

Sri Lanka Journal of Social Sciences



VOLUME 2 No. 1

THE SOCIAL SCIENCE RESEARCH CENTRE
NATIONAL SCIENCE COUNCIL OF SRI LANKA

JUNE 1979

Sri Lanka Journal of Social Sciences

EDITORIAL BOARD

<i>Chairman:</i>	H. N. S. Karunatilake	— Senior Deputy Governor, Central Bank of Ceylon.
	C. R. de Silva	— Associate Professor of History, University of Peradeniya.
	Swarna Jayaweera	— Professor of Social Science Education, University of Colombo.
	A. S. Kunasingham	— Additional Secretary, Ministry of Agriculture.
	R. Mahalingasivam	— Deputy Director, Ministry of Finance & Planning.
	B. L. Panditharatne	— Vice Chancellor, University of Peradeniya.
	G. L. Peiris	— Professor & Head of the Department of Law, University of Colombo.
<i>Secretary:</i>	Clodagh Fernando	— Scientific Officer, National Science Council.

Publication: The Sri Lanka Journal of Social Sciences is published twice a year, in June and December, by the Social Science Research Centre of the National Science Council of Sri Lanka. The Journal will publish articles covering the entire range of social sciences and relating mainly, but not exclusively, to Sri Lanka.

Subscriptions: Foreign: \$ 3.50 Local Rs. 10.00 per issue (Post free)
Remittance in favour of National Science Council of Sri Lanka.

Manuscripts: Manuscripts should conform to instructions given at the back of this issue.

No responsibility is assumed by the Social Science Research Centre of the National Science Council of Sri Lanka for statements and opinions expressed by the contributors to this Journal.

Correspondence: Manuscripts and all correspondence relating to the Journal should be addressed to the Secretary, Editorial Board, Sri Lanka Journal of Social Sciences, National Science Council of Sri Lanka, 47/5, Maitland Place, Colombo 7, SRI LANKA.

exp/xxx
C
An

SRI LANKA JOURNAL OF SOCIAL SCIENCES

Vol. 2 No. 1 June 1979

V. Mithiyarandam
2.5 / 2. / '80

Contents

- 1 The Admissibility of Confessions in Criminal Proceedings:
A Comparative Analysis of the Law of Sri Lanka and England
G. L. Peiris, R. S. de Soysa
- 55 Land Settlement and Urban Development in the Dry Zone
W. P. T. Silva
- 77 A Catholic Shrine in its Social Context
R. L. Stirrat
- 109 Traditional Exchange-Labour in Hill Country Sri Lanka:
a study of the attam institution
M. M. Karunanayake
- 121 Fertilizer & Agricultural Productivity
C. R. Kuruppu

Published by
The Social Science Research Centre,
National Science Council of Sri Lanka
and Printed at
Swadeshi Printers,
341, Olcott Mawatha, Colombo 10.

INSTITUTIONAL FOUNDATION FOR SOCIAL SCIENCES



The following table shows the results of the survey conducted in the year 1950. The data is presented in the form of a line graph, which illustrates the trend of the data over time.

The data is presented in the form of a line graph, which illustrates the trend of the data over time.

The data is presented in the form of a line graph, which illustrates the trend of the data over time.

The data is presented in the form of a line graph, which illustrates the trend of the data over time.

The data is presented in the form of a line graph, which illustrates the trend of the data over time.

The data is presented in the form of a line graph, which illustrates the trend of the data over time.

The data is presented in the form of a line graph, which illustrates the trend of the data over time.

The data is presented in the form of a line graph, which illustrates the trend of the data over time.

The data is presented in the form of a line graph, which illustrates the trend of the data over time.

The Admissibility of Confessions in Criminal Proceedings: A Comparative Analysis of the Law of Sri Lanka and England

G. L. PEIRIS, R. S. de SOYSA

1. The Definition of a Confession

The definition of a confession is of practical importance, since several statutory rules which have the effect of excluding evidence are confined in their operation in Sri Lanka to confessions as distinguished from admissions.

The Evidence Ordinance of Sri Lanka recognizes the principle that "Admissions are relevant and may be proved as against the person who makes them or his representative in interest." On the other hand, the admissibility of confessions is subject to exclusionary rules which are inapplicable to admissions.

The law of Sri Lanka, while not setting out any general rule barring proof of confessions, recognizes instead a series of particular prohibitions which have the effect that confessions may not be proved in certain limited circumstances. Statutory provisions which govern the subject in Sri Lanka, preclude proof of the following categories of confessions:

- (a) confessions caused by an inducement, threat or promise;²
- (b) confessions made to a police officer, a forest officer or an excise officer;³
- (c) confessions made by any person while in the custody of a police officer, a forest officer or an excise officer.⁴

1. Evidence Ordinance, 1895, section 21

2. Evidence Ordinance, section 24.

3. Evidence Ordinance, section 25 (1) and 25 (2)

4. Evidence Ordinance, section 26 (1) and 26 (2)

The essential distinction between a confession and an admission is that, while a confession represents an acknowledgment of guilt, an admission does not refer to the whole offence but to a single fact or facts each of which the prosecution would otherwise be required to prove.⁵ The law of Sri Lanka contains a definition of the terms "admission" and "confession". An admission is a statement, oral or documentary, which suggests any inference as to any fact in issue or relevant fact, and which is made by persons and under circumstances referred to by the statute.⁶ A confession is an admission made at any time by a person accused of an offence stating or suggesting the inference that he committed that offence.⁷ Admission is the genus of which confession is the species.⁸

Although the object of the statutory provisions excluding confessions in limited circumstances is the protection of the accused, the availability of this protection in Sri Lanka depends on the characterization of a statement as a confession and not as an admission. In Sri Lanka the contemporary law adopts a stringent approach to the definition of confessions.

The decided cases in Sri Lanka indicate a difference of opinion in regard to the interpretation of the statutory definition⁹ of "confessions."

In the cases decided during the early decades of this century, the definition of a confession has been construed liberally. In a case¹⁰ involving a charge of grievous hurt to X the accused, while declaring that he had struck X with a mammoty, insisted that he did so while defending himself against an attack by X with a knife. In rebuttal, Crown Counsel elicited evidence from two headmen that the accused had made statements to them but had not mentioned that X threatened or attacked him with a knife. The Supreme Court held that the statement made by the accused to the headmen was equivalent to a confession. This conclusion was reached on the basis that "The evidence in question was calculated to have in the minds of the jury the effect of eliminating from the statutory statement of the accused the only circumstance he relied on as a defence, namely, the circumstance that he himself had been attacked."¹¹ In 1923 the principle was authoritatively formulated that "If the Crown, at the

5. H. J. May, *South African Cases and Statutes on Evidence* (Juta, 4th edition, 1962), p. 77.

6. Evidence Ordinance, section 17 (1).

7. Evidence Ordinance, section 17 (2).

8. *R. v. Cooray* (1926) 28 NLR 74, per Garvin, A. C. J.

9. Evidence Ordinance, section 17 (2).

10. *R. v. Kalubanda* (1912) 15 NLR 422

11. At p. 427, per Pereira, J.

trial of a prisoner, tenders in evidence a statement by the prisoner, whether self-inculpatory or self-exculpatory in intention with a view to an inference being drawn by the court from that statement against the prisoner, that statement becomes, *ex vi termini*, a confession."¹²

In another case¹³ a police officer gave evidence that the accused, in a statement, had denied the act of cutting with a knife and had claimed that the injured man, in attempting to seize the knife, was cut accidentally. The court ruled that the accused's statement amounted to a confession. The rationale underlying this ruling was spelt out as follows: "It (the statement) placed the accused on the spot and gave what was stated to be his explanation of how the wound was inflicted - an explanation which may have created an unfavourable impression on the mind of the Magistrate. The Legislature desired to prevent the reception of any evidence by police officers as to statements made to them by accused persons which would either bring home the charge to the accused or strengthen the case for the prosecution."¹⁴

This trend is reflected strikingly in several cases dealing with charges based on theft and the retention of stolen property. Statements made by the accused that he had effected a sale of a portion of the rubber¹⁵ and that he had bought a cow some years previously,¹⁶ were held to be confessions in cases involving, respectively, a charge of theft of rubber and a charge of retaining possession of a cow dishonestly. Where the accused was charged with dishonestly retaining a stolen shirt and the prosecution sought to prove a statement made by him to a police constable that he had the shirt stitched by a tailor, the statement was held to be confessional in character.¹⁷

The view emerging from these cases is that a "confession" is not necessarily restricted either to (i) an admission of the commission of the offence by the accused, or to (ii) a statement suggesting the inference that the accused committed the offence. The principle which may be deduced from this line of cases is that the following categories of statements fall within the ambit of a "confession":

- (a) a statement by the accused which expressly or by implication shows that a defence taken or capable of being taken is false;

12. *R. v. Ukkubanda* (1923) 24 NLR 327 at p. 333, per Bertram, C. J.

13. *Weerakone v. Ranhamy* (1926) 25 NLR 267

14. At pages 267-268, per Branch, C. J.

15. *Hamid v. Karthan* (1917) 4 C. W. R. 363

16. *Dionis v. Petris Appu* (1917) 7 Tambiah Rep. 28

17. *Nambiar v. Fernando* (1925) 27 NLR 404

- (b) a statement by the accused which places him at the scene of the crime at the material time;
- (c) a statement by the accused which permits an inference prejudicial to him to be drawn.

However, later cases support a narrower interpretation of the definition of a "confession." It has been emphasized judicially that a statement by an accused person which suggests an inference inconsistent with a defence pleaded by him, cannot on that ground be treated as a confession.¹⁸ This view has been endorsed subsequently.¹⁹ The Court of Criminal Appeal has declared that "An admission by an accused of facts which can establish motive, or opportunity, or knowledge of a death, does not suggest an inference that the offence was committed by him; the inference which such a fact suggests is only that he may have had a reason or an opportunity for, or knowledge as to the commission of, the offence."²⁰

According to the Privy Council, the appropriate test in deciding whether a statement is a confession is whether the words of admission in the context expressly or substantially admit guilt or whether, taken together in their context, they inferentially admit guilt.²¹ The Privy Council has adopted,²² with reference to the law of Sri Lanka, the definition of a "confession" suggested by an American authority:²³ "The admission of a fact, or of a bundle of facts, from which guilt is directly deducible, or which within and out of themselves import guilt, may be denominated a confession, but not so with the admission of a particular act or acts or circumstances which may or may not involve guilt, and which is dependent for such result upon other facts or circumstances to be established."

The prevailing view is that a confession is a statement admitting the commission of an offence or a statement suggesting the inference of commission of an offence. The strictness of the test applicable is exemplified by the assertion that, where several admissions by the accused

18. *R. v. Cooray* (1926), 28 NLR 74 per Garvin, A.C.J.

19. *R. v. Gunawardena* (1944) 42 NLR 217; *R. v. Obiyas Appuhamy* (1952) 54 NLR 32

20. *R. v. Anandagoda* (1960) 69 NLR 241 at p. 254, per H. N. G. Fernando, J. See also *R. v. Fernando* (1939) 41 NLR 151; *R. v. Thuraisamy* (1952) 54 NLR 449; *R. v. Seyadu* (1951) 53 NLR 251

21. *R. v. Anandagoda* (1962) 64 NLR 73 at p. 80, per Lord Guest. See, for a clear instance of a confession, *R. v. Kiriwasthu* (1939) 40 NLR 289.

22. *ibid*

23. Wigmore, *The Law of Evidence*, Vol. 1. sect. 281, p. 930

are sought to be led in evidence against him and each admission, taken by itself, does not satisfy the characteristics of a confession, all the admissions taken together cannot be regarded as confessional in content.²⁴

This principle has been formulated explicitly by the courts of Sri Lanka.

Although the distinction between a confession and an admission falling short of a full confession is firmly embedded in the law of Sri Lanka in the context of the admissibility of evidence, this distinction may be criticized cogently from the standpoint of policy. Statutory provisions which stringently restrict the admissibility of confessions in Sri Lanka have not been so interpreted by the courts as to preclude the reception in evidence of incriminating or otherwise prejudicial admissions. The effect of the decided cases is that an admission, however disadvantageous, caused by an inducement, threat or promise or made to a police officer may be received in evidence, while a confession falls within the purview of the statutory bar in both situations. Since the same coercion or pressures may induce one man to make a complete confession and another to make one or more incriminating statements equivalent to an admission, the rule which permits reception in evidence of the admission while requiring exclusion of the confession, is difficult to support in principle.²⁵ The considerations of policy which militate against the reception of such evidence, cut across the distinction between confessions and incriminating admissions not amounting to confessions, in circumstances where the statement of the accused has been obtained by means characterized by the law as involving substantial unfairness to the accused.

