.

Routine procrastination by the authorities and intimidation persuaded Lillimalar and her daughter that their case would not move. Though the LTTE attempt to take Allaipiddy lasted just a day on 12<sup>th</sup> August 2006, the case was delayed until 27<sup>th</sup> April 2007. The CID, which should have held the identification parade 10 months earlier, wanted to shift the parade to Trincomalee or Amparai where the harassed witnesses felt unsafe. On 2<sup>nd</sup> October 2007, the lawyers for the victims informed the court that the Lillimalar and daughter fled in fear to LTTE-controlled Kilinochchi.

Both the cases in Allaipiddy during 2006 were placed among the 16 cases to be investigated by the commission of inquiry the President instituted in 2006. The Chairman of the Commission was Justice Udalgama, one of the three members of the Judicial Service Commission that had obstructed justice by transferring Mrs. Nandasekaran. The Inquiry Commission which had lost credibility by mid-2008, was wound up in July 2009, evidently for the lack of funds, without having looked into the dual saga at Allaipiddy.

A gazette notification of 1<sup>st</sup> July 2008 announced the President's approval of the promotion of Commander (NP) Koggala Liyanage Upul Nishantha, SLN – NRP 0373 to the rank of Temporary Captain (the equivalent of a full colonel). He was then only 41 and two more promotions would make him Rear Admiral (Major General). He is answerable for the disappearance of



Fr. Jim Brown and for preventing civilians from leaving Allaipiddy, which was shelled at the Navy's request, and the resulting deaths.

Taken together with the 13 or so killings and arson on the night of 13<sup>th</sup> May 2006, where testimony implicates the Sri Lankan Navy, the agency of Koggala Nishantha becomes more keenly focused. It was a planned operation over Koggala's command area, reminiscent of the killing of five students in Trincomalee eight months earlier (Appendix4). Koggala Nishantha is very unlikely to have been reckless enough to carry out the operation on his own without the concurrence, or more likely instructions, of his superior Rear Admiral Upali Ranaweera and those higher up.

It is a grim reflection that many who become our Rear Admirals, Admirals, Major Generals and Lieutenant Generals have hands soaked in the blood.

### **3. The Pattani Razeek Case: A Lesson from the Muslims**

Pattani Razeek from Puttalam was the managing trustee of the NGO Community Trust Fund (CTF), who was abducted apparently by persons with whom he left Polonnaruwa on 11<sup>th</sup> February 2010. The fund was involved in resettling displaced Muslims from the North. A comprehensive report of the incident appears in the article by Ruki and Deanne (<http://groundviews.org/2011/08/18/who-killed-razeek-2/>):

*“Mr. Pattani Razeek's case is a rare instance where the body of a disappeared person has been found, based on information given by arrested suspects. The arrest of key suspects is itself a rare occurrence in the thousands of disappearance cases in Sri Lanka. It is even more unusual that people connected to a Minister in the ruling regime would be arrested for a serious crime.”* The minister was Rishard Bathiudeen, minister for Resettlement and Disaster Relief Services.

The abduction came against mounting pressure on NGOs by the Defence Ministry. When a large number of IDPs came out of the Vanni, sizeable funds were made available by foreign donors for their care, which enabled large contracts to be given to hangers-on of ministers and officials involved in resettlement. The Government had appointed a mainly Sinhalese Task Force of ministers, officials and retired and serving security personnel to oversee resettlement. The sceptical donors sharply curtailed funds, and officials and ministers began casting envious eyes on funds held by NGOs. Persons working on rehabilitating Tamils and Muslims strongly feel that the CTF's funds were the main object behind the disappearance of Razeek.

To start with, any prospect of justice seemed hopeless. The contacts of the CTF were relatively powerless. But they persisted and succeeded in getting a significant number of human rights activists, Christian and Buddhist clergy to support them. Civil society in Puttalam played a robust role in protesting and applying continuous pressure on Minister Bathiudeen and

blocking his meetings every time he came to Puttalam. Also active were the moulavis of the Puttalam Grand Mosque. By mobilising a diverse group they achieved the near impossible, considering the forces ranged against them, including the Minister's lieutenants and the Defence Ministry which took over the CTF, who indulged in intimidation and slander, alongside attempts to mobilise Mannar Muslims against Puttalam Muslims. The movement for justice prevailed on the Police to investigate and identify the persons and forces involved. In Sri Lanka, it was a major feat.

This is far more than any Tamil religious, secular or political group has achieved. The Roman Catholic Church had virtually dropped the case of Fr. Jim Brown. Reported as news, the murder case of the environmentalist Ketheeswaran simply died. It illustrates how the Tamil mindset long inured to the LTTE's crimes fares postwar. While happy when anyone takes the Government to task, they hardly think of engaging with the Sinhalese and Muslims to mobilise support against abuse within the country. Moulavis are also probably a more earthy lot compared with middle class church leaders accustomed to cutting deals with the powers that be.

The very nature of the culture of impunity induces people to take the easy way out by giving credit to flimsy arguments exonerating Bathiudeen. Among them are that the courts granted bail for the suspects and the Police's failure to make a case, which are reflections on politicisation. It was Bathiudeen himself who moved the Defence Ministry to take over CTF soon after Razeek's disappearance.

#### **4. The Cases of Ketheeswaran Thevarajah and Rasarathinam Satheesh**

Both cases from Vadammaratchy East happened within a month of one another. State terror has ensured that very little of news-value appeared about either. Ketheeswaran Thevarajah was killed on 31<sup>st</sup> December 2010 and Rasarathinam Satheesh on 29<sup>th</sup> January 2011. The legal fraternity in Vadammaratchy believes the killings of these disparate persons, who shared an interest in the welfare of Vadammaratchy East, are intimately related. As one of the fraternity put it, *"If we speak out openly what we know, we will not be able to survive here."* A particular irony of these killings is that many, mistakenly, as will be seen, attribute both to the EPDP.

Ketheeswaran, a postal employee in Kudathanai, returned after the war ended. He placed on his Facebook pictures of environmental damage in his home area from the mining of sea sand by the EPDP and Army. He used the title *'Alinthuvarum Kudathanai valangal'* (*Attrition of Kudathanai's Resources*). He was killed at his house by gunmen on New Year's Eve.

Satheesh was a very effective EPDP organiser for Maruthankerny, a little to the south of Kudathanai. Although the EPDP was pro-state party, Satheesh



was a different kind of person who did not hesitate to confront the Sri Lankan Army when it misbehaved. He mobilised former LTTE cadres to work with him and this earned him an adverse reputation with the military. A senior colleague of his told us that on one occasion he organised people to corner army personnel who forced entry into a house by night to molest women. He brought in the army and got the intruders to surrender. This colleague further told us that the Army thereafter regularly stopped him from entering Maruthankerny at the checkpoint on the road from Pallai.

One of the strongest pieces of evidence that Ketheeswaran was killed by intelligence men under the Defence Ministry is that when the two killers went there, Ketheeswaran addressed one of them as 'Sir', a title people of that area normally use for army officers or state officials. It seems likely that the men had talked to him earlier about his pictures on Facebook.

As we have seen in affairs like the murder of Principal Sivakadatcham, irregular intelligence officers speaking good Tamil, are posted to army camps, but worked independently. Persons who have dealt with the case, both officially and from his party, believe that Satheesh pulled up these men for having killed Ketheeswaran and had an argument with them.

By 29<sup>th</sup> January 2011, Satheesh's relations with the intelligence men had reached a crisis where he felt that his life was in imminent danger. He set off to Pt. Pedro on his motorcycle to meet some senior persons in his party. Before he set off he told his common law wife to call him regularly on his cellphone and check if he was safe. His body was found in the Vallipuram area. The incident caused severe embarrassment to the EPDP leadership, as many among the public set it down to their internal job. After an abortive attempt to push the Police to investigate, high-ranking sources told us that the EPDP leader spoke to the President and got the two intelligence men replaced, without shedding any further light on the matter. The EPDP lost a popular man who could have been a singular electoral asset.

**Mining:** Sand mining was behind both these killings, which during the peace process was an LTTE monopoly. After the war the EPDP acquired the monopoly, but apparently not for long. A senior EPDP-er said that the main beneficiary is the Sri Lankan Army, which takes many times the sand the EPDP does while the latter gets all the blame. The Army, he said, is there all the time and has potent heavy machinery whose use in mining is legally forbidden. It explains why Ketheeswaran's environmental campaign earned the Army's wrath. The murder illustrates how much democratic freedom the Vanni returnees could exercise without risk to life.

The last thing that happened regarding Ketheeswaran's case is that the Police took custody of Ketheeswaran's computer for investigations. What



could one expect when the killers and the Police who investigate killings were both under the strong arm of the Defence Ministry?

### **Grease Devils, State Intelligence and Attacks on Political Opposition**

The grease devil phenomenon described in Ch.7.9 involving irregulars is of the same institutional fabric as planned attacks on the opposition.

On 16<sup>th</sup> October 2011, Mr. Thavabalan, president of the Jaffna University students' union was beaten in broad daylight by assailants wielding metal rods, who were earlier seen in conversation with soldiers at a nearby check point. This was after he visited two extreme nationalist Tamil politicians.

Frontline Socialist Party (FSP, earlier People's Struggle Movement) activists Lalith Weeraraj and Kugan Muruganandan were abducted in Jaffna on 9<sup>th</sup> December 2011 where they arrived for human rights observances the following day and have not been seen or heard from since. Lalith Weeraraj was repeatedly threatened by the Police and Military prior to his abduction and ordered to stop his work in the North.

On 7<sup>th</sup> October 2012, Dimuthu Attygalle, a leading woman in the FSP was ducked in disused engine oil near the Nallur Kanthasamy Temple by intelligence types, after she had participated in several events pertaining to World Children's Day. The FSP is one party that has relentlessly campaigned on the human rights of Tamils.

Human Rights and moderate Tamil nationalism were anathema to the Rajapakse government, whose political survival needed constantly to portray the Tamils as a threat to the Sinhalese. To this end, it took under its wing and facilitated extreme Tamil nationalists, even types who have said *"Tamil Eelam remains our goal and this Government must come to a settlement with us. If it fails, Jaffna will become the burial ground for the 40 000 soldiers stationed in the peninsula"* – Nallur Kanthasamy Kovil, 8<sup>th</sup> April 2002, UTHR(J) Special Report No.13. What it cannot countenance even more is a political movement where Tamils and Sinhalese get together on a non-separatist, pro-human rights platform; whence the Defence Ministry's viciousness against the FSP.

The grease devil phenomenon and its related assaults on opposition raised open protest and media attention. Although overt repression declined in 2013, the message was taken and people set their limits to avoid trouble.



## Appendix 3

### Action Contra la Faim: A Dangerous Delight in Giddiness

Rajan Hoole and Kopalasingham Sritharan

*"What is truth?" said jesting Pilate, and would not stay for an answer. Certainly there be, that delight in giddiness, and count it a bondage to fix a belief; affecting free-will in thinking, as well as in acting...There is no vice, that doth so cover a man with shame, as to be found false and perfidious.*

– *Of Truth*, Francis Bacon

Lanka became characterised by public cynicism, fear and institutional decay: fear among journalists of crossing invisible lines; cynicism about the country's rulers and general disbelief in what they say; and the progressive decay of institutions that should protect human rights.

Where intellectuals have succumbed to pressure or played safe, it is the journalists who have carried the burden of dissent and telling us the truth. They have carried on writing and paid with their lives. The public was aghast when the Defence Secretary Rajapakse in May 2008 summoned two journalists who had protested against attacks on journalists (e.g. Keith Noyahr) and gory threats against others, and told them, "[The people] love the Army Commander (Lt. Gen. Fonseka) and the Army [whom you have criticised]. Those who love us do what is required. We cannot help that".<sup>301</sup> One of the journalists, Poddala Jayantha, was brutally attacked on 1<sup>st</sup> Jun. 2009, a few days after the end of the war. But not long after, the Sri Lankan Army ceased to be sacrosanct when General Fonseka fell out with the Rajapakses. Several army officers deemed close to Fonseka were arrested for alleged treason. Among them was Brigadier Duminda Keppetiwala. The Attorney General told the Supreme Court in writing (28 March 2010) that Keppetiwala was involved in the murder of *Sunday Leader* editor Lasantha Wickrematunge. He based his conclusion on the evidence of phone records that inexplicably surfaced more than a year after the murder, in the wake of the giants falling out.

But, as so often happens, the accused was later granted bail and the charge was left in the air. When the State is viciously immoral, no independent judiciary would withstand the constant strain of pressure to whitewash such a state. An important landmark is the glaringly exceptional nature of the Action Contra la Faim (ACF) case and the convolutions of the Commission of Inquiry headed by a respected judge.

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<sup>301</sup>Death bells toll for the free media, 1.Jun.2008,  
<http://www.sundaytimes.lk/080601/News/news0016.html>



## 1. Time of ACF Killings: Where Evidence is Capricious

The drama over phone records in Wickrematunge's case is matched by a glaring oversight in the ACF case. On 4<sup>th</sup> August 2006, 17 ACF aid workers (16 Tamils and one Muslim) were massacred in Mutur, after the fighting between the LTTE and the Sri Lankan Army had ceased and the LTTE had pulled out eastwards by mid-morning. The massacre was in the evening after the local populace had begun moving about cautiously.

The records of telephone calls by the ACF staff on the fatal day were not presented to either the Magistrate or the Commission of Inquiry (CoI). The significance of the phone records is to do with the official position that the killings, based on the JMO's report, took place early morning on 4<sup>th</sup> August 2006 (thus implicating the LTTE instead of the Sri Lankan security forces).

ACF victim Kohila had called her younger brother Senthookumaran from the Mutur ACF office on the cellphone of her colleague Jaseelan, to tell their mother to cease worrying and take nourishment as they were safe and would arrive in Trincomalee the next morning. The time was between 4.15 and 4.30 PM on 4<sup>th</sup> August 2006. Senthookumaran said he immediately went home and told his mother and later the Police about Kohila's call when the victims' kin were summoned to the Magistrate's Court. This makes the JMO's report wrong by about 10 hours. The time of the killings was late afternoon as confirmed also by independent eyewitness testimony, details of which we provided to the CoI in 2008.

Senthookumaran, who refused to retract the testimony about his sister's call, has faced harassment and abuse – including severe torture by elements of the security forces – and was in hiding. The intimidation and harassment of witnesses by police officers, especially from the commission's investigation unit, followed a general pattern. Mrs. Niranjaladevi Muralitharan, the wife of an ACF victim, was severely harassed, fell ill and died. Witness Rev. Sornarajah was hounded like a criminal and forced to flee the country because he had testified to seeing the victims about 8.30 AM on the fatal day, again discrediting the testimony of the JMO. The Attorney General's role was to obstruct the International Independent Group of Eminent Persons (IIGEP) watching the proceedings, dismiss its concerns, and create popular doubts about its integrity.

The bullet extracted from victim Romila was identified on recovery by pathologist Dr. Dodd and three police officers from the CID as 5.56 mm. It was transmitted to the Government Analyst who pronounced it was 7.62 mm and not 5.56mm. The Government tried to discredit Dr. Dodd's and the police officers' initial finding, arguing that Dr. Dodd *'is a forensic pathologist, and not a ballistics expert'* (SCOPP Secretary General, 27

June 2007) – as though it would require an automobile expert to tell a Morris Minor from a Volkswagen (UTHR(J) Special Report 27).

We have independent testimony that 5.56mm bullets were found in the bloody muck where Romila lay (UTHR(J) Special Report 30, Addendum). Also note Special Report 33.

The CoI report was not made public. From the Chairman's public statements, its import was to implicate the LTTE on the basis of the time given by the JMO (early morning), the LTTE's presence in town in the morning and the alleged absence of witnesses to the army presence in town at any time of the day. In fact, an eyewitness, who implicated the Sri Lankan Army, Police and home guards in the killings, was prevented from testifying when video conferencing was stopped on the President's orders. But his signed affidavit to the IIGEP was made available to the CoI.

## **2. P.C. Shanmugarajah's Testimony**

The crucial elements of testimony in the affidavit signed on 31<sup>st</sup> May 2008, by Police Constable Ramasamy Shanmugarajah of Nuwara Eliya, withstand critical tests for veracity. One is the time of the killings as the afternoon of 4<sup>th</sup> August, corroborated by two ACF families who spoke to the victims, and what the JMO brought from Anuradhapura or his assistant casually told journalist Peter Apps. We will see more.

By the afternoon of 4<sup>th</sup> August 2006, the LTTE threat to Mutur Police Station had receded. On the previous day a relief party of commandos arrived from Trincomalee, along with ASP Sarath Mulleriyawa and Inspector Chandana Senanayake, OIC Mutur. Following representations made by the ACF to Nihal Samarakoon, SSP Trincomalee, Trincomalee Police about 3.00 PM called OIC Mutur, and asked him to bring the ACF staff from the Mutur office and send them to Trincomalee. As will be seen, Samarakoon's information was that Mutur was by then safe. The OIC then discussed the request with a party that included commandos, two policemen, whom we will see were handpicked killers, and a Muslim home guard, Jehangir. Jehangir had been screaming around the police station that he would kill Tamils. The two policemen were Susantha, Inspector Ranaweera's bodyguard, and Nilantha who was attached to the armoury.

Ten commandos with Susantha, Nilantha and Jehangir left for the ACF office. Shanmugarajah then heard the OIC receive a call on his mobile telephone. The caller told the OIC in Sinhalese that the LTTE had not vacated Mutur, but were in the Telecom Building, the hospital and the ACF office. The OIC then told Susantha on his radio handset:

"Susantha, I have received information that the LTTE may be in the ACF office, however I have also received information that it is ACF staff inside the ACF office, approach carefully. If it is ACF people protect them and



bring them back to the Police Station. If it is LTTE you can attack them. Do not be scared of anything if it is LTTE just give them the maximum you can, I will look after you."

The true meaning is indicated in the tail of the message, "*I will look after you*". The suggestion of the LTTE being around was absurd from what Shanmugarajah and the Police in general knew. Soon after a Muslim transport worker told Shanmugarajah, "*How could I come out of town if there were LTTE in the town? There are only some Muslim people, and the ACF people are in their office.*" If the OIC had credited the caller's intelligence, the most logical move would have been first to check out the hospital, which is on the way to the ACF office from the Police Station.

Shanmugarajah, himself confident that the LTTE had left, went towards the ACF office on a bicycle. He saw five commandos taking up positions along the road; while the other five with Jehangir, Susantha and Nilantha went into the ACF office. The latter's weapons were two T56's and an LMG, none of which evidently fired 5.56 mm bullets, suggesting that one or more weapons of the commandos too had been used in the killings. Jehangir later boasted at the Police Station that the **ACF victims knelt down, pleaded for their lives and some urinated out of fear. All were nevertheless killed. Many policemen shook hands with the killers and ASP Mulleriyawa commended Jehangir for this exemplary bravery.**

There was no element in the operation to suggest rescue. All those of officer rank, police and commando, kept out of it. Apparently, the only person sent able to speak in Tamil with the ACF staff was Jehangir, who had in the police station been screaming gory threats against Tamils. There was no attempt by Susantha or anyone else to carry out the seeming rescue element in the OIC's order. There was no trace of the LTTE, not a squeak of resistance, but the inmates were ordered to come out and kneel minutes before being killed in cold blood. The commandos who took up position outside showed no alarm at the shooting. They knew who was shooting and their job was to prevent the escape of ACF staff.