For comparative purposes it is interesting to note that a similar distinction does not form part of English law. The new Judges' Rules²⁶ published in 1964 purport to bring confessions and incriminating admissions, in the circumstances envisaged, within the scope of a uniform principle. Rule 3 of the Judges' Rules provides that "It is a fundamental condition of the admissibility in evidence against any person, equally of any oral answer given by that person to a question put by a police officer, or of any statement made by that person that it shall have been voluntary in the sense that it has not been obtained from him by fear of prejudice or hope of advantage exercised or held out by a person in authority or by

24. *R. v. Anandagoda* (1960) 62 NLR 241 at p. 254, per H. N. G. Fernando, J. (CCA)

25. See the criticism of the effect of Indian and Sri Lanka law by Lord Reid in *Customs and Excise Commissioners v Harz* (1967) 1 A. C. 760 (H. L.)

26. Home Office Circular No. 31 of 1964, p. 5.

oppression." This formulation of the principle applicable, not involving discrimination between confessions and other incriminating admissions, confers a greater measure of protection on the accused in circumstances where his exceptional vulnerability is recognized by the law.

Where a confession is equivocal, the English courts have consistently asserted that a conviction founded solely thereon may be quashed.²⁷ As examples of ambiguous statements may be cited the words "Just my luck",²⁸ "There is no end to my troubles"²⁹ and the reply "Yes, Sir" given by the accused to an observation by the judge that there was a long list of convictions against him.³⁰ However, once it is apparent that the statement made by the accused is substantially incriminating, English law recognizes no distinction, for purposes of applicability of the exclusionary doctrine, between confessions and admissions which fall short of complete confessions.

The distinction drawn by Sri Lankan law between confessions and other admissions entails the curious result that, where the accused's guilt is manifest *ex facie* the words he has used, his statement would be treated as a confession and compulsorily excluded in a variety of situations so that, in the absence of other compelling evidence, the accused may secure acquittal. On the other hand, if the accused's statement, potentially adverse to him, is incomplete or ambiguous, it would be regarded as an admission and consequently capable of being received in evidence against him, with the result that the likelihood of conviction is enhanced. This anomaly is eliminated by the divergent approach of English law.

2. The Voluntary Character of Confessions

The voluntary character of a confession is a precondition of its admissibility in evidence. Although the form of words used in English and Sri Lanka authorities is not identical, there does not seem to be any difference of substance.

The courts of Sri Lanka have explicitly adopted the attitude³¹ that a "voluntary" confession is synonymous with a confession not made under the influence of an inducement, threat or promise within the meaning of these terms in the relevant statutory provision.³²

27. *R. v. Barker*, (1915) 11 Cr. App. Rep. 191

28. *R. v. Schofield* (1917) 12 Cr. App. Rep. 191

29. *R. v. Curtis* (1913) 29 T. L. R. 512

30. *R. v. Metcalfe* (1913) 9 Cr. App. Rep. 7

31. *R. v. Cicillin* (1956) 58 NLR 472 at p. 475, per Gunasekera, J.

32. Evidence Ordinance, section 24

In seeking to ensure that no confession which does not comply with the test of voluntariness is received in evidence, the courts have evolved a series of useful principles:

- (i) The rule is applicable in Sri Lanka³³ that the voluntary nature of a confession must be proved by the prosecution. Moreover, it has been accepted that the prosecution must discharge this burden beyond a reasonable doubt.³⁴

The principle that the burden of proving the voluntary character of a confession devolves on the prosecution may be justified convincingly. Confessions are admitted as an exception to the rule against hearsay, and the burden of demonstrating their voluntariness should fall on the prosecution in accordance with the general rule as to establishing facts which render hearsay evidence admissible.³⁵

In regard to the standard of proof, Sri Lankan law follows English law which favours, in this connection, proof beyond a reasonable doubt.³⁶ By contrast, Australian law³⁷ and Canadian law³⁸ require proof on a balance of probabilities. In theory the Australian and Canadian position may seem attractive, since it conforms with the rule that the standard of proof based on the balance of probabilities applies to the determination of collateral facts such as those pertaining to admissibility of evidence.³⁹ However, in pragmatic terms, the attitude adopted by the courts of England and Sri Lanka is defensible, since the reception in evidence of a confession makes a conviction virtually inevitable, so that great circumspection is necessary in putting the confession to the jury.

- (ii) In Sri Lanka⁴⁰ a confession made to a police officer is inadmissible in evidence unless the confession is confirmed to, and reduced to writing by, a Magistrate.

33. *R. v. Amaris Appoo* (1895) 1 NLR 209; *R. v. Weerasamy* (1941) 43 NLR 152, *Perera v. Inspector of Police, Galagedara* (1955) 57 NLR 132, *R. v. Gnanaseeha* (1968) 73 NLR 154. But see, for the contrary view, *R. v. Franciscu Appuhamy* (1941) 42 NLR 553 at pp. 556-557 per Wijeyewardene, J.

34. See *R. v. Martin Singho* (1964) 66 NLR 391, per Basnayake, CJ. and *R. v. Kalimuttu* (1966) 69 NLR 349 at p. 352, per Sansoni, C. J.

35. J. D. Heydon, *Cases and Materials on Evidence* (Butterworths 1975), p. 182

36. *R. v. Sartori* (1961) Crim. LR 397

37. *R. v. Wendo* (1963) 109 C. L. R. p. 559

38. *R. v. Lee* (1952) 104 Can. Crim. Cas. 400

39. Heydon, *op. cit.*, p. 182

40. Evidence Ordinance, section 86

The importance of this principle lies in the realization by the accused that he is in the presence of a judicial officer who has no connection with the police and that he has nothing to fear and can speak freely. He should be asked specifically whether he has been assaulted or threatened to induce him to make a statement, or been advised to make a statement, or whether any promise or inducement has been made to him.

The courts of Sri Lanka have insisted that any unwarranted departure from the formalities statutorily⁴¹ required for the recording of a confession by a Magistrate, renders the confession inadmissible. For instance, a confession recorded by a Magistrate but taken under oath is inadmissible, because the law does not provide for the administration of an oath.⁴² Where the Magistrate has been perfunctory in putting questions to the accused, the confession should be excluded.⁴³ *A fortiori*, if the Magistrate fails altogether to question the accused in order to satisfy himself that the confession was voluntary, no use can be made of the confession.⁴⁴ The omission by the Magistrate to read over the confession to the accused is a fatal irregularity.⁴⁵ The Magistrate is bound to probe adequately the accused's motive in making the confession.⁴⁶ If the accused is in a state of fatigue, the Magistrate should not record the confession immediately.⁴⁷

Judicial attitudes have placed emphasis on the requirement that the Magistrate's inquiry into the factors impelling the accused to make the confession, should be complete and persevering.

- (iii) The accused is further protected in Sri Lanka by the requirement that the voluntary nature of the confession should be established independently to the satisfaction of the jury, notwithstanding the Magistrate's certificate that the confession, in his opinion, has been made freely and spontaneously.

41. Criminal Procedure Code, section 134

42. *R. v. Mudianse* (1918) 21 NLR 48, per Shaw, J. A less stringent view has been taken in South Africa, *R. v. Van As* 1941 A. D. 361

43. *R. v. Mudiyanse* Ranhamy (1937) 2 C. L. J. 104, per Abrahams C. J.

44. *R. v. Bilinda* (1926) 27 NLR 390, per Jayewardene, A. J.

45. *R. v. Karaly Muttiah* (1940) 41 NLR 172, per Mosley, J.

46. See the case cited at note 43, *supra*.

47. *ibid.*

The law of Sri Lanka expressly provides that "No Magistrate shall record a statement being a confession unless, upon questioning the person making it, he has reason to believe that it was made voluntarily".⁴⁸ Nevertheless, the Magistrate's opinion is not conclusive,⁴⁹ in that it does not preclude the existence of an earlier taint.⁵⁰

Indeed, it would seem that the certificate issued by the Magistrate does not give rise in Sri Lanka even to a tentative presumption. The law of Sri Lanka recognizes the maxim *omnia praesumuntur rite esse acta* in relation to official acts.⁵¹ But it has been judicially asserted that the presumption is merely that all the necessary formalities purporting to have been performed have in fact been performed, and that it implies nothing about the voluntary or the truthful nature of the contents of a confession recorded by a Magistrate.⁵²

In England the question whether a confession was voluntary is determined by the judge on the *voir dire*.⁵³ At this stage the central issue is not the truth, but the voluntary nature, of the confession. It is a cardinal aspect of the rules delineating the respective functions of judge and jury that the judge decides, as a preliminary issue, whether the confession is voluntary and, if so, puts it to the jury who will act on it only if they are convinced of its truth. The orthodox view that the jury is not entitled to exclude confessions which they consider involuntary, although it has been departed from in some controversial English decisions,⁵⁴ has consistently found favour in other parts of the Commonwealth including Canada⁵⁵ and Australia,⁵⁶ and is now followed in England.⁵⁷ This traditional view, which has not been challenged in Sri Lanka, is sustained by a cogent rationale, in that the elements of the legal test governing the voluntary character of a confession may well be unintelligible to a jury who, in any

48. Code of Criminal Procedure Act No. 15 of 1979, Section 127 (3)

49. *R. v. Ranhamy* (1940) 42 NLR 221 at p. 225, per Soertsz, J.

50. *R. v. Weerasamy* (1941) 43 NLR 154 at p. 157, per Soertsz, J.

51. Evidence Ordinance, Section 80

52. *R. v. Wittie* (1960) 63 NLR 121 at p. 124, per Sansoni, J.

53. R. Cross, *Evidence* (Butterworths, 3rd Edition, 1957), p. 56

54. *R. v. Bass* (1953) 1 Q. B. 680-; *R. v. Hammond* (1941) 3 All ER 318

55. *R. v. Weighill* (1945) 2 D. L. R. 471; *R. v. Hnedish* (1958) 26 W. W. R. 685; *R. v. Laplante* (1959) O. W. N. 80

56. *R. v. Basto* (1954) 91 C. L. R. 628.

57. *R. v. Burgess* (1968) 2 Q. B. 112; *R. v. Owenell* (1969) 1 Q. B. 17.

event, may find it puzzling to be directed that they are precluded from acting on a confession which they believe to be true, if they consider the confession involuntary.

The burden of proof in English law was referred to by Lord Edmund-Davies in the recent case of *Wong Kam-Ming v. R.*⁵⁸ The principle applicable was stated to be that where, on a *voir dire*, the accused's statement had been ruled inadmissible, the prosecution is not entitled at the trial of the general issue to adduce evidence as to what the accused said during the *voir dire* or to cross-examine him on the basis of what he said; and that, accordingly, the calling of the shorthand writers and the Crown's cross-examination constituted substantial irregularities which resulted in evidence being placed before the jury wrongly. This view is in accord with previous authority.⁵⁹

The predominantly positive appraisal which has been made so far of the law in both jurisdictions has to be qualified, by reference to some anomalous aspects of the prevailing rules. It is submitted that the approach adopted by both Sri Lankan law and English law to the attributes of "voluntariness" in the context of confessions is unduly restricted in several respects.

- (a) Only an inducement, threat or promise which has "reference to the charge against the accused person",⁶⁰ has the effect of depriving a confession of its voluntary quality in Sri Lanka.

A similar requirement has been postulated in respect of English law, in textbooks⁶¹ as well as in some decided cases.⁶² The suggested justification of this rule is that it facilitates the confinement of the exclusionary doctrine of the common law, as applied to confessions, within acceptable limits. However, the illogical effect of the limiting principle is demonstrable. "Suppose that a daughter is accused of shop-lifting and later her mother is detected in a similar offence, perhaps at a different branch, where the mother is brought before the manager of the shop. He might induce her to confess by telling her that she must tell him the truth and it will be worse for her if she does not; or the inducement might be that if she will tell the truth he will drop proceedings against the

58. (1979) 2 W. L. R. 81

59. *R. v. Treacy* (1944) 2 All E. R. 229. See also *R. v. Spilsbury* (1835) 7 C. & P. 187

60. Evidence Ordinance, section 24.

61. Joy, *Confessions* (1842) p. 13; cf. Taylor, *Evidence* (1st edition. 1848), p. 592

62. *R. v. Joyce* (1957) 3 All E. R. 623, per Slade, J; *R. v. Shuter* (1965) Times 27 November, per Fenton Atkinson, J; *R. v. Lloyd* (1834) 6 C. & P. 393

daughter. Obviously, the latter would in most cases be far the more powerful inducement and far the more likely to lead to an untrue confession."⁶³

A well-known Sri Lankan case⁶⁴ concerned a prosecution under Income Tax Ordinance for making a false return of income. One of the matters for decision was whether statements of a confessional nature made by the assessee to the Deputy Commissioner of Inland Revenue were admissible in evidence against him. Weeramantry, J. concluded on the facts of the case that there had been no offer of a settlement and no inducement to settle, since the Department had made no promise to waive its right to prosecute the assessee. The confession was held admissible on the basis that "the advantage gained or evil avoided was certainly not in reference to the criminal proceedings against the accused."⁶⁵

This construction of the law is unavoidable in Sri Lanka where the criterion based on "reference to the charge against the accused" is expressly adverted to by statute.

For English law, the House of Lords declared in *Customs and Excise Commissioners v. Harz and Power*⁶⁶ that it is not invariably necessary, to render a confession inadmissible, that the improper inducement or threat must relate to the prosecution. This approach is carried even further by the statement of Edmund Davies, L. J., in *R. v. Middleton*⁶⁷: "The question that arises in this appeal is whether there is any authority for the proposition that the inducement or threat is relevant only if it infringes on the small circle embracing the alleged offender and members of his family and possibly, his very close inmates.... Each member of this Court does not so regard it."⁶⁸

(b) The harm threatened or the benefit proffered, to render the confession inadmissible in Sri Lanka, must be "of a temporal nature".⁶⁹ This excludes any kind of spiritual or "other-worldly" retribution or penance which may be feared. The limitation involved is that any form of apprehension, or hope of advantage, is not sufficient. The fear or hope entertained by the accused at the time of making the confession must be of the kind specified.

63. *Customs and Excise Commissioners v Harz* (1967) 1 A. C. 730 (H. L.), per Lord Reid

64. *Jayanetti v Mitrasena* (1968) 71 NLR 385.

65. At page 393

66. (1967) 1 A. C. 760

67. (1974) 2 All E. R. 1190

68. At page 1194

69. Evidence Ordinance, section 24

A similar qualifying principle has been adverted to by the English courts. In accordance with the principle that the inducement must relate only to temporal and not to spiritual or moral consequences,⁷⁰ it has been held that the inducements contained in the words "I hope you will tell me the truth, in the presence of the Almighty"⁷¹ and "Don't run your soul into more sin, but tell the truth"⁷² do not render confessions inadmissible.

The defence of this rule, propounded by Joy⁷³ and supported by Wigmore⁷⁴ is that "It seems difficult to imagine that a man under spiritual convictions and the influence of religious impressions would confess himself guilty of a crime of which he was not guilty. Such spiritual convictions or spiritual exhortations seem from the nature of religion, the most likely of all motives to produce truth. If temporal hopes exist, they may lead to falsehood. Spiritual hopes can lead to nothing but truth". However, this argument is not entirely convincing. It has been aptly pointed out that "A remark from a priest to a simple parishioner in the presence of a policeman might be calculated to lead to an untruth, however sound the rule is in the generality of cases."⁷⁵

This limitation which has its origin in the English common law⁷⁶ has little to commend it in terms of policy. A confession induced by threats or promises should be ruled out as evidence because of the element of coercion operating on the mind of the accused. It is not difficult to conceive of circumstances in which threatened evil of a non-temporal nature is likely to be more effective in breaking down the accused's willpower and resolve than harm of a mundane character which is sought to be forestalled. This distinction, rigidly made by Sri Lankan law as well as by English law, has no relevance to the quality or degree of the pressure brought to bear on the accused person's mind.

(c) In Sri Lanka, an inducement, threat or promise renders a confession inadmissible only if it proceeds from "a person in authority" or "from another person in the presence of a person in authority and with his sanction."⁷⁷

70. *R. v. Gilhams* (1828) 11 Mood. C. C. 186; J. D. Heydon, *Cases and Materials on Evidence* (London, 1975), p. 173.

71. *R. v. Wild* (1835) 1 Mood C. C. 452

72. *R. v. Sleeman* (1853) Dears. 249

73. *Confessions*, p. 51

74. *Evidence*, paragraph 840

75. Heydon, *op. cit.*, pages 173-174.

76. *R. v. Gibbons* (1823) 1 C & P 97; *R. v. Tyler and Finch* (1823) 1 C & P 129

77. *Evidence Ordinance*, section 24.

The phrase "a person in authority" is amenable to more than one interpretation. The narrower interpretation of the phrase is that it denotes exclusively a person having power to control criminal proceedings which involve jeopardy to the accused. According to the broader interpretation, a person in authority can be as much one who has authority or control over an employee as one who exercises authority over proceedings or a prosecution against him.

The decided cases in Sri Lanka uniformly support the broader view. In three cases⁷⁸ the superintendent of a plantation who had exhorted the accused, an employee on the estate, to make a confession relating to an alleged theft of property under the superintendent's control, was held to be a "person in authority." On the other hand, a person who detained a suspect until the arrival of the police on the scene, has not been considered, *ipso facto*, "a person in authority."⁷⁹

Clearly, the reason for the emphasis on "a person in authority" as the source from which the threat or promise emanates, is that an inducement made by such a person is more likely to operate effectively on the accused's mind and to culminate in a confession. However, if the ground on which confessions induced by promises held out by persons in authority are held to be inadmissible is that they may not be true, there may be a similar risk that in some circumstances the confession may not be true, if induced by a promise held out by a person not in authority, for instance, if such a person offers a bribe in return for a confession.⁸⁰ An example of such a situation is provided by the facts of a leading case⁸¹ where the accused confessed to B, a "trusted friend", while in police custody, in response to B's promise to help him recover certain money he was alleged to have stolen. The Privy Council held the confession admissible on the ground that the inducement did not come from "a person in authority."

This result, it is submitted, is not defensible from the standpoint of policy. Indeed, the English Law Revision Committee has recommended the abolition of the "person in authority" rule on the practical ground that effective inducements are just as likely to proceed from persons not in authority.⁸² Recognizing this, South African courts, for example, have

78. *Hodson v. George* (1909) 12 NLR 273; *Seeni v. Alagana* (1916) 3 C. W. R. 274; *R. v. Goonetilleke* (1970) 74 NLR 118

79. *R. v. Weerasamy* (1942) 43 NLR 207

80. *Customs and Excise Commissioners v Harz* (1967) 1 A. C. 760

81. *Deoktananan v. R.* (1969) 1 A. C. 20

82. 11th Report, paragraph 58

accepted that "undue influence" is not limited to inducements relating to the prosecution or proceeding from a person in authority.⁸³ However, the "person in authority" rule is firmly embedded in the English case law.

A constable or other officer having the accused in custody,⁸⁴ a private individual arresting a person accused of felony, the prosecutor⁸⁵ or his wife⁸⁶ or a partner's wife where the offence concerned a partnership,⁸⁷ the prosecutor's attorney,⁸⁸ the accused's employer if the offence had been committed against his person or property,⁸⁹ a magistrate,⁹⁰ a magistrate's clerk,⁹¹ a coroner,⁹² and a high-ranking officer like a sergeant vis-a-vis a soldier⁹³ or a headmistress vis-a-vis schoolgirls⁹⁴ have all been held to be "persons in authority". On the other hand, a private person to whose temporary custody the accused has been committed by a constable,⁹⁵ the chaplain of a gaol,⁹⁶ a doctor called in by the police to examine an accused person,⁹⁷ the captain of a ship vis-a-vis his crew,⁹⁸ the wife of a constable,⁹⁹ an insurance adjuster,¹⁰⁰ a fellow servant¹⁰¹ and a trusted friend¹⁰² are not "persons in authority" in this context.

83. *R. v. Frans Selepi* 1919 TPD 105 at p. 110; *R. v. Gwija* 1960 (4) S. A. 435 (C); cf. *R. v. Khan and Duncan* 1954 (2) S. A. 23 (N); L. H. Hoffman, *South African Law of Evidence* (Durban) (1963) p. 351. However, some South African cases refer to the "person in authority" requirement: see, for instance, Innes, C. J. in *R. v. Barlin* (1926) A. D. 459 at pp. 462 and 465

84. *R. v. Shepherd* (1836) 7 C & P 579

85. *R. v. Jenkins* (1822) Russ. & Ry. 492

86. *R. v. Upchurch* (1836) 1 Mood 465

87. *R. v. Warrington* (1852) 2 Den. 447 n

88. *R. v. Croydon* (1846) 2 Cox 67

89. *R. v. Moore* (1852) 2 Den. 522; cf. *R. v. Wilson* and *R. v. Marshall-Graham* (1967) 2 Q. B. 406

90. *R. v. Cooper* (1833) 5 C & P 535; *R. v. Gillis* (1866) 11 Cox 69

91. *R. v. Drew* (1837) 8 C & P 140

92. *R. v. Waltho*, *The Times*, June 17, 1905

93. *R. v. Smith*, (1959) 2 Q. B. 35

94. *R. v. McLintock* (1962) Crim. L. R. 549

95. *R. v. Enoch* (1833) 5 C. & P. 539; *R. v. Windsor* (1864) 4 F & F. 363

96. *R. v. Gilham* (1828) 1 Mood. 186

97. *R. v. Nowell* (1948) 1 All E. R. 794. A different view was taken for Scots law in *Reid v Nixon* (1948) Sess. Notes 17.

98. *R. v. Moore* (1852) 2 Den. 526

99. *R. v. Hardwick* (1811) 1 C. & P. 98n

100. *R. v. Eftoda* (1965) 37 D. L. R. 269

101. *Keefe v. R.* (1917) 21 W. A. R. 88

102. *Deokinanan v. R.* (1969) 1 A. C. 20

If a person in authority makes an inducement and a confession is then made, but to a different person in authority, it can be excluded.¹⁰³ The result is different if the inducement proceeds from one not in authority and the confession is made to one in authority.¹⁰⁴

The principle has been authoritatively formulated¹⁰⁵ for English law that, to exclude a confession, the inducement must have been held out by a person in authority,¹⁰⁶ or by someone acting in the presence and without the dissent of such a person,¹⁰⁷ or perhaps by someone erroneously believed by the accused to be in authority.¹⁰⁸

The intention of the framers of the Evidence Ordinance of Sri Lanka was to modify and establish in the Island the principles of the English Law of Evidence subject to appropriate modification.¹⁰⁹ The condition of English law during the nineteenth century on this topic has been described as 'liberalism run wild'.¹¹⁰ A variety of factors such as the unscrupulous methods frequently resorted to by the police, the ignorance or poverty of accused persons, the harshness of the penalties prescribed by the criminal law for comparatively trivial offences in early times and the inherent bias of English law against acquiescence in self-incrimination by the accused cumulatively gave rise in England to a climate of judicial opinion pervaded by overt hostility to the reception of confessions in evidence. The reaction to this spirit of unbridled liberalism had set in before the end of the nineteenth century when the Evidence Ordinance of Sri Lanka, modelled on the lines of the Indian Evidence Act, was drafted in conformity with trends and attitudes current in England.¹¹¹ It is against this background that the law of Sri Lanka purported to restore the equilibrium by giving due weightage to the legitimate interests of the prosecution. With this objective in view, the exclusionary rules pertaining to confessions were formulated by Sri Lankan law with in-built restrictions which have the effect of whittling down appreciably the protection conferred on the accused.

103. *R. v. Cooper* (1833) S. C. & P. 535

104. *R. v. Tyler and Finch* (1823) 1 C. & P. 129; *Deokinanan v. R.* (1969) 1 A. C. 20

105. Phipson, *Evidence* (10th edition 1963), p. 330

106. *R. v. Simpson* (1834) 1 Mood. 410; *R. v. Boughton* (1910) 6 Cr. App. Rep. 8

107. *R. v. Pountney* (1836) 7 C. & K. 302; *R. v. Laughner* (1846) 2 C. & K. 225 *R. v. Jones* (1885) 49 J. 1. 728

108. But see *R. v. Frewin* (1855) 6 Cox. 530

109. *Attorney-General v. Rawther* (1924) 25 NLR 385 at p. 389, per Bertram, C. J.

110. *R. v. Baldry* (1852) 2 Den. 430; cf. *R. Cross op. cit.*, p. 446

111. G. L. Peiris, *The Law of Evidence in Sri Lanka* (Lake House Investments) 2nd edition, (1977), pages 7-10

Nevertheless, this approach to the criteria subsumed in the definition of the "voluntary" character of a confession is exposed to fundamental criticism. A New Zealand court has observed that "In broad terms any circumstance which robs a confession of the quality described by the word 'voluntary' will render the confession inadmissible."¹¹² The symmetry and logical development of the law should not be impaired by the superimposition of technicalities which do not lend themselves to rational justification. The House of Lords has made the apt comment, in an analogous context, that "If the tendency to reject confessions is thought to have been carried too far, it cannot be proper to try to redress the balance by engrafting on the general principle an illogical exception, which at best can only operate sporadically, leaving the mischief untouched in the great majority of cases".¹¹³

In a jurisdiction like Sri Lanka where the test of "voluntariness" of confessions incorporates formulae which inhibit, to some extent, a realistic evaluation of the impact of insidious pressures on the confessor's mind, it is of practical importance that the courts should have power to exclude confessions which are technically admissible on the ground of substantial unfairness to the accused.