The party that went to the ACF office had no intention of rescue. The OIC's call to Susantha was to both reinforce the intention to kill and to cover himself. Shanmugarajah's account of the OIC's call to Susantha and his earlier cell-phone conversation, gains in veracity by pointing to a direction of inquiry that bears fruit, as will be seen.

The information the caller from outside the station gave OIC Senanayake was completely false, as Senanayake well knew. The OIC made no effort to check for LTTE remnants in other locations near the ACF office the caller mentioned – the hospital and Telecom Tower. The spurious information was merely to reassure the OIC if he had any reservations about killing the



ACF staff – a reassurance he passed on to Susantha. On the killers' return ASP Mulleriyawa and the OIC were embarrassed by Jehangir crowing over the crime in harrowing detail and implicating them, but they also felt a need to commend and congratulate the notorious criminal.

The foregoing with what Shanmugarajah said, points to a superior officer behind the scenes personally interested in killing the ACF staff, assuring partners in crime down the line that they are covered from the top. The circumstances given below point to Kapila Jayasekera, who was about then promoted to Senior Superintendent of Police Operations, and has much to explain. Seven months earlier as SP Operations he was implicated in the massacre of the five students (Appendix 4). One of the five students was Yogarajah Hemachandran, whose brother Kodeeswaran was among the ACF staff marooned in Mutur. Kodeeswaran had attracted the attention of Kapila Jayasekera as someone who would seek justice for his brother.

Information before the CoI and witnesses at Mutur Police Station disclose that both SSP Jayasekera and IP Ranaweera arrived in Mutur on 4<sup>th</sup> August, the day of the killings, by navy boat. It points to Jayasekera following developments very closely. As to when he arrived, the conflicting reports tell us some things of greater interest than the exact time of arrival.

### **3. SSP Jayasekera in Mutur**

SSP Samarakoon recorded in his official diary that SSP Kapila Jayasekera and IP Ranaweera travelled through Mutur town at 10.30 AM on 4<sup>th</sup> August 2006 and both logged in at Mutur Police Station at 12.00 noon. Kapila Jayasekera at the CoI denied Samarakoon's record and said that although they were to leave Trincomalee by naval boat in the morning, the journey was delayed by an [LTTE] artillery attack on Mutur Jetty; they instead left at 9.00 PM, and reached Mutur Police Station at 2400 hrs, which both had recorded as 12.00 noon (and subsequently altered to 2400).

The Navy witness could not tell the CoI when the two police officers arrived at Mutur Jetty, but confirmed that attacks from the civilian areas had stopped by the morning of 3<sup>rd</sup> August. The artillery attack on the Mutur Jetty on the 4<sup>th</sup> morning claimed by SSP Jayasekera is uncorroborated and we take it to be complete fiction. The CoI's cross examination of the Navy witness made no attempt to clarify this. We may also take Samarakoon's record that Jayasekera and Ranaweera travelled through Mutur town at 10.30 AM (about 5 hours before the ACF massacre), to be based information, passed on routinely from the police network under him, which Samarakoon had no reason to doubt. It is hardly possible that SSP Samarakoon was wrong on both counts – the early presence of J and R in Mutur town and their reporting to Mutur Police station at 12.00 noon.

The kind of information given to the OIC by the caller on the LTTE being holed up at three locations, including ACF, came under Jayasekera's purview as SSP Operations. The OIC's unresisting action, based on what he knew was bogus information, points to the caller being a person with authority – very likely Jayasekera himself. The decision to kill had been taken and a common criminal's anger against Tamils came as an opportunity to shift the blame from Sinhalese protagonists to Muslims.

A possibility that explains Jayasekera's alteration of the time of logging in at the Mutur Police Station from 1200 to 2400 hours is that he did report at 1200 hrs and then left the Police Station and decided to keep out of the way to cover himself, once alerted about the marooned ACF staff. ACF Trinco had gone to Trincomalee Police Station early in the afternoon and left a list of their marooned staff for SSP Samarakoon's intervention. If a foul deed was to be done, time was short. This would explain the alteration of the time as an afterthought and why Samarakoon's call for rescue of the 17 was treated so callously (Special Report 33). Importantly, Jayasekera's reason and claim of delay in his boat trip to Mutur are entirely unsupported.

#### **4. The Pain of a Witness**

In November 2008, State Counsel Yasantha Kodagoda introduced Shanmugarajah's testimony to the CoI in these terms, "*...an assistant of the former IIGEP, David Savage had presented a report based on a testimony of a police officer R. Shanmugarajah who had been in Mutur and now in asylum contradicting his own statement made to the Commission's investigating team.*" The bias of state counsel leading the evidence was obvious from the start. A Tamil in asylum and 'contradicting his own statement' were calculated to prejudice Sinhalese minds.

Counsel Kodagoda certainly knew why Shanmugarajah contradicted himself. He was already marked as a man who knew too much. When he was called to testify before the CoI in late September 2007, he was taken to the Investigating Unit of police officers supposedly assisting the Commission. A senior officer, possibly Superintendent P. Ratnatilleke who was in charge of the unit, asked the others to leave the room and told Shanmugarajah, "*While you are in the Commission, we are looking after your wife and children. As long as you tell the right story, they will be safe.*" The message was clear. Shanmugarajah had no choice but to lie.

From the start the truth weighed heavily on Shanmugarajah. He had wanted to pour out his experience to the Mutur Magistrate Mr. M. Ganesharajah, whom he knew to be a good man wanting to see justice done. But he feared what might happen to him and his family. The Government was doing its utmost to suppress the evidence. Once it became apparent that Ganesharajah intended to investigate, the Judicial Service



Commission transmitted the case to the Anuradhapura Magistrate. The officer sent for investigations in Mutur was Inspector Zawahir, who acted as Jayasekera's sidekick in the murder of the five students (Appendix 4), and later intimidated a key witness Rev. Sornarajah, Methodist Minister in Mutur.

Rev. Sornarajah had visited the ACF office at 8.30 AM on the fatal day, 4<sup>th</sup> August. Sornarajah invited the ACF staff to join those leaving Mutur on foot from the Methodist Church. The ACF staff were confident of arrangements being made by ACF Trinco, and declined. Up to the time Sornarajah left Mutur at 11.00 AM there was no shooting at the ACF office. This too conflicted with the Anuradhapura Judicial Medical Officer D.L. Waidyaratna's claim that the deaths took place in the early hours of the 4<sup>th</sup> morning. Sornarajah was harassed and intimidated from the time he testified at the Col's supposedly confidential closed-door inquiry in 2007, first in Trincomalee and later at the commission by the police investigating unit and by the intimidating behaviour of the counsel for the Sri Lankan Army when he testified in May 2008, forcing him to flee the country. A confident witness in 2007, he was reduced to pulp by May 2008.

Finally in an extract published in the Press from what was allegedly the commission's confidential final report, describing Sornarajah, it says, "*One wonders whether all these 'theatrics' and uproar were to facilitate his seeking asylum*" (Lakbimanews 26 Jul.2009). The language in the leaked alleged report was non-judicial and smacked of crude propaganda planted with the connivance of the President's office. Also remarkably, on 25<sup>th</sup> July 2009, the day before the leaked alleged report was publicised, a person answering to the description of Mr. Gomin Dayasiri, counsel for the Sri Lankan Army, had the Police summon the families of ACF victims to Fort Frederick in Trincomalee. The families were asked to sign one letter to the President, blaming the LTTE for the killings, and another to the Attorney General, thanking his counsel for their impartiality in presenting the evidence and for the kindness with which they were treated. The end of commission hearings did not end terror and intimidation.

Shanmugarajah's vulnerability, given that he was of plantation origin and at the bottom of the social pile, was far greater. The point of decision for him was when someone whom he trusted gave him the confidence to speak the truth. We know quite intimately how Shanmugarajah, his family and the person he trusted went through several anxious weeks fearing the worst, until Shanmugarajah and family were safely out of the country.

Witnesses who remained in the county were silenced. For those like Kohila's family that remained true to their dead daughter and persisted in wanting to see justice done, the agony has been compounded by regular



official harassment, and physical torture of the son. And what of the victims of all those killings that have been routinely covered up?

The way the State and the Sinhalese polity treated the families of ACF victims and the surviving staff was crude and unfeeling. As in the alleged commission report above, they were treated as opportunists trying to use the case for asylum abroad. Police investigations and the tone of some of the questions at the commission hearings were to get them, as witnesses, to blame the ACF for the deaths. Others who hid from the harassment were hunted as LTTE suspects. Niranjaladevi, the wife of Muraleedaran, who was killed in the incident, was so harassed by the commission's police unit and the local police in Uppuveli, that just after she received a letter asking her to appear before the Commission of Inquiry, she was admitted to Trincomalee Hospital with high blood pressure and died shortly after on 18<sup>th</sup> September 2008. The Commission had lost its credibility after the departure of the international observers under protest a few months earlier. (See the harassment of Mrs. Sritharan in UTHR(J) Special Report No.33.)

The main findings of the secret Commission Report leaked to the *Island* (14 Jul.2009) exonerated the security forces. The ACF affair exemplifies the deep politicisation of our institutions, and how instead of justice they deliver more agony and suffering to the already bereaved. **The system fails abysmally not because some in the system have no character, but because nearly all holding high office in it are peculiarly pliable.**

The case left deep scars on the criminal justice system, heightening demands for an international inquiry. Udalagama was one of the three members in the Judicial Service Commission when Magistrate Mr. Ganesharajah was moved out of the ACF case and Mrs. Nandasekeran out of the Fr. Jim Brown case, when they sought to marshal evidence.

## **5. Exceptional Nature of the ACF Case**

In the long history of gruesome massacres by the armed forces, there was nearly always a proximate provocation as shooting, a bomb attack or armed activity. What stands out in the ACF case is that there was not even a squeak of resistance in the vicinity. The ACF killings were premeditated murder, which did not come from officers at the Mutur Police Station. It was too high profile and messy for officers at that level. The nearest precedent is the Five Students killings where at least Jayasekere and fellow conspirators created a pretext through a contrived grenade explosion and kept out of the way, leaving the STF killers to face the consequences.

This culture of official cold-blooded murder goes back to the 1987 – 1990 JVP insurgency and the first phase of the ethnic war which led to it. The

JVP insurgency degenerated into class war where fear of a person's suspected affiliations gave sufficient cause for murder. To understand killers in positions at present one needs to trace their history through these vicissitudes. Academia in the North and South lack the vision to come to terms with the culture of mass murder their societies have spawned.

Having failed to call for evidence of phone call records on the time of the killings, the CoI was forced to base its case on very questionable grounds. Justice Nissanka Udalgama's BBC interview of 14<sup>th</sup> July 2009, exonerated the Sri Lankan Army on the basis of the Anuradhapura JMO's time of the killings as the early hours of 4<sup>th</sup> August. He further pointed to Muslim home guards and the LTTE as possible perpetrators. Owing to the obstructive approach of the State, the bodies were collected after three days and the post mortem examinations were done on 8<sup>th</sup> August – after four days – and fixing the time of death as forensic scientists would admit is a very inexact science, not valid as evidence. Udalgama's exoneration further relied on the claim that no witness testified to seeing the Sri Lankan Army early in the day, but that Rev. Sornarajah had seen the LTTE in the morning. He unaccountably ignored the part of Sornarajah's testimony that he had seen and spoken to the ACF staff at 8.30 AM and had not heard gun shots while he was near the area – until about 11.00 AM. Udalgama said, *"The entire town was taken over by the LTTE at the time. The LTTE said on their website (i.e. TamilNet) that they had taken over the town of Muttur."* Bafflingly, Justice Udalgama gave credibility to *TamilNet* against the Defence Ministry's more accurate claim reported in the State's official organ, *The Daily News*; which said on the morning of 4<sup>th</sup> August that *"Muttur town is under the total control of the Security Forces."*

The CoI's tendentious use Sornarajah's testimony, which contradicts the JMO's time, and rejection of Shanmugarajah's, add to the woes of the commission's credibility. Shanmugarajah's affidavit had been dismissed after the CoI's opportunity to question him by video conferencing had been blocked. Truth had become a shifty game played with censored evidence.

The time of early morning, given by the Anuradhapura JMO appears to be his second thoughts. Peter Apps of Reuters said in a note to ICJ, he made available to us: *"I see from the story I wrote at the time that the pathologist told me after the first couple of autopsies that the likely time of death was Friday afternoon, based on the decay and maggots in the body."* This time as seen is strongly supported by further evidence.

**The ACF case stands beside thousands of others where investigation and prosecution have been stymied.**

There have been thousands of 'white van' abductions and paramilitary-style executions of unarmed civilians in recent years. Some have been repugnantly sadistic. For example, authorities have released suspects



(sometimes after months in detention) and then sent killers after them. In several cases there is strong evidence as to the identity of the perpetrator:

The disappearance of the child protection officer Stephen Sunthararaj, who worked on child abuse cases that implicated state officers, as well as one case the LTTE was complicit in trying to suppress, where he worked with Magistrate Mrs. Nandasekaran: Sunthararaj was abducted at a traffic light junction in Colombo soon after being discharged by court on 7<sup>th</sup> May 2009, after nearly two months in police detention without being charged. The event took place in a busy Colombo street after two men on a motorcycle obstructed the car, enabling the abduction by men in military uniform travelling in a white van. Sunthararaj's wife identified one of the abductors as a CID officer who had come home. According to a US Embassy cable written by Ambassador Robert Blake (March 2007) from *Wikileaks*, Sunthararaj alleged that the EPDP took children from poor widows and with the help of corrupt customs officials smuggled girls into prostitution rings and boys into virtual slavery. A separate cable quoted former Jaffna GA Ganesh lending substance to Sunthararaj's disclosure by charging the EPDP with running prostitution rings in concert with the Army.<sup>302</sup>

We must recall how commonplace extrajudicial killings had become (they are almost embraced as legitimate in our lawless state), and how quickly most are forgotten by everyone but the families of the victims.

On 16<sup>th</sup> July 2006 morning, paramilitary men shot dead two auto rickshaw drivers waiting for hire in Pt. Pedro square, which is opposite the Brigade HQ entrance and under army guard. Such incidents were so common at the time that these two murders ceased to be news after one day and were dismissed amid speculation that, the victims, like many in their profession, may have been forcibly taken for training by the LTTE during the peace process.

There has been no further investigation, and no justice. Failures like this, whether they result from callousness or numb complacency, do not bode well for Lanka's future.

A great deal of misery lurks behind placid walls in Jaffna and elsewhere in Lanka. Mathivathani, who lives west of Pt. Pedro, fasts and goes to the temple daily for the return of her husband Nadarajah Sritharan, a timid shop assistant. He disappeared on 17<sup>th</sup> May 2008, in the wake of the LTTE's murder of Maheswary Velautham a few days earlier. From work he had been to his mother's place, near Maheswary's, for lunch on that day.

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<sup>302</sup> <https://www.colombotelegraph.com/index.php/wikileaks-epdp-sold-jaffna-children-girls-to-prostitution-rings-and-boys-to-slavery/>



Her family went to Yakkarai army camp on hearing that Sritharan's bicycle was there. Witnesses had seen him passing Nelliady. The Sri Lankan Army maintains that the bicycle was found and brought to them. The family searched the scrubs behind the camp and found no trace of the victim. Both state-related and LTTE vigilantes had killed around ten persons within a few streets of Mathivathani's home.

Note: This is an edited and expanded version of an article published in *Lakbimanews* 7<sup>th</sup> August 2011.

*See also Special Report No.33, Third Anniversary of the ACF Massacre: A Travestied Investigation, Erosion of the Rule of Law and Indicators for the Future of Minorities in Lanka, 4<sup>th</sup> August 2009 <http://www.uthr.org/SpecialReports/spreport33.htm>, and Special Report No.30, Unfinished Business of the Five Students and ACF Cases – A Time to call the Bluff, 1<sup>st</sup> April 2008 <http://www.uthr.org/SpecialReports/Spreport30.htm>*



## Appendix 4

### Five Students and Embilipitiya cases: Is Justice Fatal to the State?

*Rajan Hoole and Kopalasingam Sritharan*

Are we living under a State so crisis-prone that reordering it to represent all sections and provide justice for all has become an insuperable task? Constricted by the ideology of Sinhalese hegemony (which invented its counterpart in the LTTE), its repository, the ruling class, has seen itself regularly under siege. Organised institutional violence becomes the reflex response of such a mindset, which cannot be constrained by laws. This pattern will not change, whoever is in power, without a determined push from the larger masses. This corruption is etched in the history of ruling interests.

Often the terrible crimes associated with the State originate in local conflicts, where one party is able to mobilise state power to satisfy its thirst for revenge. The crimes of Embilipitiya and the Five Students took place during interludes of transition. In Embilipitiya, school principal Loku Galappathy's son Chaminda was an army officer during the JVP insurgency, when both sides killed with no holds barred. Principal Galappathy had become friendly with Colonel Parry Liyanage, who took charge of the local Sevana army camp in July 1989.

November 1989 was a period of transition where JVP terror, which peaked a few months earlier, was in precipitous retreat. The bulk of the Embilipitiya disappearances, totalling 32 innocent boys, took place just after JVP leader Rohana Wijeweera was arrested and killed on 13<sup>th</sup> November 1989. The initial motive, it appears, was to teach a lesson to schoolboys, of a local class, who poked fun at army officer Chaminda Loku Galappathy's love letters.

Justice JFA Soza of the Human Rights Task Force (which was created under external pressure), who reported on the disappearances in 1992, opined that the outrage was organised between the Galappathys, father and son, and Col. Liyanage. The evidence came from local fathers held at Sevana army camp and released, who saw a section of the abducted boys. Also identified were army men using vehicles from Sevana army camp in the abductions.

Not unexpectedly, the UNP government and the AG's Dept. under Tilak Marapone, obstructed justice, even as witnesses were intimidated. The case was brought to court after a change of government. When the verdict was delivered in Ratnapura High Court in early 1999, Colonel (by then Brigadier) Liyanage and Captain Chaminda Loku Galappathy were



acquitted. Principal Loku Galappathy and six soldiers were sentenced to 10 years RI (Rigorous Imprisonment) over general charges concerning the crime. Lankan law does not recognise command responsibility.

The practice of not applying command responsibility protected the main protagonists. Justice was merely token and formal. The verdict against Principal Loku Galappathy was the catharsis the South badly needed to hang its collective guilt on. It was not just the Sri Lankan Army and Police that massacred Sinhalese youth, but a large section of Southern society was directly or indirectly involved. There is no will to probe this. It helped to preserve the rot within, enabling the JVP to carry on as though it did nothing wrong.

The killing of the Five Students in Trincomalee on 2<sup>nd</sup> January 2006 took place during a phase of transition. It happened as the LTTE launched a fresh round of killings and provocations, after it helped to install Mahinda Rajapakse as president by banning voting in the North.

In 2005 the Government sanctioned killings, as against the JVP 19 years earlier, to teach the Tamils a lesson, whom Sinhalese extremists identified collectively with the LTTE. The LTTE had killed several Sinhalese businessmen in Trincomalee, including Albert Hendric Weerakody at his home on Christmas Eve 2005. As for revenge, there were fewer inhibitions.