The structural framework of English law is seen, in this connection, to have intrinsic value. The approach of English law to the admissibility of confessions in criminal proceedings is founded on three cardinal principles: (i) a confession which does not satisfy the test of "voluntariness" is strictly inadmissible as a matter of law, (ii) a confession which has been obtained in contravention of the Judges' Rules may be excluded as a matter of discretion; (iii) a confession the reception of which involved unfairness to the accused may also be excluded at the court's discretion.¹¹⁴

The Judges' Rules in England have been described as "an expression of the Judge's discretionary power to exclude evidence unfairly or oppressively obtained."¹¹⁵ Similar guidelines are followed as a matter of practice in other jurisdictions like Nigeria and the Australian State of Victoria. According to the English Criminal Law Revision Committee, "In practice it seems that nowadays, before the prosecution can adduce evidence of a statement obtained in breach of the Rules, there must be a positive decision by the

112. *R. v. William* (1959) N. Z. L. R. 502

113. *Customs and Excise Commissioners v. Harz* (1967) 1 A. C. 760, per Lord Reid.

114. I. D. Heydon, *op. cit.*, p. 168

115. P. Devlin, *The Criminal Prosecution in England* (London) (1960), p. 37

court to exercise its discretion in favour of admitting the statement."¹¹⁶ The burden of proving that violation of the Judges' Rules leads to exclusion should rest, both in principle and on authority,¹¹⁷ on the accused.

Although there is a partial overlap between rules (ii) and (iii) set out above in relation to English law, their spheres of operation are not coextensive. The Judges' Rules merely represent an example of the manner in which confessions may be excluded in the court's discretion, notwithstanding their voluntariness.¹¹⁸ Confessions which are not repugnant to the criteria governing voluntariness have been excluded in England on the ground of the confessor's age,¹¹⁹ and in Canada on the footing of serious prejudice to the accused.¹²⁰ The limits of the discretion to exclude on grounds of unfairness are incapable of clear demarcation, but the Criminal Law Revision Committee in England has recommended retention of this discretion.¹²¹

Some of the English cases interpreting "voluntariness" have assumed a needlessly technical complexion. For instance, it has been authoritatively declared that the words "You had better tell the truth" have acquired a technical meaning involving either a threat or a promise.¹²² This construction is supported by a *cursus curiae* during the nineteenth century.¹²³ The extent of the artificiality reflected in the view emerging from these cases is illustrated by the fact that, although the words "You had better tell the truth" have been held to import a threat or an inducement,¹²⁴ the addition of a qualification such as "Be a good girl and speak the truth"¹²⁵ and "You had better as good boys tell the truth"¹²⁶ has been considered to make a material difference.

It is difficult to conceive of a convincing distinction between cases in which the confession has been held to be voluntary and those in which a threat or inducement was thought to have led to the confession. As

116. 11th Report, paragraph 45

117. *R. Batty* (1963) v. R. 451

118. J. D. Heydon, *op cit*, p. 208

119. *R. v. Stewart* (1972) 56 Cr. App. Rep. 272

120. *R. v. Wray* (1970) 11 D. L. R. 675

121. 11th Report, paragraph 278

122. *R. v. Jarvis* (1867) L.R. 1 C.C.R. 96 *per Kelly*, C.B.

123. *R. v. Enoch* (1833) 5 C. & P. 539;

R. v. Hearn (1841) Car & M 109

R. v. Garner (1848) 1 Den. 329

R. v. Baldry (1852) Den. 442

124. See the cases cited at notes 122 and 123

125. *R. v. Stanton* (1911) 6 Cr. App. Rep. 198

126. *R. v. Reeve and Hancock* (1872) L. R. 1 C. C. R. 362

examples of the former category may be cited the words "You had better be careful what you reply"¹²⁷, "Be sure to tell the truth",¹²⁸ "I hope you will tell because Mrs. G. can ill afford to lose the money,"¹²⁹ "I must know more about it",¹³⁰ "Now is the time to take (the stolen property) back to the prosecutrix",¹³¹ "I am a constable. You will have to accompany me to the police station where you will be charged",¹³² "What you say will be used as evidence against you",¹³³ "What you say will be used against or for you",¹³⁴ and "Take care, we know more than you think we know"¹³⁵. On the other hand, the latter category is exemplified by cases involving the use of the words "It is no use to deny it, for there are the man and the boy who will swear they saw you do it",¹³⁶ "I dare say you had a hand in it; you may as well tell me all about it",¹³⁷ "You had better tell me all about the corn that is gone",¹³⁸ "If you tell me where my goods are, I will be favourable to you",¹³⁹ "I only want my money; if you give me that, you may go to the devil",¹⁴⁰ "If you don't tell me, you may get yourself into trouble and it will be the worse for you",¹⁴¹ "If you don't tell me, I will send for a constable",¹⁴² "If you decline to make a statement, we must draw our own conclusions",¹⁴³ "It will depend on your statement whether you are charged or not",¹⁴⁴ "I shall be obliged if you would tell me what you know about it; if you will not, of course we can do nothing for you",¹⁴⁵ "Now be cautious about your answers to the questions I am going to put about this watch",¹⁴⁶ "Do not be frightened; I hope nothing will happen to your husband beyond

127. *R. v. Day* 147 C. C. C. Sess. Pap. 960

128. *R. v. Court* (1836) 7 C. & P. 486; *R. v. Holmes*, 1 Cox. 9

129. *R. v. Lloyd* (1834) 6 C. & P. 393

130. *R. v. Reason* (1872) 12 Cox. 228

131. *R. v. Jones* (1872) 12 Cox. 241

132. *R. v. Males* (1902) 137 C. C. C. Sess. Pap. 225

133. *R. v. Baldry* (1852) 2 Den. 430

134. *R. v. Lang* (1905) 142 C. C. C. Sess. Pap. 1427; *R. v. James* (1909) 2 Cr. App. R. 319

135. *R. v. Jarvis* (1867) L. R. 1. C. C. R. 96. See also *R. v. Moore* (1852) 2 Den. 52
R. v. Sleeman Dears. (1853) 249; *R. v. Thornton*, (1826) 1 Lew 49; *R. v. Dingley*
 (1845) 1 C. & K. 637; *R. v. Burley* (1818) 2 Stark Er. 3rd ed. n. 13; *R. v. Wright* 1 Lew. 48

136. *R. v. Mills* (1833) 6 C. & P. 146

137. *R. v. Craydon* (1846) 2 Cox. 67

138. *R. v. Rose* (1898) 18 Cox 717

139. *R. v. Cass* (1784) 1 Leach 293n

140. *R. v. Jones* (1809) Rus. and Ry. 142

141. *R. v. Coley* (1868) 10 Cox 536

142. *R. v. Richards* (1832) 5 C. & P. 318

143. *R. v. King* (1909) 151 C. C. C. Sess. Pap. 233

144. *R. v. Inger* (1901) 134 C. C. C. Sess. Pap. 505

145. *R. v. Partridge* (1836) 7 C. & P. 551

146. *R. v. Fleming* (1842) 1 Arm. M. & O. 330

the loss of his situation",¹⁴⁷ "This is a serious charge; take care that you do not say anything to injure yourself",¹⁴⁸ and "It will be the right thing to make a clean breast of it."¹⁴⁹

The distinction drawn in these cases turned primarily on verbal and technical considerations and were, in the main, devoid of substance. In recent times a more realistic approach has been adopted by the English courts. Thus, it has been conceded that the surrounding circumstances are no less important than the terms of the inducement.¹⁵⁰ Moreover, although there is some authority to the contrary,¹⁵¹ it is generally accepted today that nothing turns on the distinction between threats and promises¹⁵² which are both viewed as factors violating the requirement of voluntariness. The general principle has been laid down that "Whatever be the nature of the inducement made and however trivial it may seem to the average man to have been, such an inducement will be at least capable of rendering the statement then made inadmissible. It will have that effect unless in a given case it becomes plain beyond a reasonable doubt that it did not operate at all on the mind of the person to whom it was made."¹⁵³ Although the use or threat of violence would undoubtedly result in a confession being characterized as involuntary,¹⁵⁴ it is clear in the present condition of the authorities that a similar conclusion could be reached justifiably in the complete absence of actual or threatened violence. There is no doubt that self-induced hopes entertained by the accused will not deprive the confession of its voluntary character.¹⁵⁵

These principles have been applied consistently in recent English cases. In *R. v. Zaveckas*¹⁵⁶ the appellant was suspected by the police of having been connected with the commission of an offence. He was told by a police officer that an identification parade had been arranged and that if he was not picked out, he would be allowed to go. The appellant asked whether he would be given bail at once if he made a statement.

147. *R. v. Harding* (1842) (Ir) M 40. 320

148. *R. v. Thompson* (1893) 2 Q. B. 12

149. *R. v. Hornbrook* (1843) 1 Cox 54. See also *R. v. Fennel* (1881) 7 Q. B. D. 147; *R. v. Upchurch* (1836) 1 M. C. C. 465; *R. v. Mansfield* (1881) 14 Cox. 639; *R. v. Windsor* (1864) 4 F. & F. 360; *R. v. Hearn* (1841) 1 C. & M. 109; *R. v. Cook* (1959) 2 Q. B. 340.

150. *R. v. Priestley* (1966) 50 Cr. App. Rep. 1831

151. *R. v. Williams* (1968) 52 Cr. App. Rep. 439

152. J. D. Heydon, *Cases and Materials on Evidence* (London, 1975) p. 169.

153. *R. v. Richards* (1967) 1 All E. R. 819 (C. A.), per Winn, L. J.

154. *R. v. Parratt* (1831) 4 C. & P. 570; *R. v. Luckhurst* (1883) 6 Cox C. C. 233

155. *F. v. Godinho* (1911) 7 Cr. App. Rep. 12 (C. C. A)

156. (1970) 1 All E. R. 413

On the police officer replying in the affirmative, the appellant made a statement admitting guilt. The lower court seems to have felt that it was not the police officer who, in the first instance, held out the inducement, since the appellant raised the question whether the making of the inducement would result in his being released on bail. However, the Court of Appeal had no doubt that the question asked by the appellant, together with the police officer's answers, amounted to an inducement. The conclusion reached in this case is substantially in accord with the ruling in *R. v. Northam*.¹⁵⁷

When the accused's father told the accused in the presence of police officers: "Put your cards on the table, tell them the lot, if you did not hit him they cannot hang you", it was held by the Court of Appeal that the resulting confession could not be regarded as voluntary.¹⁵⁸ Similarly, where the police indicated to the accused that, if he made a statement, he might be tried by a military court and that his family would be spared the odium of publicity, an inducement was held to have been used.¹⁵⁹ A threat by a regimental sergeant major to put his men on parade and to keep them there until he was told who participated in a stabbing incident, deprives a confession of its voluntary character.¹⁶⁰

In *D. P. P. v. Ping Lin*¹⁶¹ Browne L. J. pointed out, on behalf of the English Court of Appeal, that the issue whether a statement is voluntary is basically one of fact and that, in determining the admissibility of such a statement, the trial judge should approach his task by applying the test enunciated by Lord Sumner in *Ibrahim v. R.*¹⁶² in a common sense way to all the facts of the case in their context. The trial judge should ask himself whether the prosecution had proved that the contested statement was voluntary in the sense that it was not obtained by fear or prejudice or hope of advantage excited or held out by a person in authority. Emphasis was placed on the principle that it is not necessary, before a statement is held to be inadmissible because it was not shown to have been voluntary, that it should be thought or held that there was impropriety in the conduct of the person to whom the statement was made. What has to be considered is whether a statement is demonstrated to have been voluntary rather than one brought about in an improper manner.

157. (1967) 52 Crim. App. Rep. 97

158. *R. v. Cleary* (1963) 48 Cr. App. Rep. 116

159. *Sparks v. R.* (1965) A. C. 964

160. *R. v. Smith* (1959) 2 Q. B. 35

161. (1973) 3 W. L. R. 419

162. (1914) A. C. 599

In *R. v. Isequilla*¹⁶³ the English Court of Appeal presided over by Lord Widgery C. J. conceded that conduct could amount to inducement although, on the facts of the case, no inducement was held to have been used. In this case three detectives acting on information about a proposed armed robbery went to a bank where they saw the appellant sitting in the passenger seat of a car. One of the detectives jumped into the car, caught hold of the appellant and handcuffed him. Another detective approached the car from the other side with a gun. Inside the car was a briefcase containing an imitation firearm and a note which read: "Keep calm. Hand over £3, 000 or I'll blow your head off". When asked about the revolver and the note, the appellant began to cry, saying: "I won't cause any trouble. I have been very stupid". He was taken to a police car and asked what he had been intending to do. The appellant replied: "I was short of money and I was going to try and get some from the bank". He was cautioned and taken to a police station. At all times it was clear that the appellant was very frightened and, by the time he had arrived at the police station, he was completely hysterical. He was charged with, *inter alia*, possessing an imitation firearm and having an article for use in connection with theft. At his trial objection was taken to the admission of the confessions. The trial judge concluded that the detectives had acted properly and held that the confessions were admissible. The appellant was convicted and appealed, contending that, although the police officers had acted quite properly, their conduct had been such as to amount to an inducement to confess, even though that had not been their intention. The Court of Appeal, rejecting this contention, stated that the exclusion of a confession as a matter of law on the ground that it was not voluntary had to be related to some conduct on the part of the person in authority which was improper or unjustified, such as the offer of an inducement. This view is unequivocally supported by English¹⁶⁴ and Commonwealth¹⁶⁵ authority.

The difficulty of reaching an equitable result in keeping with the criteria as to voluntariness, spelt out or tacitly acted upon in some of the English cases, has provided an impetus for suggestions in regard to an entirely different approach to the admissibility of confessions. Thus, it has been suggested¹⁶⁶ that the judge should be given a discretion to exclude

163. (1975) 1 All E. R. 77

164. *R. v. Scott* (1856) Dears & B. 47 at p. 58, *per* Lord Campbell

165. *Naniseni v. R.* (1971), N. Z. L. R. 269

166. R. Cross, *Evidence* (3rd edition, London, 1967), p. 448

confessions which he considers to have been unfairly obtained¹⁶⁷ and that all confessions should be placed before the jury to assess their probative value¹⁶⁸.

The anomalies resulting from the excessively technical criteria which governed the approach of the courts at one time to the interpretation of the requirement of voluntariness, were mitigated by the structure of English law. Even though a confession is treated as voluntary as a matter of law, the judge has a discretion to reject it if he considers that it was obtained in circumstances which would render its reception unfair to the accused.¹⁶⁹ Confessions obtained in breach of the Judges' Rules are liable to be rejected in England at the judge's discretion.¹⁷⁰

The Judges' Rules drawn up in 1912 at the request of the Home Secretary for the guidance of police officers and revised in 1964, reflect a compromise between conflicting objectives. It had always been recognized that "It would be a lamentable thing if the police were not allowed to make enquiries, and if statements made by prisoners were excluded because of a shadowy notion that if the prisoners were left to themselves they would not have made them."¹⁷¹ On the other hand, "it would be monstrous if the law permitted a police officer to go, without anyone being present to see how the matter was conducted, and put a prisoner through an examination, and then produced the effects of that examination against him."¹⁷²

It is a fundamental feature of the Judges' Rules that "These rules have not the force of law; they are administrative directions the observance of which the police authorities should enforce upon their subordinates as tending to the fair administration of justice."¹⁷³ Three points have been emphasized judicially about the Judges' Rules: (a) They are not mandatory or even directed to the court at all. They are rules of conduct directed to the police.¹⁷⁴ (b) Where a statement has been made without caution in circumstances where compliance with the Judges' Rules would have necessitated a caution, or where the rules have been contravened in some other way, it is a matter for the trial judge to

167. See, for Scots law, *Brown v. H. M. Advocate* (1966) S. L. T. 105

168. *R. v. Baldry* (1852) 2 Den. 430

169. *R. Cross, op. cit.*, p. 446

170. *Ibid*

171. *R. v. Cook* (1918) 34 T. L. R. 515 (C. C. A.) per Darling, J.

172. *R. v. Male* (1893) 17 Cox C. C. 689 at p. 690, per Cave, J.

173. *R. v. Voisin* (1918) 1 K. B. 531

174. *R. v. Owenell* (1969) 1 Q. B. 17

exercise his own discretion as to whether the statement should be admitted or not.¹⁷⁵ (c) In exercising that discretion, so long as the statement is not inadmissible, the trial judge will apply his mind, *inter alia*, to such factors and principles as the balance between probative value and potential prejudice.¹⁷⁶

The English courts, interpreting the Judges' Rules, have held that there should be no cross-examination after the accused is charged regarding the offence in question, but that this may properly occur respecting other offences.¹⁷⁷ The police are entitled to question a man without cautioning him on the basis of a hearsay underworld tip-off.¹⁷⁸ In interpreting the rules governing interrogation of persons in custody, the English courts have taken the narrow view that "custody" envisages police custody exclusively and not that of other authorities such as military officers¹⁷⁹ and mental institutions.¹⁸⁰ However, in the context of the Rule that "Persons other than police officers charged with the duty of investigating offences shall, so far as practicable, comply with (the Judges') Rules",¹⁸¹ the English Court of Appeal has held that this principle extends beyond the police to professional investigators who are likely to know the caution and not ordinary citizens who by chance find themselves in a position where they happen to be interrogating suspects.¹⁸² The principle is also established, in keeping with the spirit of the Judges' Rules, that the police ought not to interrogate persons in custody as to an offence suggested to have been committed by one of them¹⁸³ or confront such persons with one another.¹⁸⁴

The principle that failure to observe the Judges' Rules does not necessarily render a confession inadmissible, was emphasized in *R. v. Stewart*.¹⁸⁵ This concerned an appeal against a conviction on six counts of housebreaking and larceny. The point in issue in appeal was the admissibility of the evidence of a detective constable of a conversation overheard between the appellant and his co-accused when they were both

175. *R. v. Lemasatef* (1977) 1 W. L. R. 812. See also *Beese v. Governor of Ashford Remand Centre* (1973) 3 All E. R. 689; *R. v. Osbourne* (1973) 2 W. L. R. 209; *Chan Wai-Keung v. R.* (1967) 1 All E. R. 101

176. *R. v. Prager* (1973) 1 All E. R. 114, *per* Edmund Davies, L. J.

177. *R. v. Buchan* (1964) 1 All E. R. 502

178. *R. v. White* (1964) Crim. L. R. 720 (C. C. A.)

179. *R. v. Harris-Rivett* (1936) 1 Q. B. 220

180. *R. v. Straffen* (1952) 2 Q. B. 911

181. Judges' Rules, Rule VI

182. *R. v. Nichols* (1967) 51 Cr. App. Rep. 233

183. *R. v. Grayson* 16 (1921) Cr. App. Rep. 7

184. *R. v. Pilley* 16 (1922) Cr. App. Rep. 138

185. (1970) 1 All E. R. 689

confined in cells at a police station. The detective constable had been put in a nearby cell in civilian clothes. Counsel for the appellant contended that this evidence ought not to have been admitted, since it was obtained by the effect of a trap and, although not contrary to the actual letter of the Judges' Rules, amounted to a violation of their spirit. However, Phillimore, L. J., delivering the judgment of the Court of Appeal pointed out that there was clearly a discretion in the court in such a case and that the discretion had been rightly exercised. The court noted that this was not a matter involving life and that the conversation was not only inconsistent with innocence but showed that the accused persons were planning to concoct alibis.

It is submitted that the English courts could adopt with advantage the principle favoured in Australia¹⁸⁶ that the burden of proving that a breach of the Judges' Rules should lead to exclusion of the statement, devolves on the accused.

The resilience and malleability of English law are illustrated also by the principle that a confession, the reception of which involves unfairness to the accused, should be excluded by the trial judge. It has been declared to be a fundamental principle of English law that "No answer to a question and no statement is admissible unless it is shown by the prosecution not to have been obtained in an oppressive manner and to have been voluntary in the sense that it has not been obtained by threats or inducements."¹⁸⁷ Moreover, the test of "oppression" in English law is predominantly subjective. "What may be oppressive as regards a child, an invalid or an old man or somebody inexperienced in the ways of this world may turn out not to be oppressive when one finds that the accused person is of a tough character and an experienced man of the world."¹⁸⁸

It is submitted that a residuary discretion to exclude confessions on grounds of unfairness may be exercised properly and usefully by the courts of Sri Lanka. Although this jurisdiction has not been conferred by statute, its invocation may be supported by an argument based on analogy. The Evidence Ordinance of Sri Lanka embodies a series of elaborate definitions of "relevant facts" which are treated as judicially receivable evidence. Notwithstanding that the provisions of the statute governing admissibility are couched in imperative terms, the courts of Sri Lanka have claimed jurisdiction to exclude technically admissible evidence on grounds

186. *R. v. Batty* (1963) V. R. 451

187. *Callis v. Gunn* (1964) 1 Q. B. 595 at p. 501, per Lord Parker, C. J.

188. *R. v. Priestley* (1966) 51 Cr. App. Rep. 1, per Sachs, J., adopted by the Court of Appeal in *R. v. Prager* (1973) 1 All E. R. 1114 at p. 1119

of unfairness. This attitude is explicit in a judgment of Gratiaen, J., who ruled out, on this footing, a letter tendered in evidence by the prosecution. His Lordship declared: "It is important to realize that, on the one hand, the evidential value, if any, of the letter standing by itself is slender, whereas the prejudicial effect which its reception might have on the minds of the jurors would potentially be so substantial as seriously to impair the fairness of the trial. I confess that this is a circumstance which weighs very considerably with me."¹⁸⁹ A residuary principle of exclusion, if acceptable in the setting of the doctrine relating to relevancy, has at least an equal justification in regard to confessions.

If judicial discretion to exclude a confession on grounds of substantial unfairness may be recognized in Sri Lanka, the concept of "oppression", as it has been developed within the framework of English law, becomes superfluous. In keeping with the English doctrine a court has a duty to exclude as "involuntary" confessions obtained in oppressive circumstances.¹⁹⁰ This duty is an example of the general involuntariness rule and arises from a basis of exclusion considerably narrower than the criterion of "unfairness" which involves an effective discretion on the part of the court. "Oppression", clearly, covers only part of the area catered for by the rule relating to "unfairness".

A broad conception of jurisdiction is desirable in this context. A parallel is suggested by the assumption of supervisory powers by the Supreme Court of the United States of America over inferior federal courts in regard to the reception in evidence of confessions in criminal proceedings.¹⁹¹

The guidelines reflected in the Judges' Rules in England are unsatisfactory in one respect. The Rules require that, before any question is put to an accused person, he should be cautioned that he is not obliged to answer any of these questions but that, if he does, the questions and answers will be taken down in writing and may be given in evidence.¹⁹² The practical result of administering such a caution is, in most cases, to bring the interrogation to an end. The undesirability of stultifying police investigation of crime to this extent accounts for the view of the Criminal Law Revision Committee in England that the requirement relating to a

189. *R. v. Sathasivam* (1955) 55 NLR 255 at p. 257

190. *Contra*: Phipson, *The Law of Evidence* (12th ed., 1976), Sections 791-794, where the submission is made that a confession induced by oppression is in strict law admissible though a court should reject it in the exercise of its discretion.

191. *McNabb v. U. S.* (1943) 318 U. S. 332; *Mallory v. U. S.* (1957) 353 U. S. 449

192. Judges' Rules, paragraph 3 (b)

compulsory caution should not be retained.¹⁹³ It is submitted that the absence of a requirement of this nature from the law of Sri Lanka is justifiable.

The law of the United States of America goes even further than English law to protect the accused. American law concedes to the accused his right to be informed of the privilege to remain silent¹⁹⁴ and of his right to be represented by counsel¹⁹⁵ at public expense.¹⁹⁶ These rights have been held to emerge inferentially from the Fifth and Sixth Amendments to the American Constitution which declare, respectively, that "No person shall be compelled in any criminal case to be a witness against himself" and that "The accused shall have the assistance of counsel". Although these rights, apart from those conferred on accused persons by the United States Supreme Court through interpretation of the "due process" clauses in the Bill of Rights,¹⁹⁷ seem unassailably entrenched in American law, their content and scope signify a grave impediment to law enforcement. "To warn the suspect that he may remain silent and remind him that his confession may be used in court are minor obstructions. To require also an express waiver by the suspect and an end to questioning whenever he demurs must heavily handicap questioning. And to suggest or provide counsel for the suspect simply invites the end of the interrogation."¹⁹⁸ The American doctrines have found expression in a modified form in the law of other jurisdictions like Ireland and Papua-New Guinea. It is apparent, however, that their exclusion has enabled the law of England and Sri Lanka to evolve a more acceptable compromise between the conflicting interests of the accused and the community at large.