How inured we have become to this state of affairs is reflected in the testimony of the former Secretary General of the Peace Secretariat (SCOPP) before the LLRC that, *“hardly any instance [of a prima facie case of violation by the state of laws] has been established. However I believe there is at least one instance [the Five Students case] in which the state should have taken legal action.”* The Secretary General while conceding that there was, in his view, a prima facie case of state culpability in the Five Students’ case, gave the official position that prosecution would fail owing to paucity of witnesses. In fact there were scores of witnesses, who had been systematically intimidated by state-related vigilantes and some were killed. The law enforcement authorities who refuse to acknowledge what the public knows for certain, countless times hid behind the hackneyed cliché ‘The Police investigated, but found no evidence.’

### **1. Exhibition of Torture and Executions on Trincomalee Beach**

From information we pieced together, based on several sources, the Defence Ministry had decided to teach the Tamils in Trincomalee a lesson by an exhibition of violence; and demonstrate to them unequivocally that however glaringly repugnant the act, the doors of justice shall be impenetrable. All arms of the security forces, the Police, Sri Lankan Army and Navy had been instructed to cooperate as the events demonstrated.

The circumstances point to SP Operations, **Kapila Jayasekere** having played a pivotal role in the incident.

About 6.30 PM Police Sergeant Paramasivam was near the bus stand on Dockyard Rd. between the Clock Tower and the UC, closer to the former, buying his dinner. Kapila Jayasekere's unmarked pick-up stopped on the road near him. The men in the vehicle flashed one of the lights and told him, "*Sergeant Mahattaya, ickmannta yanda*" ("*Sergeant Sir, go away soon*"), indicating that there was going to be trouble. This spot was near the Clock Tower. SI Bulanawewa testified that the STF unit was brought to the Clock Tower from Anuradhapura Junction before 7.00 PM. This suggests Jayasekere met STF Inspector VAS Perera and his men at the Clock Tower, gave them the final go ahead and positioned himself for a ringside view before summoning the green auto rickshaw.

The victims were five school leavers, on the eve of their careers. They had decided to meet at the Trincomalee sea front, which on the day had large New Year crowds. At 7.35 PM men in a green auto rickshaw, belonging to a man well-connected with the Police, threw a grenade at the students and drove into Fort Frederick passing the Pansala checkpoint.

According to the statement given by **Yoganathan Poongulalon** to the Magistrate – he and **Kokularaj, Sajendran, Hemachandran** and **Rohan** had gone to the beach around 6.45 PM to 7.00 PM. About 15 minutes later, **Sivananda** and **Ragihar** joined them. Poongulalon had been seated on the bicycle seat with the sea behind him and conversing with the others. About 10-15 minutes later he had seen a green auto rickshaw come towards them and go towards the Fort and all of a sudden a grenade had fallen near his feet and he started running towards the hospital. He had fallen down after running about 5-10 metres and had injured his legs. He saw the three-wheeler – from which the grenade was thrown – go towards the Fort. Three students Kokularaj, Sajendran and Sivananda, had fallen near him and were screaming for help.

Pararajasingham Kokularaj, the other injured student, did not tell the Magistrate very much, but told family friends later that he was on the ground when he saw his friend Rohan being shot by the killers. Kokularaj felt cold in his stomach and passed out.

While some of the students were trying to help their injured friends, navy men who were in charge of security sealed off the place preventing the crowd from leaving and the lights were switched off. A police vehicle bringing a party of STF men, led by Inspector VAS Perera, came past the same Pansala checkpoint, stopped near the students, assaulted them, shot dead five, injured two and withdrew. We go back to Poongulalon's testimony.



At the time the incident occurred there had been many others on the beach, including a yam seller. Most of the people on the beach on hearing the noise had started running. After 5-10 minutes, 4 or 5 people were coming to help when at the same time Poongulalon saw a jeep arrive. He doesn't know which forces they were from, but they had spoken in Sinhalese. They had put him and the others who had fallen beside him (3 others) into the jeep and assaulted them with guns and hands. They had then shot them with their guns. He says that there were 10-15 people in uniform at the time they were put into the jeep. He had then pretended to be dead and hadn't moved. He says the guns were fired only 15-20 minutes after the explosion. After which the jeep went away. After 10-15 minutes, a police jeep arrived and they were taken to Trincomalee hospital.

Upon hearing the bomb blast on the beach, Hemachandran's father, Yogarajah, went towards the beach to check on his son. When he got there, he was given a blow on the back by an STF man and ordered to lie down on the ground. He lay flat, back up, with about 25 others including women. An STF man who looked crazed pointed a gun, threatening the people, "*They are all Tigers, all must be shot.*" Some women who were detained screamed. The Navy was nearby, but did not interfere. Soon afterwards, the powerful light that was on the side of the road was switched off, Yogarajah thinks by the STF. Few minutes later, he heard boys shouting, "*Aiyo Amma*" (Help, Mother). Then he heard gunshots. Ten minutes later the same persons ordered them to get up and go back the way they came.

## **2. The Cover Up**

The cover up of the atrocity then went into full swing denying the most obvious facts and intimidating witnesses. The Army Commander for Trincomalee, Major General Tissa Jayawardena, claimed (*Island* 4 Jan.2006) that the victims were LTTE cadres killed by accidental explosion of bombs they had been carrying in order to attack the security forces. These were times when orders from the top forced officers to put away their intelligence and humanity. In the authorities' bid to cover up the obvious, they did not stop to think, or did not care, if their statements would compromise them further. It was their belief that terror would more than suffice to suppress the truth. Unfortunately some men in authority keep their decency despite the duress.

As the major general's statement suggests, the original plan was for the grenade explosions to cause considerable harm in the crowded holiday resort. One fell near the students, but caused only minor injuries according to the post mortem report, the other failed to explode. The plan was for the STF to move in and take action as though they were dealing with terrorist violence. At first the students were bundled into a vehicle and assaulted.



Poongulalon told **Dr. Manoharan** – father of Ragihar, who spoke to him in hospital – that after beating them, the assailants made as if to go, when a man seated in the jeep barked out the order to kill them. The latter step perhaps because the grenades had not caused the harm intended. As confirmed by the post mortem report and Dr. Manoharan's testimony, the shooting was mostly downward at close range. The organisers hoped to keep the shooting out of the evidence through widespread intimidation.

Inspector Zawahir only reported the bomb blasts to the Magistrate and pretended not to know about the deaths. Kapila Jayasekere posted his masked men at the Hospital when the bodies were taken and tried to force the parents to sign letters that their sons were LTTE. Then things started going wrong. Dr. Manoharan, whose son was killed, took photographs of his son Ragihar's injuries at the Hospital; as did journalist Suhirtharajan (S.S. Rajan), whose photographs were published. Rajan was murdered shortly afterwards. Most importantly the Sinhalese JMO Dr. Gamini Gunatunge did a thorough professional job. ASP Serasinghe, who was widely respected in Trincomalee, after seeing on the road what appeared to be a bullet mark, ordered the Police to investigate for gunshot injuries. The unexploded grenade was not produced as evidence, but Serasinghe identified it as a type used by the security forces.

Once the post mortem reports were out, hiding gunshots as the cause of death became untenable. The STF was widely accused of the atrocity in the public domain and Inspector VAS Perera began to feel vulnerable, and consequently the others who gave him orders. He was not going to take the rap alone. The second security officer to testify before the Magistrate on 16<sup>th</sup> January 2006, VAS Perera dropped the brick, "*At that time Kapila Jayasekere came there.*" He told the Magistrate's inquiry about his closeness to Jayasekere in the STF, who handpicked him for the Trincomalee assignment.

An indication that the planners had not anticipated the difficulties appears in Inspector Zawahir's B report filed the same evening: he recorded that he had heard the bomb blast at 7.30 PM when he was at the Harbour Police Station. We were told by a very senior police officer involved with the Commission of Inquiry that some hours later, in the early hours of the 3<sup>rd</sup> of January, a meeting at the Trincomalee Police Station presided over by a Deputy Inspector General discussed the cover-up strategy.

The Navy that had blocked the area after the blast prevented the crowd from moving out. Had there been a couple of deaths and pandemonium reigned, the STF could have moved in under the guise of combating the terrorists responsible for the explosion, killed a few youngsters amidst the pandemonium and claimed that the dead were terrorists. The story had a chance of being sold. But in the event, the injuries were minor and when

the STF arrived the situation was under control. What was needed was for the injured to be given medical care. The Navy too as planned, instead of calling for an ambulance, blocked the area, observed the injured without aiding them and waited for the STF to move in for the kill. The STF on arrival, seeing that the situation was not what they had anticipated, did not quite know what to do. They beat up some boys. While they made as if to move out, someone at the scene ordered them to kill and they did.

This sheer brutality combined with absence of purpose or strategy made the entire story as grotesque as it was inexplicable. It left behind public outrage that was hard to cover up and any cover up was unlikely to sell. However it took the protagonists time to change plans. The Sri Lankan Army issued a statement according to the original plan, prepared one expects, before the post mortem results were known on the 3<sup>rd</sup> January afternoon.

Kapila Jayasekera, who was at the murder scene, would have seen the difficulties of a cover up. The firearm use, admissible in the original plan as a response to terrorist attack, had to be denied; consequently, witnesses had to be intimidated. Jayasekera sent his masked men to the Hospital. In the original plan the STF needed to come to the scene only once. Perhaps after communicating with the DIG, also a former STF man, the STF was asked to go to the scene a second time for the record, as a rescue team to help the injured. The times had to be altered in order to explain why it took the STF until nearly 8.00 PM to get to the scene from the Clock Tower as rescuers, if the time of the blast was as Zawahir initially recorded in the B report, 7.30 PM. It was a mere minute's journey. At the inquest, Zawahir claimed he had not heard the blast and adjusted the time to 7.50 PM. He changed his story: he heard no explosion, but was told on his vehicle wireless.

Iqbal Athas reported in the *Sunday Times* (8<sup>th</sup> Jan.2006) that a former senior police officer and adviser to the Defence Ministry, sent the STF killer team, under Inspector VAS Perera, to Trincomalee with, as he said, the approval of the Defence Secretary.<sup>303</sup> Inspector VAS Perera was not in a mood to take the rap for someone else's plan that miscarried into an odious

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<sup>303</sup>“I spoke to Defence Secretary Gotabhaya Rajapaksa and received his approval ... I accept I was responsible for this deployment. This was done much before Defence Secretary Gothabaya Rajapaksa accompanied President Mahinda Rajapaksa on his state visit to India . I have continued to receive complaints from Sinhala residents in the district. More than 40 of them have been killed. I felt there was a need to strengthen the police in Trincomalee to maintain law and order in view [of] the strategic importance of this city. The STF Commandant (D.I.G. Nimal Lewke) was at first reluctant to deploy on the grounds there were heavy demands on his men. I had to impress on him the urgency over this crucial matter.” – Retired Deputy Inspector General H.M.G.B. Kotakadeniya, advisor to the Ministry of Defence, quoted by Iqbal Athas, “Situation Report,” *The Sunday Times*, 15 January 2006



example of public butchery of helpless victims (who had also been grievously tortured). The apparent initial hesitation to kill suggests Perera acted on instructions from Jayasekera who was close at hand: The barked order to kill was given only as the STF party was preparing to leave.

### **3. Who was to be the Scapegoat? – Perera's and Jayasekera's Woes**

VAS Perera's testimony to the Magistrate disclosing Jayasekera's presence at the crime scene made it an awkward matter in need of explanation. Testifying last, Zawahir merely said that at the scene of crime, he met ASP Serasinghe and Kapila Jayasekera who 'came there'. There was no testimony on how Jayasekera got there. Sergeant Upali Gunawardene who was at the Urban Council checkpoint stated at the Magistrate's inquest that *"a long time after the OIC's (Inspector Zawahir's) jeep passed us, ASP-1's (Serasinghe's) vehicle passed that way. Apart from that no other officers involved in security duties passed that way."* That specifically excluded Kapila Jayasekera's vehicle coming to the scene after the explosion. Kapila's vehicle could not have entered from the direction of the Hospital, which the Navy had closed, and no witness at the hospital end saw any vehicle coming that way after the blast. This means Kapila Jayasekera's vehicle had been at the scene, at the time of the crime.

ASP Serasinghe was here undoubtedly covering up for Jayasekera at the Commission of Inquiry. Jayasekera tried to get out of the corner by claiming that he had picked up ASP-1 Mahendra Serasinghe, his neighbour, in his unmarked double cab and arrived at the scene at 8.20 PM. It is then inexplicable why Sergeant Gunawardene identified Serasinghe and his official vehicle, without even mentioning Jayasekera, a superior officer, who said he brought his own vehicle. Besides, the difference between their vehicles was too prominent. Serasinghe's was a blackish-blue Land Cruiser (reg. no. 64-1064), while Jayasekera's was an ash-coloured pick up.

Dr. Manoharan, father of victim Ragihar, who was an eyewitness, observed the presence of Jayasekera's vehicle at the scene when the killings took place and saw the vehicle going to the hospital a little later, where Jayasekera stationed masked security men to intimidate witnesses and obtain letters from parents certifying their dead sons as LTTE.

On 10<sup>th</sup> January, after Dr. Manoharan testified at the inquest, men wearing black masks sat inside Jayasekera's vehicle and remained parked in front of Dr. Manoharan's house for three hours. Later, stones were thrown on the roof. Dr. Manoharan and other parents then received threatening letters that said Trincomalee belonged to the Sinhalese and they should get out.



#### 4. Lt. Udawatte Weerakody

About early November 2006, ten months after his son's murder, with the family thoroughly harassed and intimidated, Dr. Manoharan and family were about to leave the country. A man who was regularly present at the Gandhi statue called on Dr. Manoharan, and told him casually that after the STF men arrived on the scene, he saw Naval Lt. Udawatte Weerakody and another naval officer on a motorcycle ride from the scene of the incident towards the Dockyard Rd. checkpoint (where Naval Petty Officer Prasanna Hewa Pathirige was). They returned with three guns instead of the two originally slung on their shoulders and handed one to the STF after which the students were shot and killed. On being at the checkpoint without his weapon, the Petty Officer claimed that he left it behind in his locker rather than leave it at the armoury as regulations demand.

Dr. Manoharan also saw Lt. Udawatte Weerakody – the son of the man the LTTE killed – at the scene on a motorcycle, but did not know him by name until he called at his home on 22<sup>nd</sup> July after the Criminal Investigation Division (CID) was told to investigate. The initial investigation was under Zawahir and was then handed over to the District CID – which was under the supervision of Jayasekere. Despite the high profile nature of the cases being handled by the CID, Jayasekere was – a few months within the ACF murders – posted as SSP CID. The cases were killed and buried.

About the green auto-rickshaw from which the bomb was thrown, Kapila Jayasekere told the CoI, *"I made investigations through the OIC and obtained statements from those manning the checkpoints. They didn't know."* The matter ended there at the CoI. But several witnesses saw this auto-rickshaw and one injured victim, Poongulalon, testified to the Magistrate about this. UTHR-J too verified its passage into Fort Frederick through Fort Road as confirmed by an officer at Pansala checkpoint.

Kapila Jayasekere was a senior police officer in Trincomalee who dealt in intelligence. He claimed he had not heard the name (Navy Lt.) Udawatte Weerakody. Nor had he heard about the LTTE's murder of his father a few days before the incident.

However three soldiers who were on duty around the area said in initial statements recorded by the Police and made available to the CoI that they had received calls from a person who identified himself as Lt. Weerakody, who told them of a bomb blast and asked them to be alert. None other than Jayasekere had signed their statements. As the investigator at the time, he had not attempted to get a statement from Lt. Weerakody who was evidently close to the scene of the incident. As far as the CoI inquiry was concerned, Lt. Weerakody did not appear to exist.

Another given a key role in the drama was Jayasekere's subordinate Inspector Zawahir of the Harbour Police, officially the first to arrive at the scene of the crime. Failing to find any evidence of bullets fired at the scene, he claimed he found an unexploded grenade (also used to implicate the victims, but not produced as evidence). However ASP Serasinghe told the CoI that he observed a bullet mark on the ground the same night and immediately ordered investigations into the use of firearms. Serasinghe also confirmed to the CoI that the grenade Zawahir found at the scene was of foreign make, and in his experience, used only by the armed forces.

The authorities persisted in trying to sell the deaths as resulting from an accidental grenade explosion, even after the JMO Dr. Gamini Gunatunge the very next day pronounced that the deaths were caused by gunshot injuries. It was two days later on 4<sup>th</sup> January that Zawahir went back to the scene and found bullet remains. Zawahir broke down at the CoI and was willing to come clean. Commissioner Mrs. Jezima Ismail was tasked to obtain a statement from him. She for some reason delayed, by which time others had changed his mind.

ASP Serasinghe is one man who comes across as basically decent, but was forced to give Jayasekere a fragile alibi and felt unhappy all the way. He gave much away saying that he heard the bomb blast 3 to 4 minutes before he was informed by phone (meaning before 7.40 PM), but then said that he was informed at 8.20 PM. Jayasekere, his neighbour, denied hearing the bomb blast, and claimed he was told about it also at 8.20 PM. Serasinghe had to make out that he stayed at home 40 minutes after hearing the blast, to give Jayasekere the benefit of his company in going to the scene of crime. The report of the CoI remains an official secret.

## **5. Scripted from the Very Top**

The evidence tells us that the Sri Lankan Army, Police, Sri Lankan Navy and STF cooperated closely in executing this outrage, and then in the cover up and intimidation. The coordination evinced between different arms of the security services could only be explained by direct instructions from the Defence Ministry. Defence Secretary Gotabhaya Rajapakse, H.M.G.B. Kotakadeniya, President Mahinda Rajapakse and former Army Chief Sarath Fonseka are all answerable for this. Information about the case that is widely corroborated, supports the public contention, besides of several police officers, that the incident was planned and executed by Lt. Weerakody and Kapila Jayasekere, both of whom were at the scene; the former instructing naval personnel and the latter the Police and STF. Jayasekere lied to the CoI that he did not know Weerakody. Those who instigated the crime kept a safe distance.

These practices began long before the presidency of Rajapakse, principally under J.R. Jayewardene. The UNP never repented them. All governments



have been resistant to punishing senior officers from the security forces for two reasons. One is the perception that the unreformed, crisis-ridden Sri Lankan state could survive only if it wields repressive power unchecked by laws. Second, the security forces are so politicised that one cannot expose a senior officer without bringing down the whole house of cards.

Justice was not done to the Embilipitiya victims. It is unlikely that the courts will do any better in the Five Students case. Just as the State felt a need to cover up for Brigadier Liyanage, it must also cover up for SSP Kapila Jayasekere. What both cases make clear is that justice is beyond the reach of many who are left out for reasons to do with class or ethnicity. It took the Embilipitiya victims over nine years to get token justice. The Five Students case will not go away. A no less sinister aspect of it is the killing of two witnesses that further points to high-level complicity in the cover up.

## **6. The Murder of Witnesses**

S. Suhirtharajan (35), or S.S. Rajan, father of two young children, was waiting for a bus at 6.00 AM, 24<sup>th</sup> January 2006, when he was shot dead by two men who came on a motorcycle. On hearing that the five students had been killed by the STF, and sensing a cover up, the editor of the Tamil daily *Sudaroli* asked Suhirtharajan to obtain pictures of the dead students that would leave no doubt as to how the students were killed. Suhirtharajan did so and one picture showed the bullet's entry and a larger hole at the back of the head where it exited. The Sri Lankan Army put out a statement that the students were LTTE cadres killed by the explosion of their own grenade. The picture printed in the *Sudaroli* immediately afterwards, besides the JMO's verdict, gave the lie to the Sri Lankan Army's claim.