3. Confessions Made to Police Officers

Statutory provisions in Sri Lanka¹⁹⁹ incorporate a prohibition against the reception in evidence of a confession made to a police officer, unless the confession has been recorded by a Magistrate. Sri Lankan law has adopted the prohibition from the Indian Evidence Act 1872, based on the work of Sir Fitzjames Stephen.

193. 11th Report (1972 Cmnd. 4991), paragraphs 43 and 52

194. *Miranda v. Arizona* (1966) 384 U. S. 436, per Warren, C. J.

195. *Escobedo v. Illinois* (1964) 378 U. S. 478

196. *Gideon v. Wainwright* (1963) 372 U. S. 335

197. See, for example, *Stein v. New York* (1953) 346 U. S. 156; *Wong Sun v. U. S.* (1963) 83 S. Ct. 407

198. *Miranda v. Arizona* (1966) 384 U. S. 436, per Harlan, J. (dissenting)

199. Evidence Ordinance No. 14 of 1895, section 25

The statutory bar on the use of confessions made to police officers is the subject of controversy. The rationale of the principle excluding confessions obtained in consequence of improper threats, inducements or promises is self-evident, and disagreement is possible only in regard to the scope and implications of this principle. However, the inadmissibility of confessions made to police officers is not a necessary feature of a rational system of criminal justice and indeed does not find recognition in Anglo-American law.

Wide powers need to be conferred on the police, since thorough questioning of the first suspected person often makes possible the pursuit of the right trail for the others²⁰⁰. Wigmore, while conceding that there are abuses by the police, denies emphatically that a strict rule of exclusion of confessions obtained by the police is the proper remedy.²⁰¹ The first remedy suggested by him is to improve police personnel, and the second is to provide a means of speedy confession which is less susceptible to abuses, while still taking advantage of the inherent psychological situation.

The practice in England is to exclude confessions made to police officers only if it is considered on a review of all the circumstances that they have been secured in an improper manner.²⁰² A distinguished English judge has commented that "It would be a lamentable thing if the police were not allowed to make inquiries."²⁰³ The object of the Judges' Rules in England is to ensure that questioning of an accused by the police does not take place in a manner which involves unfair prejudice to the accused. Confessions obtained from accused persons contrary to the spirit of these Rules may be rejected as evidence by the judge presiding at the trial,²⁰⁴ but Anglo-American law does not look on the mere circumstance that a confession was made to a police officer as a conclusive ground for ruling out the confession.

In accordance with the approach of English and American law confessions made to police officers do not require the application of a special test but are governed by the criteria relating to voluntariness. Thus, a confession is considered involuntary if it is made during an investigation which "by its nature, duration or other attendant circumstances excites

200. Wigmore, *Treatise on the Anglo-American System of Evidence in Trials at Common Law* (3rd edition), para. 851

201. *ibid*

202. *McDermott v. R.* (1948) 76 NLR. 501

203. *R. v. Cook* (1948) 34 T. L. R. 515 (C. C. A.), *per* Darling, J.

204. *R. v. Voisin* (1918) 1 K. B. 531

hopes or fears, or so affects the mind of the suspect that his will crumbles".²⁰⁵ Relevant factors in this connection are "the length of time of individual periods of questioning, the length of time intervening between periods of questioning, whether the accused person has been given proper refreshment or not, and the characteristics of the person who makes the statement."²⁰⁶ The High Court of Australia has declared that confessions are involuntary if obtained by "prolonged and sustained pressure by police officers upon a prisoner in their hands until, through mental and physical exhaustion to which want of sleep and food sometimes contribute, he consents, in order to obtain relief, to make a confession of the crime."²⁰⁷

In England and in most Commonwealth jurisdictions, as well as in the United States of America, a confession made to a police officer is ruled out only if it does not satisfy the test of voluntariness or if its exclusion is considered desirable by the court on the footing of the "unfairness" rule.

In Sri Lanka, by contrast, if a confession has been made to a police officer, it is unnecessary to inquire whether it has been made voluntarily, for the confession is excluded absolutely in these circumstances.²⁰⁸ The ground of exclusion is simply the relationship between the officer concerned and the accused.

A series of conflicting suggestions as to the rationale underlying this inflexible statutory bar emerges from the decided cases in Sri Lanka where judges have looked upon the exclusionary rule with favour.

(a) It has been suggested that an objective and dispassionate attitude cannot confidently be expected of police officers in Sri Lanka who "are not always proof against the temptation of deposing that the accused made some statement the effect of which is to strengthen the case for the prosecution or to clinch the charge against the accused."²⁰⁹

(b) The privilege against self-incrimination has been thought to lie at the root of the exclusionary principle. According to this view, it is of paramount importance to prevent the conviction of an accused person from being furthered by statements made by himself.²¹⁰

205. Lord McDermott in an address to the Bentham Club (1968) 21 C. L. P. 10

206. *R. v. Priestley* (1965) 51 Cr. App. Rep. 1 at pp.1-2, per Sachs, J.

207. *Cornelius v. R.* (1936) 55 C. L. R. 235

208. *R. v. Sudahamma* (1924) 26 N. L. R. 220; *R. v. Packeer Tamby* (1931) 32 N.L.R. 262.

209. *R. v. Kalubanda* (1912) 15 N.L.R. 422 at p. 425, per Lascelles, C. J.

210. *R. v. Buddharakkita* (1961) 63 N.L.R. 43 at p. 47, per T. S. Fernando J.

(c) Importance has been attached to the discouragement of abuse of authority by the police which could erode the fundamental rights of the citizen. The Supreme Court has asserted that "The risk is great that the police will accomplish behind their closed doors precisely what the demands of our legal order forbid."²¹¹

(d) The suggestion has been made that the likelihood of testimonial untrustworthiness militates against the admission of confessions made to police officers. "Police authority itself, however carefully controlled, carries a menace to those brought suddenly under its shadow and the law recognizes and provides against the danger of such persons making incriminating confessions with the intention of placating authority and without regard to the truth of what they are saying".²¹²

In Sri Lanka where the Evidence Ordinance contains no definition of a "police officer", definitions in other statutes like the Police Ordinance²¹³ and the Criminal Procedure Code²¹⁴ have been called in aid. The consensus of judicial opinion in Sri Lanka is that a mudaliyar (an executive official) who holds an inquiry at the request of a Government Agent into a departmental petition, is a "police officer".²¹⁵ However, it has been held that a Police Magistrate who purports to perform the duties of a police officer without legal authority, cannot be considered a "police officer"²¹⁶. The Sri Lankan cases indicate on the whole an elastic approach to the definition of a "police officer", in that the established practice of the courts has been to construe the section as applying to statements made to those who are authorized to exercise powers which constitute them police officers in all but in name—such persons, for instance, as police headmen who are directly authorized and required to concern themselves with the same range of crimes as that with which the police force themselves are concerned.²¹⁷

211. *R. v. Gnanaseeha* (1968) 73 N.L.R. 154 at p. 180

212. *R. v. Murugan Ramasamy* (1964) 66 N.L.R. 265 at p. 268 (P. C.), per Viscount Radcliffe.

213. No. 16 of 1865

214. No. 15 of 1898

215. *Nuge Kanny v. Pables Perera* (1908) 1 Tambiah Reports 25; cf. *Vidane Arachhi of Kalupe v. Appu Sinno* (1921) 22 N.L.R. 412.

216. *R. v. Sepala* (1937) 38 N.L.R. 285 cf. *Siva Subramaniam v. Kandan* (1907) 1 Cr App. Rep. 79; *Wilbert v. Vanden Driesen* (1960) 62 N. L. R. 381

217. *Rose v. Fernando* (1927) 29 N.L.R. 45 at p. 47 per Fisher C. J.

English law, instead of imposing a blanket exclusion of confessions made to police officers, endeavours by means of the Judges' Rules to regulate and control the interrogation of persons under suspicion by the police.²¹⁸

Rule I permits police questioning of any person, whether a suspect or not, even if he is in custody, provided that he has not been charged with, or informed that he may be prosecuted for, the offence concerning which the questions are put.

Rule II requires a caution to be given as soon as a police officer has evidence which would afford reasonable grounds for suspecting that the person interrogated has committed an offence. By "evidence", in this context, is meant information which can be placed before a court.²¹⁹

Rule III requires a further caution to be administered when that person is charged or informed that he may be prosecuted, and provides that it is only in exceptional circumstances that questions may be put thereafter. The "charge" contemplated by Rule III is the formal charge, and not the informal charge given on suspicion.²²⁰

Rule IV governs the taking down of statements, while Rule V is concerned with the case of two persons charged with the same offence. If the reply made by a prisoner to whom his co-accused's statement has been improperly read is intelligible without reference to the statement, it may be received in evidence against him as a confession, otherwise it will probably be excluded.²²¹ Rule VI declares that persons other than police officers charged with the duty of investigating offences or charging offenders shall, so far as may be practicable, comply with the Rules.

It must be pointed out, however, that the total exclusion of confessions made to police officers may have a convincing practical justification, in the Sri Lankan context. Social attitudes and values have immediate relevance in this regard. The relationship between the police and the public, particularly in the rural areas of Sri Lanka, renders intelligible the absolute refusal of the law to receive in evidence confessions made to police officers.

218. See R. Cross, *Evidence* (4th edition London 1974) p. 491

219. *R. v. Osborne and Virtue* (1973) 1 All E. R. 649;

220. *R. v. Brackenbury* (1965) 1 All E. R. 960; *R. v. Collier* (1965) 3 All E. R. 136

221. *R. v. Gardner and Hancox* (1918) 11 Cr. App. Rep. 265; *R. v. Mills and Lemon* (1946) 2 All E. R. 776

4. Confessions Made While the Accused is in Police Custody

The law of Sri Lanka provides that "No confession made by any person while he is in the custody of a police officer, unless it be in the immediate presence of a magistrate, shall be proved as against such person."²²² English law embodies no comparable limitation.

The policy objectives underlying the limitation are clear. "It is manifest to everyone's experience that, from the moment a person feels himself in custody on a criminal charge, his mental condition undergoes a very remarkable change, and he naturally becomes much more accessible to every influence that addresses itself either to his hopes or fears."²²³ The basis of the statutory exclusion applicable in Sri Lanka may well be explained by adapting the words of the United States Supreme Court: "In the police station a prisoner is surrounded by known hostile forces. He is disoriented from the world he knows and in which he finds support. He is subject to coercing impingements, undermining if not obvious pressures of every variety. In such an atmosphere, questioning that is long continued – even if it is only repeated at intervals, never protracted to the point of physical exhaustion – inevitably suggests that the questioner has a right to, and expects, an answer."²²⁴

The phrase "in the custody of a police officer" has been interpreted widely in the case law. All circumstances in which the accused remains in the custody of the police while inquiries are made by them have been considered to fall within the purview of the statutory bar.²²⁵

The Sri Lanka courts have expressly declined to recognize, in this context, any distinction between lawful and unlawful police custody,²²⁶ and insisted that the exclusionary principle governs both situations. Moreover, the concept of "police custody" does not necessarily connote the immediate presence of police officers, so long as the accused persons are aware that the place where they are detained is readily accessible to the police.²²⁷ Indian decisions even refer to "the vitiating effect on a confes-

222. Evidence Ordinance, section 26

223. *R. v. Johnston* (1864) 11 C. L. 60 per Hayes, J.

224. *Culombe v. Connecticut* (1961) 367 U. S. 568, per Frankfurter, J.

225. *R. v. Packeer Tamby* (1941) 12 N.L.R. 262; cf. *Don v. Appuhamy* (1899) 1 Tambiah Reps. 72

226. *Poulier v. Abeygunawardena* (1940) 41 N. L. R. 347; *Iyer v. Galboda* (1942) 44 N. L. R. 94.

227. *R. v. Gnanaseeha* (1968) 73 NLR 154; *Iyer v. Galboda* (1942) 44 NLR 94.

sion to a magistrate of certain types of custody to which the accused persons are sent either during the time allowed for reflecting or after the confession has been recorded."²²⁸

According to these decisions, police custody is not permissible even in the immediate aftermath of the recording of a confession by a magistrate.