Balachandran (40), a former member of the PLOTE, was an auto rickshaw driver who was generally helpful. After the killing, he went to Dr. Manoharan's home and gave him information of the green auto rickshaw QA 2178, belonging to an underworld type who was friendly with a brother of Naval Lt. Weerakody, as the one used in the killing. On 24<sup>th</sup> August 2006, men in a white van went to Balachandran's house, abducted him, killed and dumped him elsewhere. Lt. Weerakody was seen about the place while the crime was committed.

These murders closely followed threats and anonymous threatening letters issued to the families of the victims with racist overtones that are forerunners of Sinhalisation. After several years in cold storage, Kapila Jayasekere, who joined the police as a sub-inspector in 1982, was posted as DIG Kilinochchi in early February 2013 – an unmistakable indication of what the State intends to accomplish in war-torn North. The case received publicity at the UN Human Rights Council sessions in March 2013, with Dr. Manoharan himself drawing attention to Jayasekere's new posting. About 19<sup>th</sup> April, Jayasekere was posted as DIG Amparai. About 23<sup>rd</sup> June



2013 another series of police transfers was initiated after DIG Colombo Vaas Gunawardene was interdicted on a murder charge. Jayasekera was posted back to his old haunt – as DIG Trincomalee. Incongruously, a few days later, on 4<sup>th</sup> July 2013, driven by the Government's pledges to the UN Human Rights Council, VAS Perera, by then of ASP rank, and 11 other STF men were produced before the Trincomalee Magistrate and remanded in Anuradhapura prison pending investigation.

By ignoring command responsibility Sri Lankan justice repeatedly gets into a muddle. VAS Perera made it clear at the Magistrate's inquest in January 2006 that he was Kapila Jayasekera's hand-picked man. He and the others were briefly detained and released in 2006. Kapila Jayasekera's name did not appear in any investigation. Indeed, he was then the chief investigator! The CoI's records in both the ACF and Five Students cases showed how vulnerable Jayasekera was if the questions he was asked were pressed home. One does not expect more in Sri Lanka. *"The Police have investigated and they found no evidence of crime."*

ACF massacre victim Yogarajah Kodeeswaran was the brother of Hemachandran, one of the five students killed. Kodeeswaran's family believes that his apparent forwardness in the wake of his brother's murder had attracted Kapila Jayasekera's attention. Those who knew him say that while he was quick to react and appear defiant, he was scared within. Kodeeswaran who remained at home after his father Yogarajah, who upon hearing the blast went to the beach, tried desperately to get through to the mobile phone of Hemachandran's friend Rohan (who was one of those subsequently killed). Twice there was no answer, but the third time a caller answered and spoke for about three minutes until 7.52 PM. The middle brother Baskaran said that Kodeeswaran never fully disclosed the import of the conversation, but from hints dropped, he believes the speaker at the other end was VAS Perera, the head of the STF team, and he had got Kodeeswaran's address and personal details. Further incidents suggested to the family that Kodeeswaran was closely watched.

One might also point to a common feature between the Five Students and ACF killings. Both arose from general directions given from the very top, which is why justice has hardly yielded except in a token way to international pressure. In both instances, promises of impunity and reward were passed four or five levels down the hierarchy to those who physically carried out the killings, while the key hatchet men, kept their names and presence out of the scene and watched from the sidelines.

At each stage there was nervousness over the level at which the search for scapegoats would begin if international pressure becomes overwhelming. But sacrificing a scapegoat also threatens to destabilise the hierarchical order of impunity. So threatening became the demand for justice, that

witnesses and evidence had to be suppressed at any cost. Even the President exposed himself by personally moving to stop evidence by videoconferencing at the CoI by witnesses forced to flee the country.

Note: This is an expanded version of an article published in *Lakbimanews* on 3<sup>rd</sup> January 2010. Refer also to:

Special Report No. 35, Official Secrets and Blind Justice, 2<sup>nd</sup> January 2010  
<http://www.uthr.org/SpecialReports/spreport35.htm>, and

Special Report No. 24, The Five Students Case in Trincomalee, 19<sup>th</sup> April 2007  
<http://www.uthr.org/SpecialReports/spreport24.htm>

## Appendix 5

### John Dillon on the Folly of Executing Rebel Leaders of Easter 1916

John Dillon (1851-1927) was born in Dublin, the son of the nationalist John Blake Dillon. After qualifying as a surgeon, he switched his attention to politics and became a strong supporter of Charles Stewart Parnell in the Land League. He was elected as MP for Tipperary in 1880, and five years later moved to represent East Mayo – a seat he held for over thirty years until his defeat by separatist leader Eamon de Valera in 1918. He led the anti-Parnellite faction in the Irish Parliamentary Party after the Katherine O'Shea divorce case, in which Parnell was co-respondent, but was instrumental in ensuring Parnell loyalist John Redmond's accession to the leadership of the reunited party (IPP) in 1900.

During the 1916 Rising, Dillon, at home in North Great Georges Street, was the only leader of the Irish Parliamentary Party in Dublin. After the surrender he came quickly to the view that there should be no executions. Despite his lobbying of the civilian and military authorities in Dublin, of Redmond and the Prime Minister, H.H. Asquith, the executions continued. When Dillon finally reached London he spoke in Parliament on 11<sup>th</sup> May with a passion and a bitterness that shocked the House and set him apart for evermore from many of his colleagues in the Irish Parliamentary Party. Dillon's motion on the adjournment of the House was an attempt to stop the execution, and a warning to the Government of what its response to the Rising had unleashed.

#### House of Commons 11<sup>th</sup> May 1916

"...I go on to say a word as to the condition of Dublin itself, and of Ireland, from the point of view of military law. But before I do so I just want to say that the primary object of my Motion is to put an absolute and final stop to these executions. **You are letting loose a river of blood, and, make no mistake about it, between two races who, after three hundred years of hatred and of strife, we had nearly succeeded in bringing together . . .**

It is the first rebellion that ever took place in Ireland where you had a majority on your side. It is the fruit of our life work. We have risked our lives a hundred times to bring about this result. We are held up to odium as traitors by those men who made this rebellion, and our lives have been in danger a hundred times during the last thirty years because we have endeavoured to reconcile the two things, and now you are washing out our whole life work in a sea of blood. In my opinion, at present the government of Ireland is largely in the hands of the Dublin clubs. The Prime Minister, when I asked him a question yesterday about the government of Ireland,



told me that it was in the hands of the military officers, subject to the authority of British Cabinet. In my opinion, and I think I really am speaking on a matter that I know, the British Cabinet has much less power in Ireland today than the Kildare Street Club and certain other institutions. It is they who are influencing the policy of the military authorities. What is the use of telling me, as the Prime Minister told me yesterday, that the military authorities acted in close consultation with the civil executive officers of the Irish Government? That was the answer I got to my question. Who are the civil executive officers of the Irish Government? There are none; they have all disappeared. There is no Government in Ireland except Sir John Maxwell and the Dublin clubs, and I defy the Prime Minister to tell us who are the civil officers of the Irish Government with whom the military authorities are acting in consultation. Are we to be informed that Sir Robert Chalmers<sup>304</sup> is the civil officer with whom the military generals are taking careful counsel, and is he so versed in Irish affairs that he can untie the tangle that has defied every British statesman for a hundred years? Everybody in Dublin knows that before the civil officers took to flight out of Dublin the military authorities treated them with undisguised contempt, and from the day martial law was proclaimed civil government came to an absolute end . . .

The worst of the situation is that there are many men in Dublin, I know of my own knowledge, who are going about the streets today openly glorying in the revolt – I mean of the old ascendancy party. What is the talk in the clubs and certain districts in Dublin? It is that this is the best thing that has ever happened in Ireland, because they say it has brought us martial law, and real government into the country, and it will put an end forever to this rotten Nationalist party . . .

This may horrify you, but I declare most solemnly, and I am not ashamed to say it in the House of Commons, that I am proud of these men. **They were foolish; they were misled . . . I say I am proud of their courage, and, if you were not so dense and so stupid, as some of you English people are, you could have had these men fighting for you, and they are men worth having.** [Hon. Members: "You stopped them."] That is an infamous falsehood. I and the men who sit around me have been doing our best to bring these men into the ranks of the Army. I say that we have been doing our best to bring these men into the ranks of the Army, and it is the blundering manner in which our country has been ruled which has deprived you of their services. These men require no Compulsory Service Bill to make them fight. Ours is a fighting race, and as I told you when I was speaking before on the Military Service Bill, "It is not a Military Service Bill that you want in Ireland." If you had passed a Military Service Bill for Ireland, it would have taken

<sup>304</sup> Governor of Ceylon (October 1913 – December 1915) in his previous appointment.

150,000 men and three months hard fighting to have dealt with it. It is not a Military Service Bill that you want in Ireland: it is to find a way to the hearts of the Irish people, and when you do that you will find that you have got a supply of the best troops in the whole world. How can we, in the face of these facts, accept the statement of the Prime Minister that according to the best of his knowledge no men are being secretly shot in Ireland? **The fact of the matter is that what is poisoning the mind of Ireland, and rapidly poisoning it, is the secrecy of these trials and the continuance of these executions.**

Compare the conduct of the Government in dealing with this rebellion with the conduct of General Botha. I say deliberately that in the whole of modern history, taking all the circumstances into account, there has been no rebellion or insurrection put down with so much blood and so much savagery as the recent insurrection in Ireland . . .

As I say, there were some very bad actions, but as regards the main body of the insurgents, their conduct was beyond reproach as fighting men. I admit they were wrong; I know they were wrong; but they fought a clean fight, and they fought with superb bravery and skill, and no act of savagery or act against the usual customs of war that I know of has been brought home to any leader or any organised body of insurgents. I have not heard of a single act, I may be wrong, but that is my impression...

**What is happening is that thousands of people in Dublin, who ten days ago were bitterly opposed to the whole of the Sinn Fein movement and to the rebellion, are now becoming infuriated against the Government on account of these executions, and, as I am informed by letters received this morning, that feeling is spreading throughout the country in a most dangerous degree...**

We, I think, have a right, we who speak for the vast majority of the Irish people, and we do; we who have risked a great deal to win the people to your side in this great crisis of your Empire's history: we who have endeavoured, and successfully endeavoured, to secure that the Irish in America shall not go into alliance with the Germans in that country – we, I think, were entitled to be consulted before this bloody course of executions were entered upon in Ireland. God knows the result of flouting our advice, as it has been flouted in the conduct of Irish affairs ever since the Coalition Government was formed, has not been a brilliant one. I think that in this matter we were entitled to be consulted...But it is not murderers who are being executed; it is insurgents who have fought a clean fight, however misguided, and it would be a damned good thing for you if your soldiers were able to put up as good a fight as did these men in Dublin – three thousand men against twenty thousand with machine guns and artillery. [An Hon. Member: "Evidently you wish they had succeeded."] That is an

infamous falsehood. Who is it said that? It is an abominable falsehood. I say that these men, misguided as they were, have been our bitterest enemies. They have held us up to public odium as traitors to our country because we have supported you at this moment and stood by you in this great War, and the least we are entitled to is this, that in this great effort which we have made at considerable risk – an effort such as the Hon. Members who interrupted me could never have attempted – to bring the masses of the Irish people into harmony with you, in this great effort at reconciliation – I say, we were entitled to every assistance from the Members of this House and from the Government.”

From *Great Irish Speeches of the Twentieth Century*, 1996, Poolbeg Press Ltd., Dublin. ISBN 1 85371 613 8 © Michael McLoughlin 1996



## Appendix 6

### China in Lanka

China's construction industry has grown rapidly and disproportionately. China responded to domestic effects of the 2008 world recession with a US \$640 billion stimulus package. It resulted in a critical rise of bad debt, though in the short term China has enough reserves to bundle off bad debt into state 'bad banks'. The uncertainties facing the construction industry made China look for contracts overseas, which during the economic slowdown, helped to minimise domestic discontent: Thus China's involvement in Lanka's ethnic problem. Rosemary Righter in her review of Jonathan Fenby's *Tiger Head, Snake Tails* stated (TLS, 22<sup>nd</sup> June 2012):

"Opening up' without accountability and the rule of law has produced the worst excesses of crony capitalism, rampant corruption, gross-misallocation of resources, outrageous inequality, with corresponding public anger, distrust and contempt. Within the Party, there is a crisis of legitimacy, reflected in an obsession with 'stability' that sees a threat in every dissenting voice, a risk in every reform. China's internal security budget is now bigger than even its military expenditure, as the Party wrestles with the upsurge of what it euphemistically terms "mass incidents". Nearly 200 000 protests against injustice and abuses of power, some large scale and violent, are expected this year. The Chinese air is fouled, literally by pollution and figuratively by the Party's moral and intellectual decay."

The current phase of China's involvement in Lanka began with the global recession of 2008. Having become a leading exporter, the Chinese government intervened to protect Chinese companies and domestic earnings with a stimulus package of \$640 billion – leading to China's debt climbing by 40% from early 2009 to mid-2011. This stimulus led to cheaper credit and a huge construction boom in China.

It meant that in order to combat an international recession caused by a property bubble in the West, China created her own property bubble with most of the lending going to create fixed assets. The Chinese economy failed to grow at a pace that could have absorbed the output. Sagging house prices and sales, as the Chinese government placed restrictions and increased the cost of borrowing to deflate the enormous property bubble, left local governments and developers with bad debts.

Also to blame was the West where the orthodoxy of budget balancing rather than stimulation held sway. China had balanced its own budget successfully about ten years earlier to clear its bad debt (NPLs – non-performing loans), which stood at 40%. But times had changed. People had acquired greater sophistication in investing their savings and become more

cautious about fixed assets. Besides, the movement of population to metropolises in search of opportunity had declined and potential for the spurt in economic growth available ten years earlier was lacking. In China, 65 million homes stood vacant, alongside ghost towns and empty shopping malls and thousands of miles of nearly empty six to four lane toll roads.

Edward Chancellor reported in the *Financial Times* (10 Jul.2011): *"Problems are appearing with loans to local government infrastructure projects, which constitute the bulk of the recent credit surge. Last month, a heavily indebted toll road operator in the south-western province of Yunnan announced it could not meet its repayment schedule. A port operator in Shanghai was reported to have illegally diverted working capital loans into real estate investments. Nobody knows for sure how much debt these local government funding vehicles have taken on. The highest reported figure of Rmb14,000bn (\$2165bn) exceeds one-third of China's GDP. Nobody knows how many of these loans will default. Moody's has warned they may drive the banks' non-performing loan ratio to 12 per cent. In any other country, this would be a cause for concern."*

From the data above we may estimate the bad debt resulting directly from the stimulus as of the order of US\$ 75 billion. The burgeoning bad debt and the associated economic slowdown confronted the Chinese government with looming domestic discontent. These developments created the impetus desperately to find overseas markets for China's excess capacity for construction and machinery, which took up a bulk of the stimulus package. Doing this amidst a worldwide recession, authoritarian governments like Sri Lanka with low accountability became ideal business partners.

We might note that the steep rise in China's investment in Sri Lanka followed Sri Lanka's acceptance into the Shanghai Cooperation Organisation soon after war's end in mid-June 2009, which coincided with the beginning of the rise in China's debt by 40%. The scale of investment too, beginning with US\$ 6.5 billion in the two years from 2009-2011, and rising to half or more of the US\$ 21 billion Sri Lanka seeks in investment for 2012 – 2015, would track a significant portion of China's bad debt.

Sri Lanka provided a welcome outlet for China's construction companies and sales of construction machinery. Had these same construction and sales been undertaken in China, they would have been paid for by local borrowing and had a fair likelihood of ending up as bad debt. Whereas the activity in Lanka which is paid for with loans to Sri Lanka by Chinese banks, counts as good debt. This is because Sri Lanka has so far been careful not to default. It helped to reduce China's index of bad debt.



Jayadeva Ranade, writing in *National Defence and Aerospace Power* (13 Jul.2012), says: “There is a similarity in the way Chinese companies operate in Africa and Sri Lanka. In both cases the process by which projects are awarded to Chinese companies is often opaque with the procedure of tenders being by-passed and Chinese companies suddenly emerging as single bidders. In the case of many of the projects there are cost over-runs, which while ultimately adding to Colombo’s financial burden seem to be overlooked by the authorities. Procedural opacity allows for high cost over-runs which, in turn, leaves the companies with readily available surplus cash funds.”

Namini Wijedasa writing in *Lakbimanews* (24 Oct.2010) confirms the opacity in terms and conditions leading to wholesale official evasion: “For instance, the estimated cost per kilometre of a railway line constructed by the Indians is 1.8 million USD while the Chinese are doing it for 4 million USD per kilometre. The Chinese also quoted 42 million USD on signals for a 27 km stretch of rail from Matara to Beliatta raising the ire of trade unions who insisted that it was exorbitantly priced ...[apparently forcing the railway authorities to drop the signalling component].”

Sri Lanka, with its external debt near its annual GDP of US\$60 billion, was creating jitters among creditors. Meanwhile, China was encouraging it to borrow more on a hard-nosed commercial basis. The terms while not generous, showed no qualms about rights in Lanka, and costs appear to be inflated. Besides Sri Lanka was given a long grace period, before repayment commenced. A battered system of justice, combined with lack of transparency and accountability, provided fertile ground for huge commissions and perks for ruling interests and their cronies.

Peter Bosshard wrote (*Guardian* 4 Mar.2011): At home “China already counts more dams within its borders than any other country...Chinese dams have displaced an estimated 23 million people. Dam breaks in the country with the world’s worst safety record have killed approximately 300,000 people. Scientific evidence suggests that one particular project, the Zipingpu Dam, may have triggered the devastating earthquake in Sichuan of 2008. Dams have also taken a huge toll on China’s biodiversity, causing fisheries to suffer and driving charismatic species such as the Yangtze River Dolphin to extinction.”

India’s record is again dismal. The reduced flows in the Ganges and Indus rivers have raised grave environmental concerns. On the Sardar Sarovar Project on the Narmada River, Medha Patkar criticised the displacement of farmers and tribals, who are not adequately compensated. In order to carry water mainly to the cities, the resulting huge cost overruns typical of these projects (initially estimated at Indian Rs. 64 billion in 1988 and expected to escalate by 2012 to Rs. 700 billion) and non-compliance with



rehabilitation and environmental safety measures, led Patkar to conclude: *"If ever there was a need, it is now to assess the costs and benefits of this mammoth project. In the face of all the violations and non-compliances, the Centre must go in for a review of the project that is a drain on the exchequer without the commensurate benefits (The Hindu, 23 Mar.2010)."*

In the face of such concerns we need to be clear about the consequences of projects at home and should insist on truly independent assessments. Western donors often respond to requests for funding by paying independent consultants to make a study. Press reports suggest that, twice, Japanese consultants went over the Moragahakande dam project and decided not to fund it. The Chinese have taken over the project.

*International Rivers* observes: *"Chinese corporations, financial institutions, and the government are involved in billions of dollars' worth of large dams in Africa. Civil society and dam-affected peoples' movements are concerned that China's own poor record on protecting human rights and the environment could mean trouble for African rivers now targeted for Chinese-built large dams...The 1250 MW Merowe Dam on the fourth cataract of the Nile is Sudan's biggest hydropower project. The project was funded by Chinese and Arab financiers, and built by Chinese, German and French companies. A proper environmental impact assessment was never carried out. The reservoir with a length of 174 kilometres displaced more than 50,000 people from the fertile Nile Valley to arid desert locations, and submerged unique archaeological treasures. The protests of the affected communities were met with serious human rights violations."*

Economic linkages, when pursued shortsightedly, lead to creeping political similarities. Jonathan Fenby observes in his book on China *Tiger Head Snake Tails*, that the *"enforced passivity" of the masses under Mao has given way to a new assertiveness, and there is much to be assertive about. The list includes environmental vandalism that has dried a third of China's lakes and poisoned rivers, land and air; the marketing of contaminated baby formula, infected blood plasma and counterfeit medicines, children crushed in Sichuan earthquake because their schools were so shoddily built; train crashes caused by defective equipment; even the belated public admission that China's much vaunted engineering triumph, the Three Gorges Dam on the Yangtze, is a catastrophe waiting to happen (Rosemary Righter TLS 22 Jun.2012)."*

Seeing Chinese involvement in Sri Lanka as planned encroachment into the Indian sphere misses the main point, even though flaunting influence through global power games is important for governments facing severe domestic crises. More important is what it means to Lankans themselves

and how their domestic crisis would play out. The adverse consequences would be our fault rather than China's or India's.

China's involvement in Lanka would not only exacerbate local and regional tensions but also cause huge environmental destruction, particularly in the Northern and North Central Provinces. Chinese loans are being used to consolidate Sri Lanka's military presence in the North through land takeovers, marginalisation of war affected Tamils and huge deforestation for illicit timber by the Defence Ministry including in reserves, using the land powers of the Mahaveli Authority as legal cover.





## Appendix 7

### **Devika's Story: An Inside Experience of the LTTE's Meteoric Fame**

On 11<sup>th</sup> June 1992 Devika's family fled their home west of KKS in Valikamam North. At this time the Sri Lankan Army had advanced to expand its security zone around Palaly Base. The Sri Lankan Army had moved in by evening without giving the LTTE time to lay landmines.

During the 1995 Jaffna Exodus, the family left for Kilinochchi by the Jaffna Lagoon on 25<sup>th</sup> March 1996, two weeks before the Sri Lankan Army took the Jaffna peninsula. Devika's *Machal* (Cousin) was in an educated youths' scheme, where each received 5 acres of land. They built a mud house in the compound and Devika attended Kilinochchi Central College.

In July 1996, the Sri Lankan Army moved south from Elephant Pass to take the Vanni and first took Paranthan. In response, the LTTE demolished the Sri Lankan Army's Mullaitivu camp, killing most of the battalion of soldiers. Later, several bodies of dead soldiers were displayed in Kilinochchi town - as government troops continued their advance towards Kilinochchi. Devika's family left Kilinochchi and moved to the western sector of the district, to Skandapuram in the Konavil area. Here many people had connections to their old village. At the end of the year in December 1996, the family moved to Puthukkudiyiruppu, in the Mullaitivu District, which was considered safer owing to the absence of fighting nearby.

Devika began schooling in Puthukkudiyiruppu Central College from January 1997, where she remained until the end of 2001.

#### **Impact of the 1995 Jaffna Exodus in the Vanni**

Earlier the school in Puthukkudiyiruppu had two divisions in a form. It expanded to five divisions with 60 in a class. However a year later the number reduced to about 50 in a class, owing to people fleeing once more as the LTTE applied pressure for recruitment. In order to beat the strict pass system, many parents paid boatmen to carry them along the west coast, close to the Pooneryn army camp. There the Sri Lankan Army took down their particulars to be verified with the headman (GS) of their village in Jaffna. All this hassle also acted as a deterrent to escape.

The culture in the Vanni was very different to Jaffna. The soil was excellent and there was irrigation. Groundnuts, Ulunthu, rice and vegetables when sown brought excellent yields. The school culture was also different. Many of the girls native to the Vanni left school and got married at age 15 or 16. The schools had no canteens. During tea time the children lit a fire and

made tea for their teacher. At harvest time, the schools would empty as students went to the fields to work.

Fruits like orange, jak and *navalpalam* ( – Malayalam, Indian black berry or rose apple) were plenty. Before the Jaffna Exodus, jak fruits used to lie on the road to be eaten by cattle. The coming of Jaffna folk made many of these items marketable. The price of milk shot up from Rs. 6 a litre to Rs. 15. Coconuts were very cheap, from Rs. 7 each to Rs. 10 and most people depended on coconut oil for lighting and studying in the nights.

The Vanni students were disadvantaged in university admissions by the Jaffna Exodus. In 1996 and 1997, most of those who entered for medicine were natives of Vanni. This changed subsequently as students from Jaffna with a superior educational background began filling up Vanni quotas.

Devika's family remained in regular contact with relatives in Jaffna. In Jaffna, a student attending school in town from Kopay would have to leave by bus at 6.00 AM to reach school at 8.30 AM owing to delays at checkpoints. If people had lights on in the night, the Army would intrude suspecting them of feeding Tigers. But in the Vanni, even girls could go about alone freely in the night wearing their jewellery. Students went on school picnics in buses to places such as Othiyamalai, Chemmalai, Oddusuddan and Mullaitivu, outings such as were not possible in Jaffna.

### **At School in the Vanni**

The family decided to remain in the Vanni as life there had its advantages, and if you were clear in your mind that you would ignore all the propaganda and not join the LTTE, you were safe. In this the parents had to trust the child's firmness of mind. Although the LTTE came to school and forced propaganda sessions on the children, the impact was minimal. The students in general thought these propaganda sessions an unwanted nuisance. They felt that if they wanted to join they would do so on their own. During 1997, only one child from Devika's division joined.

Mullaitivu District had only three schools where science was taught at the Advanced Level. They were Puthukkudiyiruppu Central, Vithyanantha at Mulliyavalai and Mallavi Central, and the latter was west of the A9 (Kandy Road). There was a shortage of science teachers, and the same teachers gave tuitions to the students in Puthukkudiyiruppu and Mulliyavalai.

In Puthukkudiyiruppu, where Devika lived, LTTE sympathisers were mainly among the Jaffna folk. The natives there were mostly hostile to the LTTE, but not in the Vanni as a whole. This was because Mahattaya's wife was from Puthukkudiyiruppu and the LTTE had killed Mahattaya as a traitor in 1993. The wife and the three children, Kalaiyarasi, Sothiya and Manimaran were living in Devika's area. They suffered much because many referred to them as a traitor's children. Kalaiyarasi, who was a clever



student, did not perform at her best because of this stigma. The mother was a strong woman. She did not allow the children to attend the many competitions (such as for speech) sponsored by the LTTE after their heroes, as Thileepan and Annai Poopathy. Most students ignored the propaganda element in these competitions and took part as they were fun.

Devika learnt from others that Kalaiyarasi vividly remembers the time when Mahattaya's house was surrounded and his former subordinates came to take him away – when he gave her the final kiss before he left. Devika felt sorry for Kalaiyarasi. When Devika was in year 11 and became the head girl, she took Kalaiyarasi into the house netball team. The mother encouraged Kalaiyarasi and pushed her to do her best. (Mahattaya was himself responsible for the same plight of countless other children.)

The young generally respected the LTTE for their discipline, even that of erstwhile notable rowdies. They were impressed by LTTE cadres ostensibly avoiding cigarettes, liquor and chewing betel. Devika was aware of the sinister side of the regime: though most people heard the stories, they avoided going deeper. She heard that the LTTE executed many as Mahattaya loyalists. She also observed that the ratio of cadres in the LTTE was small for Jaffna, higher for the Vanni and even greater for Batticaloa.

The LTTE was irritated by the poor response from schools in the Vanni, despite the relentless propaganda. LTTE recruiters regularly told them that the freedom they took for granted is not the real state of affairs, and because of this illusion they do not think of the war. Meanwhile, the Sri Lankan Army was trying to advance from two fronts in the north and south.

### **Drawing Civilians into The Fighting Machine**

By 1999, the LTTE had started a new system forcing all able-bodied persons to undergo military training. All persons and students from Year 10 (15- to 16-year-olds) were issued training cards, where their participation was recorded. These cards qualified people to receive government rations and to sit public exams. From those forced to take training, the LTTE called for volunteers to undergo special training to join the Manavar Padai (Students' Force) and the Makkal Padai (People's Force). The latter underwent a subtle shift after being renamed the Self-Defence Force. Only two from Devika's school joined the Manavar Padai. One was Sabes (*nom de guerre* Anbumaran), a native of Vanni who joined in 1999. The other was Nishani (Kulali) from the 1995 Jaffna Exodus, who died before she was 18 in the failed mission to overrun Jaffna in 2000. The two forces mentioned were told that they would be responsible for '*Pinthalapani*' (Rear Duty). But in practice they were sometimes called into the field. But few volunteered to get into these and stuck to the bare



minimum of formal training. Only one student in another school joined the Students' Force.

Meanwhile in 1999, an alarming situation developed. While Operation *Jayasikuru* moved slowly on the Northern Front, from the south, the Sri Lankan Army advanced from Vavuniya to Mankulam and moved east through Karipaddamurippu to Oddusuddan and Muthiyankaddu. The LTTE had stationed the bulk of its forces west of the A9, and the Sri Lankan Army was poised to break up the Vanni into two sectors of east and west.

### **The Oddusuddan Debacle: How the Battle was lost in Jaffna**

At this stage the LTTE was in a quandary. The Sri Lankan Army's advance seemed unstoppable and recruitment was at low ebb. Devika testified that what made a crucial difference was the fear the LTTE created by using the Krishanthi Kumarasamy case in its propaganda, along with the gruesome record of disappearances in Jaffna (Chapter 7.1 – 2 ).

With the Sri Lankan Army moving decisively towards overrunning the Vanni in 1999, the LTTE used events around the Krishanthi Kumarasamy case to spread fear among the people. The people came to believe that what happened to Krishanthi would become the fate of many women in the event of Vanni falling to the Sri Lankan Army.

Devika said by then the Sri Lankan Army had drawn near and sounds of battle were intense. There was a marked change in her school. Earlier, students treated LTTE propaganda and enforced training as pain to be endured; only two from her school joined. But in 1999, at least 10 boys and two girls from her class of 60 joined the LTTE. Only 30 among the 60 eventually sat their A. Levels. In the Vanni as a whole, this translated into a huge surge in recruitment. Its roots lay in human rights abuses in Jaffna.

### **The Oddusuddan Debacle**

Although the Government had overwhelmingly superior manpower and weaponry on its side, there was no great mismatch between the fighting capacities of both sides. The Government started Operation *Jayasikuru* in 1996, but progress was slow. The Karuna group from Batticaloa was holding the northern front. Those who lived in the Vanni knew several LTTE cadres, who briefed them very frankly. The Batticaloa boys had a reputation for being superb fighters and the cream of the fighting forces. It was the general belief that if they lost one of their comrades, they would take a vow and fast until they killed five of the enemy. Only upon the accomplishment of the vow would they break the fast.

Reputed commanders Theepan and Banu were on the southern front. From what Devika heard from LTTE cadres, whenever the Sri Lankan Army and the LTTE faced each other, the balance teetered on the edge.

Through recce patrols and intelligence sources, both did their utmost to read the other's intentions. There were also indications of an army advance, such as when they removed the tin sheets at their boundary positions. According to the cadres, victory or defeat is often touch and go, a matter of choosing the psychological moment for an action, and frequently the times decided by both sides almost coincided.

From what Devika learnt, the LTTE was in a difficult position. To maintain secrecy, LTTE commanders planned their action by meeting on the frontlines. The crucial advantage for the LTTE here was the excellent recce work done. They identified the army commander's hut in Oddusuddan and some key locations such as communication centres. The LTTE took these out with their cannon. The commander was killed and the command structure was thrown into disarray. The LTTE launched operation *Oyatha Alaikal* (*Ceaseless Waves 1*). They mustered the cadres within call and began attacking the Sri Lankan Army's lines. The Sri Lankan Army pulled back in confusion towards Mankulam and Oddusuddan, losing in a few days large chunks of territory that had been captured over three years. Even the LTTE was taken by surprise.

A short time later, the LTTE initiated *Oyatha Alaikal 2*, by launching 42 boats filled with commandos from Mullaitivu towards Vadamaratchi East. Their task was to move west from the coast and cut off the A9 supply route to the army at Elephant Pass and to soldiers on the northern front in the Kilinochchi area. They were surprised that in spite of several government lookout posts along the coast, they were not intercepted. The commander of the group who landed in Jaffna was Balraj and Dhurka was in charge of the women. Many observers found it puzzling that the Sri Lankan Army merely readjusted its positions rather than try to push the LTTE back.

As understood by those in the Vanni, the LTTE advanced by boxing out certain areas to which they added further boxes. They ultimately reached the A9 interdicting the supply route and water supply for the Sri Lankan Army at Elephant Pass. Devika learnt from leaders she conversed with that because the group of LTTE commandos advancing towards the A9 was lacking in manpower and cut off from the main body in the Vanni, they used dummies and dummy positions to give the Sri Lankan Army the impression that their boundaries were well guarded.

The Sri Lankan Army discovered this bluff and began advancing in rain under heavy cannon fire to remove the LTTE from the A9. Placed in this desperate position, Balraj himself, as told by his subordinates, hung a weapon on his shoulder and shouted, "*Live or die, let's fight back the Army*", and personally led the fighting. They held their position. Eventually, the Sri Lankan Army pulled out of Paranthan and Elephant



Pass, allowing the LTTE forces north of Elephant Pass to link up with the Vanni and launch an ambitious attack to take Jaffna.

We need not accept the widely circulated claim that the LTTE refrained from taking Jaffna because India responded to desperate Sri Lankan appeals (especially from the anti-India lobby in the South) to protect Jaffna, by offering to send Indian boats to evacuate the 60,000 troops in Jaffna, causing the LTTE to fear Indian intervention. India's response was evidently weak. The truth more likely, as we argue below, is that the LTTE had overreached its capacity. The Government sent Maj. General Janaka Perera and Brigadier Sarath Fonseka to reverse the tide in Jaffna. Much credit should go to them for reversing the Sri Lankan Army's low morale and pushing back the LTTE to Palai.

**The capture of Elephant Pass in April 2000 was the highest point in the LTTE's military annals. A heavy price was paid in motivated fighting cadre who could not be replaced. Karuna could no longer replenish the magic of the famed fighters of Batticaloa. Karuna's conscription of children young as 10 years (in Batticaloa), from September 2001, signalled the crisis in the LTTE. This was largely lost on observers and peacemakers who frequently covered up child conscription in the name of peace. The famed fighters of Batticaloa are in large measure the creation of the enormous Sri Lankan Army and STF atrocities in the East from June 1990. Major General Gerry de Silva, Brigadier Karunatileke, Brigadier A.M.U. Seneviratne and Colonel Sarath Fonseka were among those who led this vile orgy.**

After its triumph in 2000, the LTTE was hard pressed to obtain willing recruits. Its fascist politics, atrocities among Tamils and a population tired of a leadership unable to make peace, when good opportunities arose, took their inevitable toll. During the late 1990s, the Sri Lankan Army too learned the importance of avoiding overt atrocities against civilians.

**We may say in retrospect that although badly managed and ending in failure, it was Operation *Jayasikuru* from 1996 to 1999 that broke the back of the LTTE.** The LTTE itself admitted in 2002 that they had lost nearly 20,000 fighters, a large figure given the size of the community. With ageing leaders, who could not make peace, motivated fighters who could not be replaced, relying on conscripts whose priority was to run away when opportunity came and a populace disillusioned at home and fleeing to the West to become patriots in exile, the story of the LTTE from 2000 onwards is one of a senile movement playing out its inevitable fate.



## A Martyr Who Wanted a Place to Call Home

A final testimony from Devika gives us the tragedy of a highly motivated fighting cadre whose life was sacrificed to an organisation politically and morally empty and could never grant his dearest wish for his people – a home to call their own.

In 2001 both fighting parties were tired and the LTTE's military limitations were becoming evident. On Christmas Eve 2000, the LTTE had declared a four-months unilateral ceasefire, against the backdrop of Norwegian attempts to open peace talks. Nevertheless, both sides were arming and arms smuggling by the LTTE was heavy during this period. In the early hours of 20<sup>th</sup> April 2001 a confrontation with the Sri Lankan Navy ensued during an arms run from a vessel 56 nautical miles off Mullaitivu. Three LTTE members were killed and nine taken prisoner. One of those not accounted for was Lt. Col. Cheraman, whose real name was Sanjeyan.

Sanjeyan was born in 1972 and completed his A. Levels at St. John's College, Jaffna, in 1990. Just then a war was raging and the LTTE was desperately seeking recruits. Sanjeyan's story of joining the LTTE, given below, is what he related to his cousin Devika in the Vanni.

Sanjeyan's mother's brother in London paid a "travel agent" to get him out to Britain. He was instead left stranded in Bangkok, while the travel agent tried to extort more money. Sanjeyan was arrested by the Thai police and jailed. Later, the Thai authorities deported him back to Colombo. Sanjeyan's relatives arranged for Sinhalese friends to meet him at the airport and keep him. They treated him kindly, but were anxious about harassment over keeping a Tamil.

Sanjeyan reflected from the time he was detained in Bangkok to his anxious existence in Colombo, *"Why is all this happening to me? Is it not because I am a Tamil?"* He told Devika that he came to the conclusion that all this was happening because the Tamils did not have a place they could call home. This line of thought made up his mind that he would join the LTTE and fight in order that his people would have a home. No one had guided him to reflect on the LTTE's politics and its history. Although his parents wanted him kept in Colombo, Sanjeyan importuned a cousin-sister to take him to Jaffna. There he joined the LTTE, and earned his cousin-sister who acted inadvertently a sharp shelling.

Sanjeyan rose quickly in the LTTE. He was the commander of the Leopards, before he transferred to the Sea Tigers. During his last ill-fated battle, Devika heard that Sanjeyan, having suffered injury, was transferred to the boat doing medical evacuations. But then, an Air Force MIG 27 bomber hit the medical boat.

It was felt in a circle close to Sanjeyan that several others were jealous of him because of his rapid rise in rank and wanted him to die. Iqbal Athas's *Sunday Times* column of 22<sup>nd</sup> April 2001 gave details of the battle lasting several hours from 3.30 AM on Friday 20<sup>th</sup> April. The LTTE would have anticipated the interception as there had been a deep sea battle off Chalai on 16<sup>th</sup> April, in which *TamilNet* announced the deaths of Lt. Thamilmaraman (Sivalingam Rajenthiran of Kilinochchi) and 2nd Lt. Kavimahal (Selvamathy Loganayagam of Amparai).

After a four-hour, pre-dawn confrontation, Iqbal Athas reported, eight of the nine Tiger guerrilla cadres captured in the high seas off Mullaitivu were airlifted from the Trincomalee naval command to a secret location for debriefing. The ninth, he said, was in the Military Hospital in Palaly.

Athas gave the names of the eight airlifted from Trincomalee as Sittampalam Thushanthani (16, female), Thangiah Vijayalalitha (14, female), Vijayaratnam Sudharshani (19, female), Puvaneswaran Malish (21, male), Waiharan (19, male), Ravi (19, male), Kanthan (19, male) and Kodeeswaran (24, male).