It is one thing to accept, as Anglo-American law does, that "statements obtained from prisoners contrary to the spirit of the (Judges') Rules may be rejected as evidence."²²⁹ It is another to protect an accused person by forbidding the proof of a confession, even when made of his own free will, to a police officer or when in the custody of a police officer, except in the immediate presence of a magistrate. Sri Lankan and Indian law adopt the latter approach. The reason, probably, is that, even if in fact no improper pressure has been brought to bear on the mind of the accused, the likelihood of this contingency is too great to justify, as a matter of policy, acquiescence in the reception of a confession made in these circumstances.

English law does not favour a principle of inflexible exclusion of confessions made while the accused is in police custody. The courts of England have admitted in evidence statements made or letters written by an accused person in police custody to the prosecutor,²³⁰ to outside friends,²³¹ to his wife,²³² or even to himself,²³³ or confidences to a fellow prisoner overheard by the police.²³⁴

For purposes of comparison the provisions of South African law may be referred to briefly at this point. A distinction is made in South Africa between confessions made to a peace officer and confessions made when the accused is in the custody of a peace officer. The former are excluded absolutely, whatever the state of mind of the accused may have been at the time the confession was made, while the latter cannot be received in evidence only if the rule relating to voluntariness, postulated as a general test for the admissibility of confessions, has been contravened.²³⁵ By con-

228. *Mat Bhazan v State of Pepsu* 1955 A.I.R. Pepsu 33; *Shibavasappa Thaiappa v State of Mysore* 1959 A.I.R. Mysore 47.

229. *R. v. Voisin* (1918) K. B. 531.

230. *R. v. Heal* (1905) 69 J. P. 224

231. *R. v. Robinson* (1917) 2 K. B. 108.

232. *Rumping v. D. P. P.* (1962) 3 W.L.R. 763.

233. *R. v. Simons* (1834) 6 C & P 540

235. *R. v. Gardner and Hancox* (1915) Cr. App. Rep. 265

235. South African Criminal Procedure Act, No. 51 of 1977, Section 217 (1).

trast, Sri Lankan law has the effect of removing both categories of confession from the ambit of the principle founded on voluntariness and of imposing a total prohibition on the use of both types of confessions *coram judice*, without reference to the reasons which led the accused to make the confession in the particular case.

The position in Sri Lanka is that one statutory provision²³⁶ bars all confessions to a police officer, whether made in police custody or outside it, while another²³⁷ excludes confessions addressed to other persons than police officers, so long as the person making the confession is subject to the custody of a police officer. Only the first of these provisions finds an approximate parallel in South African law, while neither provision is part of English law.

The structure of the law would be logical if the criterion of voluntariness, however formulated, applies over the whole area of confessions. This is, substantially, the approach of the Anglo-American systems. However, when there are departures from this criterion in specific contexts, and the admissibility of confessions in particular circumstances is governed by different rules, the law may assume the appearance of a patchwork, since it may be difficult to draw together, on a uniform basis, the divergent formulae which determine admissibility. Thus, the distinction impliedly reflected in South African law between a confession made to a peace officer and a confession made while the accused is in the custody of a peace officer, seems unconvincing in terms of policy. It could well be argued that the voluntariness rule, if it is thought to confer inadequate protection on an accused person who has confessed to a peace officer, is equally inappropriate in the context of confessions made while the accused is in the custody of a peace officer. It would seem, logically, that the voluntariness rule should apply to both situations or to neither. The Sri Lanka statutory provisions are not open to criticism from this point of view, since they dispense with the voluntariness rule in both contexts. Nevertheless, from a policy standpoint, the position in Sri Lanka can perhaps be assailed on the ground that it entails excessive protection for the accused at the expense of effective law enforcement.

5. The Doctrine of Confirmation by Subsequently Discovered Facts

The theory of confirmation of the substance of confessions by subsequently discovered facts is inextricably interlinked with acceptance of potential untrustworthiness as the rationale underlying the exclusion of confessions within limits demarcated by the law.

236. Evidence Ordinance, section 25

237. Evidence Ordinance, section 26

It is a principle of English law that "If, in the course of an inadmissible confession, the party confessing states where stolen goods or a body may be found and they are found accordingly, this is evidence because the fact of the finding proves the truth of the allegation, and his evidence in this respect is not vitiated by the hopes or threats that may have been held out to him."²³⁸

The element of discovery of the thing described, the *corpus delicti*, "though it provides no absolute guarantee of the truthfulness of the inadmissible confession, removes some of the risk that evidence may be manufactured".²³⁹ This cannot be said, however, in regard to the mere pointing out by the accused of a place or object, if nothing is discovered as a result of such pointing out. No question of confirmation by the subsequent discovery of facts arises in these circumstances. It has been aptly observed that "If the inadmissible confession be not confirmed by the finding of the property, no proof either of the statements or acts can be received; for the influence which produces a groundless confession may equally produce groundless conduct."²⁴⁰

This approach, supported by a self-evident rationale, was adopted in an English case²⁴¹ where the accused was induced to confess that he had stolen some gowns and he pointed out to a constable the place where and the person to whom he had transferred them. It was held that the admission of evidence of these latter acts at the trial had been improper. The court declared: "The confession was excluded because, being made under the influence of a promise, it could not be relied upon, and the acts of the prisoner, under the same influence, not being confirmed by the finding of the property, were open to the same objection".

In accordance with the rule statutorily formulated,²⁴² the courts of Sri Lanka have held that, where the *corpus delicti* is discovered in consequence of a confession made by one of the accused, and several other accused persons later make confessions to the police indicating the spot where the *corpus delicti* is concealed, no part of such confession is admissible, since the fact had already been discovered by the time the subsequent confessions are made.²⁴³ The pointing out of an object by the accused is governed by the identical principle in Sri Lanka.

238. *R. v. Thurtell and Hunt* (1823) *Notable British Trials*, p. 145

239. *R. v. Tabettha* 1959 (2) S. A. 337 (A. D.) at p. 374, *per* Schreiner, J. A.

240. *Phillips*, *The Law of Evidence* (9th edition) p. 273

241. *R. v. Jenkins* (1822) *Russ. and Ry.* 492

242. Evidence Ordinance, section 27

243. *Punchi Banda v The State* (1973) 76 N. L. R. 293

In one case²⁴⁴ where the Sri Lanka court was satisfied that the confession which led to the discovery of facts had been obtained from the accused by the use of compulsion, the Court of Criminal Appeal observed that "If a police officer forces an accused person, by the use of violence or threats of violence to make statements which are not his own, but the contents of which have been put into his mouth, those statements will not fall within the plain meaning of the word, "information" in section 27 of the Evidence Ordinance".²⁴⁵ On this ground the confession was excluded *in toto*, although a material fact was discovered in consequence of it. To exclude a confession obtained by threats, the court was compelled in this case to resort to tortuous reasoning.

The relevant provision in Sri Lanka declares that "When any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved."²⁴⁶ The rationale underlying this provision is that "The reason for rejecting extorted confessions is the apprehension that the prisoner may have been thereby induced to say what is false, but the fact discovered shows that so much of the confession as immediately relates to it is true"²⁴⁷. The vital limitation in the Sri Lanka provision is inherent in the words "as relates distinctly".

It is a necessary requirement that a clear nexus must be established between the information given by the accused and the subsequent discovery of a relevant fact. Where a police constable gave evidence at a trial that the accused had told him (i) that he had stolen a bicycle at the City Dispensary and (ii) that he had sold it to a carter, (i) was excluded on the ground that the information conveyed by these words had no direct bearing on the discovery of the stolen property.²⁴⁸ Where a police officer in the course of his examination-in-chief, answered in the affirmative the question: "Did the accused tell you that articles that were subsequently recovered by you were in his custody and thereafter take you and point them out to you?", it was held that this evidence of the statement by the accused to the police officer was not admissible since the words "the property is in my custody" in the accused's statement were not directly relevant to the discovery of the stolen goods, nor could they be said to relate distinctly to their recovery.²⁴⁹

244. *R. v. Tennekone Mudiyanseelage Appuhamy* (1959) 60 N. L. R. 313

245. At p. 320

246. Evidence Ordinance, section 27

247. *R. v. Butcher* (1798) 1 Leach 265

248. *Justin Perera v. Inspector of Police, Slave Island* (1945) 46 N.L.R. 158

249. *R. v. Albert* (1960) 66 N. L. R. 543

On the other hand, where the accused told a police sergeant: "I can point out the place where I threw the katty", and then took the police to the spot and indicated it, the accused's statement was held admissible.²⁵⁰ The required immediacy of the link between the accused's statement and the discovery of a fact was established in this case. Similarly, a statement by the accused in the following terms: "I hid the sword under some leaves close to the spot. I can point out the place to the police" was held to be admissible *in toto*.²⁵¹

Analytically, five distinct approaches are possible to the central problem which arises in this area:-

- (a) neither the fact discovered nor any part of the confession constitutes admissible evidence;
- (b) what is admissible is the fact discovered, and nothing more;
- (c) the fact discovered may be proved together with the circumstance that its discovery was the result of a statement made by the accused;
- (d) the fact discovered may be proved, together with as much of the confession as relates strictly to it;
- (e) not merely the fact discovered but the entire confession is admissible.

Of these alternatives, position (d) is the result of statutory provisions applicable in Sri Lanka.

The effect of English law is equivocal.

Position (a) is supported by the decision of the Court of Criminal Appeal in *R. v. Barker*.²⁵² The accused was charged with taxation offences. A Ministerial statement from Hansard was read out to him and, as a result, he was in effect promised that if he made full disclosure of past frauds, no criminal proceedings would be instituted. The accused then produced fraudulent documents on the basis of which he was convicted. Tucker J., allowing his appeal, declared: "The court does not desire to question that there may be cases in which evidence can be given of facts the existence of which has come to the knowledge of the police as the result of an inadmissible confession. But in the present case the promise or inducement which

250. *R. v. Jinadasa* (1950) 51 N. L. R. 529

251. *R. v. Piyadasa* (1967) 72 N. L. R. 434

252. (1941) 2 K. B. 381

was implied in this extract from *Hansard* expressly related to the production of business books and records, and the court is of opinion that if, as a result of a promise, inducement or threat, such books and documents are produced by the persons to whom the promise or inducement is held out, or the threat made, those documents stand precisely on the same footing as an oral or a written confession which is brought into existence as the result of such a promise, inducement or threat.²⁵³

Although there is an obvious difference between a book containing fraudulent accounts and a confession of past fraudulent accounting,²⁵⁴ the Court of Criminal Appeal appears to have treated the account books as a prepared confession rather than an independent fact.

Position (b) is consistent with the early cases of *R. v Mosey*²⁵⁵ and *R. v. Harvey*²⁵⁶. *R. v. Lockhart*²⁵⁷ extended the doctrine to permit the reception of evidence the identity of which had been discovered through the confession.²⁵⁸

The view emerging from these cases is confirmed by the ruling in *R. v. Warickshall*²⁵⁹. The accused was charged with receiving stolen property. It was found hidden in her bed in consequence of her improperly induced confession. The evidence of the finding was admitted. Nares, B. (with Eyre, B. concurring) said: "This principle respecting confessions has no application whatever as to the admission or rejection of facts, whether the knowledge of them be obtained in consequence of an extorted confession or whether it arises from any other source; for a fact, if it exist at all, must exist invariably in the same manner whether the confession from which it derives be in other respects true or false. Facts thus obtained, however, must be fully and satisfactorily proved without calling in the aid of any part of the confession from which they may have been derived."

In *R. v. Berriman*²⁶⁰ Erle, J, following the decision in *R. v. Warickshall*, reasserted that, although facts discovered in consequence of inadmissible confessions may be received in evidence, no part of the confession is rendered admissible by the discovery of the facts to which it relates.

253. At pages 384 — 385

254. R. Cross, *Evidence* (4th edition, London, 1974), p. 280

255. (1784) 1 Leach 265

256. (1800) 7 East P. C. 658

257. (1765) 1 Leach 386

258. Heydon, *op. cit.*, p. 224

259. (1783) 1 Leach 263.

260. (1854) 6 Cox C. C. 388

(c) At the beginning of the nineteenth century East²⁶¹ was able to cite two unreported cases – *R. v. Hodge* (1794) and *R. v. Grant* (1801) – in support of his view that it was proper to leave to the jury “the fact of the witness having been directed by the prisoner where to find the goods, and his having found them accordingly; but not the acknowledgment of the prisoner’s having stolen or put them there, which is to be collected or not from all the circumstances of the case.”

There is judicial authority in England in support of position (d).

In *R. v. Griffin*²⁶² the accused was improperly induced to confess and handed over a £5 Reading Bank note, saying that it was one of the notes stolen from the prosecutor. The accused could not identify the note except that its sum and drawee corresponded with those of one of the stolen notes. A majority of the judges held that it was right to admit the prisoner’s description of the note as well as the fact of delivery.