Since Cheraman – Sanjeyan's was not in any list, Devika, who had been aware of the battle at sea opposite where she lived, took the paper and went to the ICRC and wanted them to find out. But the LTTE soon afterwards announced Cheraman's death, thus closing the issue. Devika suspected that the ninth captive not named was Sanjeyan. If he had been transferred to the medical evacuation boat that was bombed, it would explain why he was separated from the others. Athas tells us that the four Sea Tiger attack boats escorting three ferrying supplies were attacked by five or eight naval Dvoras from the Eastern Command and four from the Northern Command.

This suggests that the eight Sea Tigers taken to Trincomalee were picked up by boats from the Eastern Command and the one taken to the Army Hospital at Palaly was picked up by the Northern Command. We may conclude that Sanjeyan-Cheraman either died when the medical boat was bombed, or he survived, was taken to Jaffna and on finding out his rank, the Sri Lankan forces may not have wanted to reveal his name to the ICRC.

## Appendix 8

### A Peace Dividend? But Whither Education?

Sri Lanka's high level of defence spending comes at considerable cost. Sri Lanka is falling behind its neighbours in per capita education and health expenditure, areas where it had made impressive gains in previous decades.

During the budget debate in early December 2011, presidential sibling Basil Rajapakse told Parliament, *"Anyone who wants the defence budget reduced is perhaps helping terrorists. In other countries the defence budget is bigger than ours...Singapore, which has never faced a terrorist attack, spends twice the amount we spend on defence."*

Sri Lanka's annual Defence budget was for 2012 nearly Rs. 230 billion, 10.4% of total spending of Rs. 2,220 billion (including 471 billion for debt service). Singapore's was 20.6% of a total of Sin \$58.7 billion.

What Minister Rajapakse failed to tell us is that Singapore's annual spending of Sin \$ 10.91 billion on education was 18.6% of Singapore's total budget, while Sri Lanka's allocation for 2012 was about SLR 115 billion (b) or 5.2% of total government expenditure<sup>305</sup>. Bangladesh has allocated 12.4% for Education as opposed to 7.3% for Defence.

Sri Lanka's leaders promising voters and potential investors a bright new future, often make comparisons with Singapore, implying that the new Sri Lanka will be a booming economy – "a growth model in Asia," as Mahinda Rajapakse put it in February 2012.<sup>306</sup> Singapore also represents consolidated central power and a paternalistic style of governance that appeals to the region's autocrats.<sup>307</sup>

But Singapore's budget at least is a testament to the vision of its leadership that recognised the importance of public health and education to long-term success and prosperity. Its defence expenditure was affordable in the first place and mistakenly or otherwise is meant to protect a nation whose

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<sup>305</sup> <http://www.treasury.gov.lk/images/depts/nbd/docs/budgetestimates/2015/draft/vol1-eng.pdf> and *Defence swallows UDA, substitutes for jobless growth: think tank* \* *Allocations for education, healthcare see no growth*, based on Analysis by Verite, *The Island*, 13 Mar.2013

<sup>306</sup> "Be partners in our development process – President tells international community," News.lk The Official Government News Portal of Sri Lanka, 17 February 2012,

<sup>307</sup> Lee Kuan Yew, the founder of modern Singapore, grew up during the Japanese occupation and began his political career during the Communist insurgency in Malaya, whose main appeal was to the ethnic Chinese. Building a multi-ethnic nation was a struggle all the way. Ethnic tensions (principally between Malay and Chinese) contributed to Malaysia expelling the island city of Singapore from the Federation in 1965. As a leader, Lee Kuan Yew favoured order and economic development over individual freedoms. He built a nation dominated by a single political party and effectively silenced his critics, often bankrupting them through costly lawsuits.



prosperity was built up by hard work against chiefly external threats. Sri Lanka's case is different. Militarisation is to freeze against internal dissent, the shambles of a once promising democracy.

If more comparison were needed, take Malaysia and India.<sup>308</sup>

We first compare Sri Lanka with India.<sup>309</sup> The Centre's direct contribution to education makes the per capita expenditure on Education in Tamil Nadu and Kerala, as a proportion of total per capita government expenditure (both Centre and State), respectively 12% and 14.6%; in Sri Lanka, it is 5.2% (based on 2012 expenditures)<sup>310</sup>. In other words the priority given to education in Kerala is nearly thrice that in Lanka, and in Tamil Nadu more than twice.<sup>311</sup> The Indian Defence Expenditure taken as a percentage of total government expenditure (Centre and States) is about 6% (see F.N.5).

For many states, education is the largest single non-fixed item in the yearly budget. To take figures for 2014 - 15 for some countries we have close ties with, 21 percent of Malaysia's budget is dedicated to education with only 6 percent for defence.<sup>312</sup> In India, the Union and States together, dedicate 12 to 14 percent for education and 6 percent for defence.

By contrast, Sri Lanka's election year budget for 2015 has dedicated Rs.179 b or 5.86% of the total government expenditure of Rs. 3053 billion to education, the same percentage as the previous year, as against Rs. 303 b

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<sup>308</sup> <http://indiabudget.nic.in/ub2011-12/bag/bag42.pdf>, <http://indiabudget.nic.in/ub2011-12/bag/bag3.pdf>

<sup>309</sup> The Indian Central Government and States together maintain expenditure on health at around 5% of the total (7% in Singapore). In Sri Lanka the proportion is 3.3% for 2012. The Indian Centre allocated IRs. 520.6 billion of the IRs. 8,161 Non Plan Expenditure for Education. The Indian defence expenditure of IRs. 1,644 billion is 13.1% of the Centre's Total (Plan and Non Plan) expenditure of IRs. 12,577 billion, of which 1,723 billion is ploughed back through state budgets. Taking state budgets into account the weight of the defence spending on the ground is 6% in Tamil Nadu and 5.6% in Kerala. The bulk of public expenditure in India is through the states. Debt Servicing (Interest + Repayment) came to IRs.3,869 billion. (<http://indiabudget.nic.in/ub2011-12/bag/bag42.pdf>, <http://indiabudget.nic.in/ub2011-12/bag/bag3.pdf>)

Of the Tamil Nadu budget estimate for 2011-12 of IRs. 857 billion, about 10% of which comprised grants in aid from the Centre, IRs. 21 billion was allocated for Higher Education and 133 billion for School Education, making the allocation for Education 13% of the total government spending (both centre and state). (For Tamil Nadu and Kerala see <http://www.tn.gov.in/tnbudget/> and [http://www.finance.kerala.gov.in/index.php?option=com\\_content&view=article&catid=18:state-budget&id=448:kerala-budget-2011-12](http://www.finance.kerala.gov.in/index.php?option=com_content&view=article&catid=18:state-budget&id=448:kerala-budget-2011-12)). In Kerala, a state whose population is culturally very close to Sri Lanka's, Education's share of the state budget of IRs. 492 billion was Rs. 106 billion (Rs. 15.4 billion for University Education), or 14.6% of the total government spending.

<sup>310</sup> Calculations are based on the following 2012 population figures in millions: India - 1,220; Tamil Nadu - 62.4; Kerala - 31.2; Sri Lanka - 20.02. See also FN.305.

<sup>311</sup> Educational expenditure per capita in 2012 works out in Indian rupees to IRS 3820 per person in Kerala, 2890 in Tamil Nadu and 2440 in Sri Lanka respectively. Per capita total government expenditure worked out to IRS 26,180 in Kerala, 24,000 in Tamil Nadu and 47,300 in Sri Lanka.

<sup>312</sup> <http://www.themalaysianinsider.com/malaysia/article/prime-ministers-department-4th-biggest-ministry-by-expenditure>

or 10% for defence<sup>313</sup> (educational expenditure comprises Rs. 88.7 b to the two education ministries and 90.4 b to the provincial councils, omitting technical and vocational training given by other ministries). Though the war ended five years ago, the Defence Ministry continues to receive the largest chunk of the budget next to Finance and Planning; and in welfare expenditure where commitment is lacking, paper estimates are deceptive.<sup>314</sup>

This reversal of priorities in Lanka is reflected by other indicators. In Lanka 42% of total government expenditure is financed by borrowings (government revenue: Rs. 1779 b – Treasury estimate), while it is 20% in India and 14% in Malaysia and debt service, as proportion of total expenditure, are for Lanka, India<sup>315</sup> and Malaysia<sup>316</sup>, respectively 23% (700 b – Treasury estimate), 20% and 10%. This means that the Government in Sri Lanka is spending huge amounts of funds borrowed at high interest, privileging the Military and squeezing education to an orphaned ritual.

Pakistan is one country in the region whose expenditure ratio for 2014-15 on education (Federal and Provinces) against defence is 1: 2 (PRs. 554 b and 1113 b)<sup>317</sup>. This suggests several qualitative similarities with Sri Lanka. And yet, surprisingly Pakistan does significantly better than Sri Lanka in education. Pakistan's total expenditure for the financial year 2014 – 15 is PRs. 6779 b (Federal 4302 b, Provinces 2654 b and Federal Transfer to Provinces 177 b) and Debt Service 1658 b. The non-revenue component of the federal budget is 48% and 38.5% of federal expenditure goes on debt service. Out of total government expenditure (federal and provinces), Pakistan spends 8.2% on Education and 16.4% on Defence.

At Pakistan's Senate Defence Committee in May 2014, Farhatullah Babar questioned the security establishment's vast network of industrial, commercial and business enterprises throughout the country that had been kept out of public and parliamentary discourse (*The Dawn* 20 May 2014). It is a pointer to the course of affairs in Sri Lanka, emblematic of which is the Defence Ministry's prominence in the commercial sphere, especially urban real estate and illegal rural land acquisitions. The security quagmire Pakistan continues to face, along with its huge debt, is mainly the legacy of the intrigues of past military rule and remains the source of the

<sup>313</sup> From Feb.2006 to Aug.2013, the Police was under the Defence Ministry and was moved to the new Ministry of Law and Order in Aug.2013. The Police is given for 2015 Rs. 57.5 b or 2% of total budget. According to the reckoning in 2012, the defence expenditure has risen from 10.5% in 2012 to 12% in 2015. 6% of the 2015 defence expenditure is spent on pensions (Rs. 18.2 b):

<sup>314</sup> <http://www.treasury.gov.lk/images/depts/nbd/docs/budgetestimates/2015/draft/vol1-eng.pdf>

<sup>315</sup> [http://articles.economictimes.indiatimes.com/2014-07-10/news/51300603\\_1\\_11-paise-12-paise-21-paise](http://articles.economictimes.indiatimes.com/2014-07-10/news/51300603_1_11-paise-12-paise-21-paise)

<sup>316</sup> <http://info.maybank2u.com.sg/pdf/investment-insurance/misc/misc07.pdf>

<sup>317</sup> [http://tribune.com.pk/story/725622/provincial-issue-education-is-a-concern-but-only-on-paper/http://finance.gov.pk/budget/Budget\\_in\\_Brief\\_2014\\_15.pdf](http://tribune.com.pk/story/725622/provincial-issue-education-is-a-concern-but-only-on-paper/http://finance.gov.pk/budget/Budget_in_Brief_2014_15.pdf)



Military's hold on all Pakistani affairs. Yet many Pakistanis argue for a reversal of expenditure in favour of education, which they hold constitutes the country's best defence.

In Lanka, the fact that educational expenditure lags significantly behind Pakistan's, despite the latter's high defence and debt servicing costs, shows indifference and a lack of will.

Lanka was once a proud flag-bearer for high educational standards among developing countries. Now our system is in crisis without adequate funding. We cannot reasonably place the burden of educating the coming generation on the shoulders of school teachers who cannot make ends meet. Less visible and more lamentable is the neglect of students in rural schools when a system, promising universal free education, indulges in cost cutting by failing to fill vacancies through endless systemic delays.

For example, the premier Tamil schools in the Hill Country have long complained of a lack, or near absence, of Science and English teachers. It effectively curtails opportunity for a shamelessly exploited class. In Sabaragamuwa and Uva-East, teachers for Tamil schools are frequently a trickle. In the Vanni, about seven hundred temporary teachers, who should have been made permanent, but for a technicality to do with their displacement, were working without pay. They are crucial to education in the area as teachers sent from elsewhere spend little time in their stations. There is simply no will to correct these lapses by putting in money to meet urgent short-term needs.

The high defence expenditure reflects the use of the Tiger bogey for political survival. Even more ominous is the hidden defence spending, tied up with Sinhalaising stolen lands in the North. In a reflection of the crude calculus that determines the Government's priorities, the President Rajapakse in his 2012 budget included an extraordinary provision of a special grant of Rupees 100,000 for the birth of a third child to any member of the military, extended to the police in 2013<sup>318</sup>. If a third of security personnel avail themselves of this, it would cost the public around rupees 10 billion – of the same order (Rupees 7 billion) by which the Government cut the disbursement for health from the 2012 allocation (Verité Research, Sri Lanka Budget 2013)<sup>319</sup>. In April 2013, a former chairman of the State Pharmaceuticals Corporation told the media of an acute short supply in drugs for life threatening illnesses like cancer.<sup>320</sup> It is the education and health of the poor that are hit by pampering the Defence Ministry.

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<sup>318</sup>[http://www.epw.in/system/files/pdf/2012\\_47/28/Notes\\_on\\_the\\_Military\\_Presence\\_in\\_Sri\\_Lanka\\_Northern\\_Province.pdf](http://www.epw.in/system/files/pdf/2012_47/28/Notes_on_the_Military_Presence_in_Sri_Lanka_Northern_Province.pdf)

<sup>319</sup> <http://www.veriteresearch.org/research-spreport-archives.cfm>

<sup>320</sup> <http://www.dailymirror.lk/news/28194-severe-shortage-of-drugs-in-the-country.html>



## Appendix 9

### October 1984: First Blood in the Vanni's Unfinished Tragedy

The events sketched here took place during the first year of the war that lasted quarter of a century, whose business remains unfinished and especially so because it appears to be taking off from what was abandoned because of military resistance by Tamil groups. The plans were drawn up by the Jayewardene government in consultation with Israeli experts who were in the country about the time of the July 1983 violence. The first evictions of Indian Tamils began in June 1983 (*vide* Arrogance of Power).

Further developments took off in 1984 after the US brokered a deal between the Government and Israel and the President's son Ravi Jayewardene took charge of changing the demography of the North. The security component was provided by Joint Services Special Operations (JOSSOP) set up at the beginning of October 1984, with Rear Admiral Asoka de Silva as coordinator and D.J. Bandaragoda of the Mahaveli Authority was the second in command.

The JOSSOP's actions are closely reminiscent of the practices being followed by the Rajapakse government recently. The clock being turned back three decades suggests a sick country. The first thing that comes to mind is the Presidential Task Force in charge of rehabilitation being dominated by military men, retired or close to retirement, who would have been young officers in 1984. Their plans were thwarted by the Tamil militant reaction and India's entry. The Defence Secretary Gotabhaya Rajapakse in the 1<sup>st</sup> Gajaba Battalion was himself closely associated with Weli Oya in the mid-1980s. For these officers, the end of the war is an opportunity to go back to the unfinished task and wipe away their humiliation. For a flavour of the actions begun in mid-1984 we cite from a contemporary document, a copy of which was given to me by R. Sampanthan MP.

**October 1984:** "Hundreds of Tamil refugee families, largely persons of recent Indian origin who fled from the plantation sector after earlier racial pogroms, who had been settled and rehabilitated in the Vavuniya and Mullaitivu Districts by social service organisations such as the Gandhiyam, were harassed and intimidated by army personnel and Sinhalese government officials, and compulsorily evicted from lands held by them. The houses constructed for them were destroyed. The Dollar and Kent Farms were two such locations. The Government proposes to settle Sinhalese ex-convicts in these places. A Sinhalese public official with experience in land work has been appointed to coordinate with military personnel in this exercise.

To facilitate this exercise, the Tamil villages of Kachchal Samalankulam, Kokkachchan Kulam and Padikavakaikulam which were administratively under the Unchalkaddy Grama Sevaka's (Village Headman's) Division in the Vavuniya North (Tamil) AGA Division were brought under the Mamaduwa Village Headman's Division in the Vavuniya South (Sinhalese) AGA Division arbitrarily by government notification (Gazette No. 320 of 19<sup>th</sup> Oct.1984).

The Government also proposes to construct 1000 houses in the Kokkilai-Nayaru areas for new Sinhalese fishermen to be settled in these areas. The Tamil United Liberation Front (TULF) raised these matters and the pitiable plight of the Tamils being driven out of Dollar and Kent Farms with the President and the Ministry for National Security at a meeting on 13<sup>th</sup> November 1984, and strongly urged that these steps be abandoned. On 20<sup>th</sup> November 1984 the TULF addressed a letter to the President in confirmation of the discussions held. The Government in total disregard of the representations made proceeded with its manifestly unjust actions which led to an escalation of violence in these areas."

The settlement of Sinhalese convicts in Kent and Dollar farms led to the harassment of Tamils in the area with rape by the prisoners and those in charge, a common occurrence. On 30<sup>th</sup> November 1984, the LTTE attacked the Kent and Dollar Farms killing 62 convicts and subsequently 11 Sinhalese fisherfolk in Kokkilai. The Government saw it as an opportunity to expedite its plans. The Tamil villages chosen for attack were just those in the first line of Sinhalisation plans.

**2<sup>nd</sup> December 1984:** "30 to 40 Sri Lankan soldiers of the Sri Lankan Army from the army camp in Padaviya, on the night of 1<sup>st</sup> December 1984, went to Othiyamalai, a Tamil village in Nedunkerni, Mullaitivu and camped for the night at Malaikadu Hindu Temple. Early in the morning of 2<sup>nd</sup> December they entered houses in the village, on the pretext of a search, and took away 25 Tamil males, mostly in the 15 – 35 age group, with their hands tied behind their backs. They were taken in a tractor-trailer to the village community centre hall. Five others aged around 50 were also taken and kept apart. Near the hall 27 young Tamils were lined up and shot dead. The Government Agent Mullaitivu, the Medical Officer and the Village Headman confirmed the incident the following day, and the bodies were cremated on 4<sup>th</sup> December (names given)."

The driver of the tractor-trailer that was forcibly removed was one of those killed. Two weeks later the burnt tractor-trailer and five partially burnt bodies were found near Kent Farm. The dead were identified from remnants of their clothing as the five elderly men taken.

**2<sup>nd</sup> December 1984:** Cheddikulam: "Army personnel indiscriminately arrested 65 Tamil civilians in the age-group 16 to 40 in the villages of



Cheddikulam, Mudaliar Kulam, Puliyankulam, Sinnakulam, Kudiyiruppu and the area known as Farm No.2 in Vavuniya District. A curfew was on and the army personnel entered the residences of these people and took them into custody, witnessed by family members. Many of them were married with several children. 42 of the 65 persons arrested were from Cheddikulam itself. Those detained were taken to the JOSSOP camp in Iratperiyakulam, Vavuniya."

The area includes Manik Farm that became famous as the centre to which the Vanni displaced were sent in 2009. 20 of those detained by JOSSOP were later killed – the government claimed they died in an escape attempt.

**3<sup>rd</sup> December: Thennamaravady:** "The village of Thennamaravady is the northernmost village in the Trincomalee District bordering Mullaitivu, was invaded by Sinhalese thugs and burnt to the ground. Over 200 houses, two tractors, water pumps, bicycles and other valuables were completely burnt. Three tractors and other valuables were removed. Several people were missing. Later information reveals that at least 10 Tamils were killed. The Sinhalese thugs were aided by the Sri Lankan Army and Police."

A letter from the village headman S. Vyramuttu published in the *Saturday Review*, of 24<sup>th</sup> August 1985, placed the number killed as 15, including women. The Defence Ministry claimed in early December 1984 that 68 terrorists were killed during this period, which may be close to the truth if 'terrorists' is read 'Tamil civilians'.

"Around 20<sup>th</sup>/21<sup>st</sup> December 1984, the Armed Forces compelled all Tamils living in the traditional Tamil villages of Kokkilai, Kokkuthoduwai, Karnaddukerni, Nayaru, Chemmalai, Kumulamunai and Alampil in the Mullaitivu District to move out of the villages. Consequently, 2000 families totalling about 10 000 Tamils were compelled to seek refuge in temples, churches and school buildings in Mullaitivu Town."

Many of them were farmers, who had sown their fields in September. On 15<sup>th</sup> February, 131 of them who had gone to harvest their fields were massacred (Ch.11 end).

Once more despite what the Government calls peace, the same areas mentioned above, after 29 years face the hammer of Sinhalisation and a very uncertain and bleak future. Some names of note are Kokkachchan Kulam, Kokkilai, Thennamaravady and Kokkuthoduwai.

"An explanation of the carnage [at Kent and Dollar Farms in 1984] was sought from the LTTE leader who was then in India through an expatriate intermediary. The LTTE leader responded that it was not the intention of the LTTE to kill ordinary Sinhalese civilians, and that those killed were criminals brought in for sinister reasons. He further added that his cadres were under orders not to kill women and children. One woman, he said,



was killed because when the men were thrust into a building prior to explosives being set off, she had clung to her husband and had refused to be separated.” (See UTHR(J) Special Report No.5 of 1993.)

The Government which described the incident as genocide circulated pictures of two children allegedly killed in Kent and Dollar Farms through swinging them by their legs and dashing their heads against a wall. The Government’s land aggression exacerbated the breakdown of inhibitions on the Tamil side. The LTTE’s Anuradhapura massacre that followed in May 1985 in response to the Army’s Valvettithurai massacre was a further step in this deterioration culminating in the LTTE’s massacre of TELO cadres in May 1986. Observers worldwide who were outraged by the Anuradhapura massacre, tended to treat the settlement of convicts in Kent & Dollar Farms on land from which the Tamils were driven out as an act of war against a minority on the same lines as the pogrom of July 1983. Current government policy to the same end is advanced under the name of resettlement.

## Appendix 10 - 1

### Population of Kilinochchi District as at 06-08-2010

Details	Welfare Centres		With F & R		Total	
	<i>Families</i>	<i>Members</i>	<i>Families</i>	<i>Members</i>	<i>Families</i>	<i>Members</i>
<b>Displaced People</b>						
<b>Internal (Within the District)</b>	1,907	8,009	17,598	64,595	19,505	72,604
<b>Outside of District</b>	1,418	5,956	18,855	77,382	20,273	83,338
<b>Total</b>	<b>3,325</b>	<b>13,965</b>	<b>36,453</b>	<b>141,977</b>	<b>39,778</b>	<b>155,942</b>
<b>IDPs Food Assistance Details</b>						
<b>WFP ration</b>	2,820	11,823	34,241	131,128	37,061	142,951
<b>CGES ration</b>	505	2,142	6,452	27,985	6,957	30,127
<b>Sub Total</b>	3,325	13,965	40,693	159,113	44,018	173,078
<b>Not eligible for any ration</b>			8,032	32,135	8,032	32,135
<b>Grand Total</b>	<b>3,325</b>	<b>13,965</b>	<b>48,725</b>	<b>191,248</b>	<b>52,050</b>	<b>205,213</b>
<b>Displaced from Other District</b>	Welfare Centre		With F & R		Total	
	<i>Families</i>	<i>Members</i>	<i>Families</i>	<i>Members</i>	<i>Families</i>	<i>Members</i>
<b>Vavuniya</b>	22	84	444	1,827	466	1,911
<b>Kilinochchi</b>						
<b>Mullaitivu</b>	308	1,233	5,154	24,512	5,462	25,745
<b>Jaffna</b>	599	2,577	8,063	30,486	8,662	33,063
<b>Mannar</b>	431	1,812	4,789	19,098	5,220	20,910
<b>Trincomalee</b>			203	730	203	730
<b>Batticaloa</b>	4	15	202	729	19	744
<b>Other District</b>	54	235			54	235
<b>Total</b>	<b>1,418</b>	<b>5,956</b>	<b>18,855</b>	<b>77,382</b>	<b>20,273</b>	<b>83,338</b>

### Summary

Details	<i>Families</i>	<i>Members</i>
<b>Displaced People</b>	39,778	155,942
<b>Resettled</b>	8,674	34,042
<b>Non Displaced</b>	3,598	15,229
<b>Total</b>	<b>52,050</b>	<b>205,213</b>





## Appendix 10 - 2

### Population of Mullaitivu District as at 30 - 09 - 2008

AGA's Division								
	Maritimepattu		PTK		Oddusuddan		Total	
Details	Family	Person	Family	Person	Family	Person	Family	Person
Non Displaced	0	0	540	2,215	0	0	540	2,215
Resettled	6,692	29,316	7,095	26,613	2,734	9,815	16,521	65,744
Subtotal	6,692	29,316	7,635	28,828	2,734	9,815	17,061	67,959
Internally Displaced	2,942	11,149	1,886	7,478	3,599	14,083	8,427	32,710
Displaced from Other Districts								
Jaffna	3,733	15,816	12,888	52,866	1,352	5,588	17,973	74,270
Kilinochchi	191	788	5,532	20,847	885	3,151	6,608	24,786
Mannar	37	188	118	458	37	150	192	796
Trincomalee	404	1,422	984	3,785	114	301	1,502	5,508
Batticaloa	56	222	281	1,147	16	33	353	1,402
Vavuniya	382	1,385	1,084	4,180	2,702	10,761	4,168	16,326
Other	16	63	5	14	4	12	25	89
Sub total	4,819	19,884	20,892	83,297	5,110	19,996	30,821	123,177
Total Displaced (3 + 4)	7,761	31,033	22,778	90,775	8,709	34,079	39,248	155,887
Total Population	14,453	60,349	30,413	119,603	11,443	43,894	56,309	223,846

\*PTK - Puthukudiyiruppu

\*Entire population of the other two AGA's divisions of Mullaitivu - Thunukkai and Manthai East - had evacuated by this time.



## Appendix 11

### Travails of Caste

**Malar Sinniah**, who is from an oppressed caste, was appointed the Principal of Kopay Teachers' Training College by the Education Ministry in October 2008. Having obtained her degree in education externally from Peradeniya, a master's and Principals Service Grade 1, her career seemed assured. At the Army's and government administration's request, she had opened the College to displaced people being released from camps in the Vanni from March 2009. After the war ended, because there were very few local students, the Education Ministry asked her if she could take Muslim students to which she agreed. About the end of 2009, the College had 200 Muslim students and 16 Tamil students. She found houses for the Muslim students, including from people of her caste. When the Muslim students wanted to go to Oluvil in Amparai District for a conference, she sought the Army's help, arranged the transport and accompanied them. She wanted to make a success of having Muslims in the College.

According to Miss. Sinniah, Physical Training (PT) instructors, Sara Puvaneswaran and Kanapathipillai thought it best for the Muslim girls to remove the *purdah* during PT, as having it on risked injury from the pins which kept it in place. She agreed. Disagreement on this among the Muslim students led to a strike. After consultation with the Ministry, PT was stopped.

What followed was a concerted action to remove her, where her caste and the Tamil media dominated by high caste interests came into play. By the end of 2009, the displaced folk were leaving the College. The first blow against the Principal was in the form of an anonymous petition dated 11<sup>th</sup> November 2009 addressed to Minister Douglas Devananda, signed lecturers, non-academic staff and students of the College. A few among the host of disparaging allegations show clearly the petition's true character. She was accused of having become principal by using the Sri Lanka Principals Service Grade 1 (SLPS 1) awarded to another Miss. Sinniah and of being an LTTE supporter, who on the pretext of going to the Ministry in Colombo had gone to Vavuniya to visit her sister's daughter who had been an LTTE cadre. The truth was, Miss. Sinniah said, on her way back from taking the Muslim students to Oluvil, she had visited her relatives from Kilinochchi, who were in an IDP camp in Vavuniya. None of her family, she said, had been in the LTTE. Such malicious campaigning was dangerous and could get someone killed as happened to the oppressed caste education officer Sivalingam in December 2010. Only the high castes have the social instruments to get away with lethal lies.

From this time a press campaign of scurrilous allegations against Miss. Sinniah, was launched, mainly in the *Uthayan* and *Thinakkural*, which



attributed them to the College lecturers or community. Her senior colleagues, Vice Principal Mr. Kanapathipillai and Sara Puvaneswaran remained silent through the media attack, which went through several stages.

**1, The Great Timber and Tin Robbery:** An anonymous item boxed and given prominence in the *Uthayan* of 2<sup>nd</sup> January 2010 titled “*In a burning house...*” alleged that the Principal had treated callously the displaced who had suffered in the Vanni, and to cap it all, claimed that materials, including timber and tin sheets, used for temporary shelters to house them, had been carried off by this greedy member of the educated intelligentsia, and stored in her house. It was a simple matter to provide evidence. The *Uthayan* merely said ‘*unmai kasinthurukkirathu*’ – the truth has surfaced by seepage – in other words the item was a rumour and malicious at that. No other paper followed it up or supply evidence for the allegation. Miss. Sinniah responded pointing out that the government administration was in charge of the camp and its dismantlement and the absurdity of her, a single unmarried woman, carrying away 78 shelters and storing them in her small house in Nallur. The *Uthayan*, failed to publish her correction, but her extended family was harassed by security forces men looking for stolen property. The incident signified that an operation to remove the Principal was in full swing. The *Thinakkural* report of 18<sup>th</sup> March cited below indicates, a particular allegation over which the Ministry and students were canvassed was that she was anti-Muslim.

**2. ‘Preliminary Inquiry’ on 8<sup>th</sup> March 2010:** A Director of Education for the Teachers Unit called Pushpa Silva went to Miss. Sinniah at the Training College without notice and began harrying her on the case of Valarmathy, a cook attached to the College, whose application for a salary increment Miss. Sinniah had not returned. According to her, a clerk had brought the application to her and she told the clerk to ask Valarmathy to see her, which she felt was the right and proper. Pushpa Silva, she says, importuned her to sign the application, but did not raise any other matter. This episode cannot be explained without the second petition and the arrogance of an empowered community dealing with a disempowered community.

The second petition, a month earlier, with the same Training College address and the same print dated 8<sup>th</sup> February 2010, and addressed to the Commissioner, Teachers Training and Educational Colleges, was signed by seven lecturers from the College, two employees and two students (both Tamil). The lecturers included Vice Principal Kanapathipillai and Sara Puvaneswaran. It contained many of the same allegations, including her SLPS I being fraudulent and added theft of property alluding to press reports (*Uthayan* 2<sup>nd</sup> January above). If officials in Colombo were giving credit to these allegations, her fraudulent qualification which earned her the principalship was a criminal matter for the police and the courts.

Education officials in Jaffna, passed on these petitions as deserving credence to officialdom in Colombo; who were in turn credulous enough to swallow the allegation in the first petition that she was a Tiger. These petitions were communicated to the Human Rights Commission by Tissa Hewavithana, Chief Commissioner, Teacher Education, on 11<sup>th</sup> November 2010, defending their actions concerning Miss. Sinniah and claiming that a disciplinary inquiry is on course (but in fact never concluded). This exemplifies the quality of our educators, which is again part of the culture of impunity where mere gossip is circulated by responsible persons and acted upon without checks.

Mr. Kanapathipillai who signed the malicious petition was made principal of the College by the authorities in Colombo, aided by the education mafia in Jaffna. Caste is indeed terribly vicious. The rumour that Miss. Sinniah was a Tiger had been planted in the right places. Army officers, once friendly, were beginning to shun her. The second petition was the cue for the final blow.

Subsequently, Miss. Sinniah was called to the Jaffna Kacheri for an official function. Upon her return she found that Vice Principal Kanapathipillai had called a meeting of students that was irregular for anyone other than the Principal. Another day, a few Muslim students told her that the lecturers had not come. Miss. Sinniah thought it strange and told the students that if the lecturer was not present, to go to the hall and she would conduct the lecture herself. It was then that she saw some of the staff, especially Sara Puvaneswaran, instigating open defiance against her telling students not to go to the hall. This was the instigation of a second strike and the Principal was locked up in her office until 4.00 PM and the College gates were shut preventing her from going out.

**3. The Strike:** The *Thinakkural* of 18<sup>th</sup> March 2010 reported prominently the strike by students and staff of the College and indicated that Muslim students had been instigated against the Principal. Tamil National Alliance MP Sritharan, a former principal and protégé of the LTTE, told the *Jaffna Thinakkural* (23 Jul.2010), without any basis, in the course of the campaign against Malar Sinniah that she was guilty of substantial malfeasance.

Seeniyar Kunasingam, a veteran of struggles against untouchability, affirmed that the action against Miss. Sinniah was brought about by a high caste Hindu lobby and pointed to the irony of it: "When the Muslims were expelled willy-nilly from Jaffna in 1990, none of our religious institutions condemned it nor expressed sympathy for the Muslims. Now they have launched a successful propaganda campaign painting this oppressed caste woman as anti-Muslim."



**4. Removal or 'Temporary Attachment to Jaffna Teacher Centre':** On 22<sup>nd</sup> March Mohamed Thamby, Additional Secretary, Education Service Establishment, wrote to Malar Sinniah, Principal Kopay Training College: "Referring to the report of the preliminary investigation conducted on 8<sup>th</sup> March 2010 and existing unfavourable situation (sic) [in the College], you have been temporarily attached to the Jaffna Teacher Centre with immediate effect." She was asked to hand over 'management responsibilities' to the Deputy Principal – namely Mr. Kanapathipillai. No charge sheet was issued on the basis of the so-called preliminary inquiry. What Mr. Thamby referred to was the strange visit by Pushpa Silva. It appears that the matter was political and Silva was tasked to find something against Malar Sinniah, and all she appears to have got was the insubstantial allegation of the principal blocking the cook's increment.

Public service norms stipulate that charges made after a preliminary inquiry must be investigated within three months. But Malar Sinniah had not been cleared or convicted even after her retirement on 1<sup>st</sup> September 2011 and not even by 2014. Despite repeated appeals she has to date neither been shown a charge sheet, nor the report of any inquiry. The correspondence shows that the authorities in Colombo were more willing to give her an honourable discharge, while officialdom in Jaffna was blocking it. That people can be punished arbitrarily without feasible recourse to justice is a symptom of Sri Lanka's administrative breakdown.

**The Issue of the Locked Office:** According to Miss. Sinniah, when she went to hand over to Mr. Kanapathipillai in March 2011 as directed by Mr. Thamby, the Zonal Director of Education Mrs. A. Vethanayagam was present. Mr. Kanapathipillai, as though feeling bad, asked Miss. Sinniah to keep the office key and the log book. Since the arrangement was ostensibly temporary, Miss. Sinniah insisted that the log book should be in the office but agreed to keep the key and Mrs. Vethanayagam consented to the arrangement. Another storm blew on 5<sup>th</sup> June 2010, when *Thinakkural* published an item that the students and staff had written to the education ministry that the College was in great distress because of the closed office, preventing the Acting Principal from carrying out his duties, besides blocking a caretaker principal, who was appointed, from taking over.

Taking procedural recourse to opening the office was a simple matter. Instead, the acting principal and company kept going to the Press purely as a means of attacking Miss. Sinniah and having her removed. On 17<sup>th</sup> September, the Press reported that Kopay Training College lecturers met Minister Basil Rajapakse and repeated their complaint about the office, accusing Malar Sinniah of causing distress by holding on to the office key.

**On 1<sup>st</sup> October** *Thinakkural* carried prominently a news item that the Ministry had appointed Kanapathipillai principal, who thanked the



*Thinakkural* for the happy turn of events. The office remained locked, but that did not seem an issue any longer. The deed was accomplished.

**Uthayan of 25<sup>th</sup> January 2011** reported that Malar Sinniah handed over the keys to the new principal Kanapathipillai in the presence of officials led by Zonal Director Mrs. Vethanayagam, while an inventory check was done. Miss. Sinniah said that the delay owed to the education authorities not responding to her letters seeking clarification and her having received threatening calls after she had called the College office at mid-day on 5<sup>th</sup> January 2011 from three different telephone numbers (075 600 3703, 077 439 4909 and 071 825 6926), not to come to the Training College. She complained about the threat to the Zonal Director, Accountant and the Jaffna Police (Complaint No. C I B II 281/5 of 5<sup>th</sup> January 2011).

**On 21<sup>st</sup> June 2011**, Izeth Tajudeen, of the Muslim Schools Development Branch, sent to Miss. Sinniah a letter in Tamil on behalf of Secretary, Education, copied to the Zonal Director, titled 'Preliminary Inquiry concerning Miss. Malar Sinniah, former Principal, Kopay Teachers' Centre (sic)', and referred to an apparently new **preliminary inquiry** following upon the Education Secretary's letter of 9<sup>th</sup> December 2010. Miss. Sinniah had already been punished by Mohamed Thamby on account of a supposed preliminary inquiry on 8<sup>th</sup> March 2010. Tajudeen charged her with not handing over the office, which in fact she had done five months earlier, but had not been communicated to Colombo. He said that in connection with action related to the inquiry, she should send the confirmation of the hand-over through the Zonal Director.

**On 5<sup>th</sup> July 2011**, Miss. Sinniah went on a hunger strike outside the Nallur education office for the restoration of her salary and her rights. Finally it was a police officer who took pity on her that went to Kopay Training College and obtained a four-line note from Kanapathipillai which said that Malar Sinniah had handed over everything to him in the proper order '**today**' (sic).

**On 6<sup>th</sup> July 2011**, the Zonal Director replied to Izeth Tajudeen's letter repeating Kanapathipillai's false statement that that Miss. Sinniah had done the handing over of the office and materials therein on 5<sup>th</sup> July, more than five months after the event. On the 5<sup>th</sup> she was in fact on a strike outside the Nallur education office. The misinformation was deliberately intended to embarrass her.

**The Jaffna Education Authorities and the Curious Inquiry:** By letter of 22<sup>nd</sup> August 2011, the Secretary Education Jayalath Rajapakse asked Mohamed Thamby Addl. Secy. ESE, who started the mischief in March 2010, to report on Miss. Sinniah's case. The task was delegated to the Jaffna education authorities, who shared joint culpability.

As the matter meandered without decision a letter from the Education Secretary's office in Sinhalese, about 30<sup>th</sup> November 2011, concerning her retirement, called upon the Northern Provincial Director of Education to inform him whether or not there is currently any disciplinary inquiry against Malar Sinniah. On 1<sup>st</sup> December 2011, the Zonal Director in Jaffna stated that **there is no disciplinary inquiry** at present, and added that he had only referred to the preliminary inquiry instituted by the Education Secretary a year earlier in connection with Miss. Sinniah's pension papers.

**On 14<sup>th</sup> December 2011**, the Northern Provincial Director of Education, P. Vigneswaran wrote to the Zonal Director: **"The Secretary, Ministry of Education, by his letter of 20<sup>th</sup> September 2011 says that in relation to the comprehensive disciplinary inquiry concerning charges against the employee [Malar Sinniah], because no witnesses have been found to substantiate the suspicions (sic) in a fair and transparent manner, she is to be discharged from the accusations against her."** The Provincial Director went on to talk about back payments, but said nothing about putting the record straight and giving the employee an honourable discharge. In fact the Provincial authorities had consistently sabotaged her cause.

To begin with none of the letters from the provincial or national authorities specified any charges. They were all under the shadow of Mohamed Thamby's supposed first preliminary inquiry of March 2010. The absence of proper charges could be seen from the way officialdom in Colombo was getting its lines crossed and the fact of the superfluous preliminary inquiry nine months after the first. A letter (16 Nov.2011) from M.F.N. Hareeja, Deputy Director of Education in the Ministry of Education spoke of a non-existent disciplinary inquiry pertaining to the period when Miss. Sinniah was a 'lecturer' at Kopay TC! In response to an appeal from the Governor of 23<sup>rd</sup> January 2012, three officials from Colombo, two Sinhalese and a Muslim, interviewed her at the Teachers Centre on 1<sup>st</sup> March 2012. Miss. Sinniah said they began with an accusation that she had been controlling the place with a small group around her. The Muslim officer finally told her that she had no problem except for financial questions about the purchase of a computer. She responded that the College neither purchased nor was gifted one in her time as principal. The charges were from the start gossipy insinuations obviously fed by local officials who wanted her out. The onus of conducting an inquiry and doing justice to Miss. Sinniah lay with the Provincial Educational Authority. They did nothing. Any charges against her which should have been settled within three months dragged on long past her retirement in September 2011.

The Zonal Director Mrs. Vethanayagam, who apparently agreed to Mr. Kanapathipillai's refusal to accept the key, could have ruled that he should take it, or have resolved it in the intervening period. She said nothing while



those who wanted Miss. Sinniah removed slandered her through the Press. After the key was handed over following an inventory check in January 2011, the Zonal Director could have put the record straight; but instead let it go on official record that the hand over took place on 5<sup>th</sup> July 2011, when the Police obtained the confirmation of handover from Mr. Kanapathipillai. How this hurt her is evident from the Provincial Director Vigneswaran's letter to Secretary, Education, on 6<sup>th</sup> September 2011 concerning Miss. Sinniah's application for promotion to SLEAS Class II after completing ten years in Class III. The Director harped on the preliminary inquiry, whose import had long lapsed, but failed to mention that they had not held the obligatory follow up inquiry for 1 ½ years.

The Provincial Director failed to act on the Secretary Education's exoneration of Miss. Sinniah in September 2011, and instructed his subordinates only on December 14<sup>th</sup> after further prodding from Colombo. When the Education Ministry called for her personal file from the provincial authority, after Miss. Sinniah had retired, L Ilangovan, Secretary Education, Northern Province, responded on 6<sup>th</sup> October 2011 that her salary conversions could not be done owing to one of his predecessors having ten years earlier (on 19<sup>th</sup> October 2001) raised a question, yet to be resolved, about Malar Sinniah's promotion from Principal Service Grade 2 to Grade 1 by the letter of 1<sup>st</sup> June 1994 from the Secretary, Ministry of Education. Usually the promotion takes five years, but her promotion had been given on merit and that too by the highest authority.<sup>321</sup>

The matter should have been resolved long ago. Through 16 years the provincial authority did not pay her the salary owed to SLPS 1. Besides, Colombo had on the strength of the award promoted her to principal of the Teachers' Training College. At worst, it involved adjustment of the date of award, as besides, she had served 16 years as an SLPS 1 officer. The matter was however superfluous. Her SLEAS Grade III covered SLPS 1; and her SLEAS II had been due after ten years in SLEAS III, which, as seen, was being delayed. The Jaffna authorities raising the SLPS I matter to further hurt her, when she was down and out, looks vindictive. Eventually, the Secretary Education (Colombo), informed Miss. Sinniah by letter of 13<sup>th</sup> March 2012 that she had been promoted to SLEAS Grade II with effect from 10<sup>th</sup> January 2011.

The letter to Miss. Sinniah of 23<sup>rd</sup> April 2013, by P. Vigneswaran, Deputy Provincial Secretary, Education, gives an idea of the extent of damage they did to her. He told her, citing the Secretary, Ministry of Education, that because the principalship granted to her to give effect to the SLPS 1 awarded to her in 1994 has been rescinded, the salary increase due to that

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<sup>321</sup> Promotion to SLPS 1 on merit, letter signed 13<sup>th</sup> November 2000 by M.D. Bandusensena, Deputy Secretary, Public Service Commission



position need not be given – strange reasoning after she had served 1 ½ years as principal. She was further told that since she was moved to the Teachers Centre prior to retirement and someone else had been made principal, she should not give her designation as principal in her retirement papers. This was malice against someone down and out. Miss. Sinniah was never given a charge sheet, and there was no process or communication demoting her from principal to lecturer. The provincial authorities made their own decisions motivated no doubt by caste. In fact the salary increase stipulated for promotion to SLPS 1 in 1994 had been blocked for 16 years by the provincial officialdom. Finally they succeeded in manipulating to justify it, aided no doubt by the belief in Colombo that she was a Tiger. Kanapathipillai who took over from her is well connected to the high caste Hindu establishment and the Saiva Paripalana Sabha.

Though having an oppressed caste base, the EPDP did little for her, because it was courting the high caste Hindu establishment. A leading member of this establishment whom the EPDP appointed to the University Council (2008 – 2011), was brother of the covering principal who sent in his papers once the Education Ministry appointed Malar Sinniah as principal.

The way the educational establishment in Jaffna operates suggests a mafia set up as seen in the way one of those principally responsible for throwing Miss. Sinniah out, functions. Sara Puvaneswaran (P) was released from his teaching duties at the Kopay Training College to be fulltime secretary of the All Ceylon Tamil Teachers Union and exercises his considerable acquired influence as a member of the transfer board for teachers.

**An Education Mafia:** Principal S of Inuvil Central School had in October 2013 walked into a class where the teacher was present and had set the pupils some work. The principal took a boy out without the teacher's permission and got him to remove a pole supporting a cracked concrete slab. A piece fell down, fracturing a leg of the boy and injuring his head. The principal who was unhurt, hospitalised himself along with the boy and claimed that he too was hurt, in an apparent attempt to prevent others from speaking out. A woman education officer was told of the incident confidentially by teachers, who also told her of the principal's practice of using children for manual work during school hours. The officer reported this to her superiors. The latter refused to do anything unless she gave the complaint in writing. This she did. A few days later she received a call to her mobile phone from the Union Secretary P, who aggressively referred to the case against S and asked "Why do you want to spoil your name?" He wanted her to withdraw her letter. When he found the officer resisting, he changed the topic and asked, "Was it you who contacted me about a transfer?" and cut off the call. As an indication of what others thought of P and company, colleagues warned the woman officer that she had made dangerous enemies.

Meanwhile Principal S got into another scrape. The World Food Programme (WFP) provides supplies to schools for the children's daily meal, particularly rice and cooking oil. A member of the school development committee intercepted an attempt by the principal to smuggle out some of these supplies for sale in the market. The member made a written complaint and sent copies to several key officials. The Zonal Director C, a man from the oppressed castes, who had been sent from Colombo, was stalling on an inquiry over the first incident concerning Principal S. After the second complaint too there was no inquiry, but the Zonal Director found it prudent to take S out of the school and have him report at the zonal office in Sandilipay.

The Zonal Director was himself already in trouble after allegations of sexual harassment by several women working in the zonal office. An unmarried woman sent a written complaint to the Minister. Another four women confirmed the allegations to a woman officer, but were unwilling to testify. P came to the rescue of C and got 37 principals to sign a letter of support for him even before any inquiry was concluded. This gives an idea of the Union Secretary's source of power and how a corrupt system is kept in place. Teachers are afraid to offend the Union Secretary P as he is on the transfer board. It is in such a system that senior officials gang up with the Union Secretary-types, with the power of the local media behind them, to punish persons like Malar Sinniah, an author of several books who is smart, defiant and open about her caste.





## Appendix 12

### Pottuvil 1990: Where Violence Conjures up Ethnicity

We present below a cross section of the victims of violence in 1990 in the lower southeast coast from notes made in early 1995. The polemics of ethnic politics relies on highlighting the brutalities of the other side. Here we deal with a people where the mindless violence of the State arbitrarily divides them into sheep and goats. If the State uses the violence of groups like the LTTE as a pretext for its arbitrary violence and contempt for the law, it is no longer a state. The difference now is that we have the *imagined* and *potential* threat of LTTE violence as opposed to its actual violence.

The region has featured in arguments about ancient possession among politicians and academics, who miss out on the reality of the people by a huge margin. Notable among these are the papers of Professors G.H. Peiris and K.M. de Silva in 1985 and 1986, under the aegis of The International Centre for Ethnic Studies, Kandy: "...the interior at least of the eastern parts of the island...remained throughout a traditional homeland of the Sinhalese peasantry (G.H. Peiris)." "Indeed, these [Sinhalese settlements in the interior of the Eastern Province] had survived several centuries of war and invasion, of pestilence and privation, and ravages of nature in the form of droughts, floods and cyclones, till they were...revitalised as peasant colonies (K.M de Silva)." The main conclusions were obtained through making up for the apparent paucity of history by dicey extrapolations from the 1921 Census.

The papers on the Tamil Homeland question coincided with the Government's resort to forced displacement of Tamil populations and Sinhalese settlement as part of its pacification policy. The cases below reflect the continuation of this policy spearheaded by the Special Task Force (STF).

**1. Kumarimenika Jayasekera**, Wadiavelly. Her husband Kandiah Tharmaratnam (40), who was a Village Council watcher, went missing after leaving his place of work 31<sup>st</sup> July 1990. The family is supported by Jayasekera (father, Aged 77), carpenter.

According to Jayasekera his ancestors owned the title Nindagama Rala in Miyangoda, in Buttala Division of lower Uva. They had migrated to Panama following the 1818 Kandyan Rebellion. He had stayed with relatives and studied in Lahugala, and then practiced his trade in Pottuvil. He was fluent Tamil from an early age, since Panama was a mixed area having close connections with Thambiluvil

All documents pertaining to his missing son in law were sent to the Provincial Ministry of Home Affairs in Trincomalee for payment of salary

and arrears. Acknowledged 23-12-93. Reminder sent 14/2/94. No action until time of writing (early '95).

Of Kumarimenika's 3 children (daughter (14), son (13), and daughter (9)) the eldest daughter lives with relatives in Batticaloa & attends school.

**2. Masilamany Saraswathy**, from Lahugala (10 miles west of Pottuvil). Her husband Tharmaratnam was among the Tamil farmer families settled in Pansalgoda, Lahugala during the 1950s. Many of them became fairly well to do and owned tractors. Following the troubles on 16<sup>th</sup> June 1990, Tharmaratnam, his brother, three other men and their families tried to reach Thirukkivil on foot. They were stopped by the STF near the Pottuvil-Thirukkivil road, the men were taken, and the women & children were chased away. Those taken are since missing.

Saraswathy and her children (ages from 13 to 6, eldest a girl) are now refugees with her brother Kulanthaivadivel (Headman – GS, Sangamam Kandy) and his wife Gnanamani. Although her husband owned 3 tractors, she is unable to trace any of the property. Though asked to resettle and claim 'benefits', after her experience she cannot go and manage alone. She also stands to lose the land. According to WUS (Canada), Tamil Refugee families resettled in interior areas of the district on 15/10/93 are as follows: Lahugala Pansalagoda 50, Damana 04, Uhana (Sinnawatte & Rajagalatenne) 45, Padiyatalawa 25.

It is clear that a number of them have not returned as their men are missing. This is not the first time that Saraswathy has been a refugee from communally directed violence.

During the 1950s, her family originally from Karaitivu, migrated along with others. Following the violence unleashed by the Gal Oya Development Board Employees in 1956, her family returned to Karaitivu. They moved to Pottuvil in 1958. Saraswathy married in 1981.

**3. Maheswary Rajanathan Wadiawelly**. Husband Technical Officer Irrigation (deceased). Three sons missing after being taken by the security forces on 24/06/90 from Sinhala Maha Vidyalayam (Central School) where the family were refugees: The missing are Jegatheeswaran (30) returned home in '89 after working 7 years, in the Middle East; Jeyachandran (21) A/L student and Suthaharan (16) O/L student. Maheswary lives at her home with her two unmarried daughters. Another daughter is married. Two sons are in Batticaloa. Another son who fled the country following the outbreak of war in 1990 is at a refugee camp in Bangkok.

**4. Shanmugam Yoganathan (32)**, Wadiavelly, former policeman in Pottuvil. Surrendered to the LTTE along with his Sinhalese and Muslim colleagues 15/6/90 on government orders when the LTTE besieged the

station. Beaten by the LTTE at Vinayagapuram and later released. (The LTTE massacred the Sinhalese and Muslim policemen who surrendered.) He was arrested by the security forces in Thirukkivil on 14/07/90, after being identified by one Sergeant Majurdeen. Not beaten but held later at STF Akkaraipattu, hidden from ICRC for 3 ½ months. Saw another Tamil policeman Navaratnam tortured to death in his presence – Sept. '90. Released 23/11/92. He was never questioned during detention, nor were any charges made. But he has not been reinstated and cannot do any other work. His father Shanmugam contacted Home for Human Rights in Colombo who have filed action through Appapillai Vinayagamoorthy Att at law.

As pointed out in Special Report No. 3 many other Tamil policemen who survived were not so fortunate. A colleague of the witness had a narrow escape. About 24/06/90 the security forces entered Karaitivu Refugee camp & asked the policemen among them to show themselves, in order to be helped to report for work in Amparai. About eight rose with their police identity cards. They are believed to have been killed. This colleague escaped by not identifying himself.

5. ***Nakamany Vimaladevi***, Sinna Ullai, mother of 4 girls (24 years, 22, 19 & 17), three married (in Komari, Thirukovil and Akkaraipattu 4). Her parents had settled in Sinna Ullai (mother from Thambiluvil and father from Akkaraipattu 8). Her missing husband Sellam Kathiravel Thamotheram (48), mason, was originally from Akkaripattu 7. On 29/6/90, the STF came home with a list and asked for Thamotheram. He having gone to work, the STF took his youngest daughter to lead them to his work place in Ullai. They then took Thamotheram and released the daughter. Thamotheram was taken to Panama along with Sivagnanam (50) and Gnaraasa. All are since missing Sivagnanam's wife now lives with her children in Kalmunai.

Vimaladevi's brother, Nakamany Thevarasa (24), along with his friend Anselm were taken by the security forces on their way to Pottuvil from Sinna Ullai on 13<sup>th</sup> June 1990. According to Dasa, a Sinhalese vegetable vendor, they were killed and burnt by the army in Lahugala.

Vimaladevi's sister is married to Simon Shelton, a Sinhalese from Colombo. Their son Helen Prasanthan (20) was friendly with the LTTE. He disappeared after being taken from his home in Ullai by the STF.

These had been reported to the ICRC in Akkaraipattu after stopping its officer on the road, to the Human Rights Task Force (HRTF) in Batticaloa during 1992, and to the Batticaloa Kacheri. Nothing has been heard.



There were no disappearances in Ullai after these incidents. On 11/10/90 the LTTE killed 9 Muslims who went to the jungles. Several Tamil houses were burnt in reprisals.

**6. *Irulavan Pooranam*** (34), Inginiyagala, service caste community of estate origin, children: Poomalar (12), Gnanasundari (10), Sritharan (6), Srikantha (5). (Although Inginiyagala lies at the edge of the Gal Oya reservoir, beyond Amparai town, it gives a flavour of what Tamils in the area, even those totally unconnected with the LTTE, had to go through.) On the evening of the 13<sup>th</sup> June 1990 Pooranam's husband Koolayan Ratnam along with others came home highly excited, saying that the Sinhalese were going to kill Tamils that night. (News of the LTTE's massacre of surrendered Muslim and Sinhalese policemen had just got through.) When some proposed going to town, the rumour came through that the police would assist Sinhalese hoodlums to attack Tamils. About 60 Tamils took to the jungle. The following night they saw flashes of light as men armed with clubs, bars, guns and knives gave a victorious shout on finding the Tamil fugitives. Having finished their work, they uttered expressions of wrath at having allowed some Tamils to escape. After they left there were cries of pain and moaning the whole night. A police search party found the survivors the following evening. The injured were taken, none of whom were seen again. The rest were taken to Inginiyagala Police Station and later dispatched to Karaitivu. Pooranam's husband was among the dead.

Another man of 73 years from the same settlement area said that following Poson full moon day they were attacked by Sinhalese hoodlums carrying weapons. His only daughter (20) and her husband Illayakakan were among those killed. Arjuna, their infant of eight months was dashed on the ground. The survivors in the community are refugees at Walathapiddy.

**7. *Mangu Nona*** (grandmother) of Waddiavelly, whose son Manoranjan (18) was in the Pottuvil police, was taken by STF in Komary where he was a refugee, on 3/7/90. Although her son is missing the mother receives his salary of Rs. 3500 per month as in the case of servicemen dead or missing on duty.

Her sister Rasathy, married to Dissanayake's son Amarasekere (22), was taken by the STF while a refugee at SMV Pottuvil on 24/6/90 and is missing.

Cousin Rajeswary's son Dissanayake Obeysekere (17), has been missing after being taken in the infamous round up of 2/8/90.

### **Other cases**

**T. Rajeswary (28)**, Waddiavelly, married with three daughters (11, 9, and 6). Father Nagamuthu Thurairasa (50), labourer, taken by the Army

on 15/6/90, and is missing; Brother T. Rajkumar taken in a round up on 2/8/90 from Alaiady Pillayar Kovil is missing.

**Selvanayaki Thevasundaram**, Waddiavelly, Husband (64), attacked in reprisals by a Muslim mob and burnt with house. (11 houses burnt in the area.) Brother, Kandiah Sivagnanam, Ullai, missing 29/6 (see 5 above). Son Manohar (25): missing after being taken by the security forces on 8/7/90.

**M. Suppiah**, Inspector Ettam, farmer (invalid, one leg amputated), 2 sons missing after being taken by STF on 31/7/90.





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Dr. Rajani Thiranagama was killed on 21<sup>st</sup> September 1989 after three years of intense activity in Jaffna. During this time she played a leading role in the University Teachers for Human Rights, Jaffna - UTHR(J) - and co-authored *The Broken Palmyra*.

In *Palmyra Fallen*, Rajan Hoole - a fellow member of the UTHR(J) and the author of *Arrogance of Power* - deals with the painful experience of ordinary people, and the initiatives Rajani and her colleagues undertook to give hope to a benumbed, betrayed and bruised community in a period beset by terror and counter-terror.

The Introduction identifies the country's plunge into communalism, violence and war with the Citizenship Act of 1948. Other key concerns of the book are how the Tamil community lost its way into caste and sectarianism, the country's road to impunity, the political and economic costs of colonisation and the searing final months of the war, concluded in 2009.

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