*R. v. Gould*²⁶³ was a case where the accused was charged with burglary. He was improperly induced to confess and, as a result, a lantern was found by a policeman in a certain pond. Tindal, C. J., and Parke, B., were both of the opinion that the words used by the prisoner, with reference to the thing found, might be given in evidence. The policeman accordingly stated that the prisoner told him that he had thrown a lantern into a pond in Pocock’s Fields. The other parts of the statement were not given in evidence.

It would appear that position (d), besides representing Sri Lanka law, is firmly entrenched in Canadian law.²⁶⁴

English authority for position (e) is slender. In *R. v. Garbett*²⁶⁵ Martin, counsel for the prosecution, submitted that a statement made by a person is always evidence against him, except in two cases, the second being that of a statement made by a person under a charge of crime, where an inducement is held out to him by some person in authority. The submission was made that the latter is rejected on the ground that it may not be founded on truth and that, even in those cases, the confession of a theft is received if the property can be found in consequence. Lord Denman, C. J., expressed agreement with this submission by remarking: “Because it leads to the inference that the party was not accusing himself falsely.”

261. *Pleas of the Crown*, volume 2, p. 658

262. (1809) Russ. & Ry. 151

263. (1840) 9 C & P. 364

264. *R. v. St. Lawrence* (1949) O. R. 215; *R. v. Haase* (1964) 50 W.W.R. 321; *R. v. Wray* (1970) 11 D. L. R. (3d) 673

265. (1847) 2 Car. & Kir. 474

The rationale underlying position (e) is forcefully expressed by Wigmore²⁶⁶: "Confirmation in material points produces ample persuasioy of the trustworthiness of the whole. It can hardly be supposed that, at certain parts, the possible fiction stopped and the truth began, and that by a marvellous coincidence the truthful parts are exactly those which a subsequent search (more or less controlled by chance) happened to confirm". The argument against this principle is that an induced confession may contain both true and false statements, and the confirmation of the true does not confirm the false.²⁶⁷

Cross concludes that "The only statement that can confidently be made on the basis of the English authorities is that facts discovered in consequence of inadmissible confessions may certainly be proved in evidence if their relevance can be established without resorting to any part of the confession, and the cases conflict so far as the admissibility of the part of the confession showing the accused's knowledge of those facts is concerned".²⁶⁸

The eleventh report of the Criminal Law Revision Committee recommended an express provision in the draft Bill annexed to it that the fact that evidence of a confession is inadmissible shall not affect the admissibility of any facts discovered as a result of the confession.²⁶⁹ However, the Committee was against providing for the admissibility of any part of the confession. The Committee expressed the view that, in practice, it is common for the witness reporting discovery to say that he made it "as a result of something said by the accused". The majority thought it proper to allow this, although a minority dissented on the ground that the jury should not be informed indirectly of something of which it is thought that the interests of justice require that they should not be informed directly.²⁷⁰

It is a feature of the law of Sri Lanka that the only permissible inference against the accused is that he had knowledge of the whereabouts of the *corpus delicti* or other object discovered. It has been emphasized that, in the absence of evidence connecting the accused with the crime, the pointing out of the *corpus delicti* is not sufficient to constitute a *prima facie* case against him. Before the accused can be convicted on this footing, it must be shown that the only inference from the pointing out is that the accused participated in the commission of the offence.

266. Evidence, volume III, pages 338 - 339

267. Heydon, *op. cit.*, p. 228

268. R. Cross, *op. cit.*, p. 280

269. Paragraph 68

270. Paragraph 69.

The courts of Sri Lanka in their exposition of the principles which the trial judge must make clear to the jury in this regard, have adopted a similar approach. When it is proved at the trial that the accused had admitted to the police some knowledge concerning a weapon which is proved to have been used in the commission of an offence, the jury might quite naturally form the impression that the accused must in addition have admitted that he had in fact used the weapon. For a court to form and act on such an impression would amount to violation of a mandatory prohibition imposed by statute.²⁷¹ Thus, the Court of Criminal Appeal has set aside a conviction on the ground that the jury might have been induced as the result of an incomplete or erroneous direction given to them to use the fact of the accused's knowledge of the whereabouts of a club as indicative of an admission by him that he dealt a blow on the deceased with the club.²⁷²

The distinction between knowledge and participation, although sound in theory, may often become blurred in the minds of the jury. However emphatically the trial judge may endeavour to explain to the jury the distinction between these concepts and to point out the potential dangers of its relegation, knowledge on the part of the accused of the whereabouts of the *corpus delicti* or the weapon used in committing the crime cannot but impress the jury as a strong incriminating circumstance which, if left unexplained, will ordinarily give rise to an adverse inference.

Two matters arise for consideration under the law of Sri Lanka: (i) the question of admissibility; (ii) the question of probative value. The first matter involves application of the doctrine of severance, in that the trial judge must determine which portions of the accused's statement are within the purview of the inclusionary rule. The second aspect concerns the effect of the statement received in evidence, the purposes for which it could be used and the inferences to which it may legitimately give rise. The issue of admissibility is logically antecedent to that of probative value.

It is submitted that the law of Sri Lanka is open to criticism in one respect.

The doctrine of confirmation of confessions by subsequently discovered facts is statutorily confined in Sri Lanka to circumstances in which the accused person supplying the information is "in the custody of a police officer."

271. Evidence Ordinance, section 25

272. *R. v. Etin Singho* (1965) 69 NLR. 353; cf. *R. v. Krishnapillai* (1968) 74 NLR. 438; *R. v. Heen Banda* (1969) 75 N.L.R. 54

In several decided cases it has been held that a statement by the accused in consequence of which an object was discovered, could not be admitted in evidence if the accused, at the time of making the statement, was not in the custody of a police officer.²⁷³ The imposition of this requirement as a condition of total or partial admissibility of the confession represents an anomaly. The formulation of the inclusionary rule in Sri Lanka is defective, in that it does not permit proof of information which might reasonably be regarded as more reliable for the very reason that it is given by a person not in police custody.

Finally, it may be noted that the words "fact discovered" have been interpreted judicially in a wide sense in Sri Lanka. In *R. v Piyadasa*²⁷⁴ T. S. Fernando, J., observed that "It is fallacious to treat the 'fact discovered' within the section as equivalent to the object produced. The 'fact discovered' embraces the place from which the object is produced and the knowledge of the accused as to this."²⁷⁵ It is essential, however, that the "fact discovered" should have a direct bearing on the charge against the accused.²⁷⁶ Although the courts of Sri Lanka were inclined to hold at one time that a person came within the scope of the word 'fact' in this context,²⁷⁷ this view has now been rightly discarded.²⁷⁸

6. The Scope of Exclusionary Rules in Respect of Confessions

Several aspects of the law may be considered in turn:

(a) In the context of exclusionary rules relating to confessions in Sri Lanka, the term 'confession' includes not only the actual terms of an admission acknowledging or suggesting guilt but any evidence which, if accepted, would lead to the inference that the accused made such an admission. A Sri Lanka court has stated as a ground for excluding evidence tendered by the prosecution, that "The police officer's evidence was to the effect that a statement made by the accused differed from one made to the Magistrate and leads to an inference that the accused had made a confession."²⁷⁹ In another case²⁸⁰ Crown Counsel elicited from a police officer the fact that the accused came to the police station and made

273. *R. v. Sugathapala* (1967) 69 N.L.R. 457; *R. v. Jayasinghe* (1969) 71 N.L.R. 574; *Nallathamby v Muthukrishnan* (1970) 74 N.L.R. 95

274. (1967) 72 N. L. R. 434

275. At page. 438

276. *Nambiar v Fernando* (1925) 27 N. L. R. 404 at p. 405

277. *R. v. Sudahamma* (1924) 26 N. L. R. 220 at p. 221

278. *R. v. Tennekone Mudiyanseelage Appuhamy* (1959) 60 N. L. R. 313 at p. 316.

279. *R. v. Kalubanda* (1912) 15 N. L. R. 422

280. *R. v. Obiyas Appuhamy* (1912) 15 N. L. R. 32

a statement, in consequence of which he was arrested. This evidence was held to have been improperly received on the ground that it clearly suggested that the statement volunteered was a confession.²⁸¹ The principle has been laid down authoritatively, for Sri Lankan law, that "Evidence of police officers, or questions in cross-examination and/or statements by prosecuting counsel, which operate to inform the Court or create the impression that the accused had made a statement admitting that he was the doer of the act charged, is inadmissible."²⁸²

The rationale underlying this rule is clear. "Evidence tending to suggest that an accused person must have admitted to a police officer that he had committed the act charged, must be excluded on the ground that to inform the jury that a confession has been made is as much an evil as to inform them of the contents of the confession".²⁸³ Once the jury are informed that a confession had been made, the effect on their minds could hardly be different if the police officer is allowed to give evidence of what the accused had actually said.

(b) Where a confession is excluded by statutory provisions, the question arises whether the confession is merely inadmissible at the instance of the prosecution or whether the accused himself is prevented from proving the confession for some purpose of his own.

In Sri Lanka the view has been taken that confessions debarred by statute are tainted and that the prohibition against their reception in evidence is absolute.²⁸⁴ Accordingly, a confession excluded by statute is inadmissible in evidence, whether it is elicited from a prosecution witness in examination-in-chief or in cross-examination by the defence. The correct test to be applied concerns not the manner in which evidence of the confession is placed before the court but the effect of such evidence.²⁸⁵ Moreover, the circumstance that no objection was taken to the reception of the confession in evidence, is immaterial.²⁸⁶

(c) If an accused person, in the course of making a confession, makes statements which are not strictly confessional in character, can the latter statements be severed validly from the former and be proved against the accused?

281. *R. v. Batcho* (1955) 57 N. L. R. 100

282. *R. v. Anandagoda* (1960) 62 N. L. R. 241 at p. 252

283. *R. v. Anandagoda* (1960) 62 N. L. R. 241 at pp 245-246

284. *R. v. Kiriwasthu* (1939) 40 N. L. R. 289 at p. 292

285. *Justin Fernando v. Inspector of Police, Slave Island* (1945) 46 N. L. R. 158

286. *R. v. Seyadu* (1951) 53 N. L. R. 251 at p. 252

The better view is that severance is permissible, provided that (i) the latter statements are otherwise relevant and admissible²⁸⁷ and (ii) in the context in which the statements relied on were made, they are demonstrably separable from the confessional portions, so that their contents may be made known without revealing indirectly the confessional character of the remaining parts.²⁸⁸ However, this test should be applied cautiously, and if the court is left in doubt as to whether the confessional and the non-confessional statements can be considered independent of one another, the exclusion of the non-confessional statements, too, should be obligatory. However, the view has once²⁸⁹ been expressed by the Court of Criminal Appeal in Sri Lanka that the doctrine of severance cannot be resorted to in this context and that no portion of a statement in the course of which an accused makes a confession to a police officer can be proved against the accused.

In regard to self-serving statements contained in a confession, English law adopts the principle that "What a prisoner says is not evidence unless the prosecution chooses to make it so, by using it as part of its case against the prisoner; however, if the prosecutor makes the prisoner's declaration evidence, it then becomes evidence for the prisoner as well as against him".²⁹⁰ This principle is supported by judicial authority in the Commonwealth.²⁹¹

(d) In Sri Lanka a confession which is ruled out by statutory provisions is inadmissible as proof against the person making it, whether as substantive evidence or in order to show that he has contradicted himself.²⁹² The position in England is no different.

By contrast, the Supreme Court of the United States has held that a confession, inadmissible in the prosecution's case in chief, could be used to impeach the credibility of the accused's testimony at the trial if its trustworthiness were adequate.²⁹³

It is submitted that the attitude of English and Sri Lankan law is to be preferred to the American approach. It is obviously unrealistic to expect a jury with a confession before them, no matter how emphatically

287. *R. v. Vasu* (1941) 27 C. L. W. 16

288. *R. v. Seyadu* (1951) 53 N.L.R. 251 at p. 254

289. *R. v. Abadda* (1963) 66 N.L.R. 397

290. *R. v. Higgins* (1829) 3 C. & P. 603 at p. 604 per Parker, B.

291. *R. v. Hughes* (1943) 1 D.L.R. 1; *R. v. Harris* (1946) 3 D.L.R. 520; *Donaldson v The Police* (1963) N.Z.L.R. 750

292. *R. v. Kiriwastu* (1939) 40 N.L.R. 289

293. *Harris v. New York* 401 U. S. 222 (1971)

they are directed that the confession must not be taken as true, not to draw the commonplace inference from an admission of guilt that the person making the admission is in fact guilty.

7. Policy Objectives of the Law Governing Confessions

Several approaches are possible to the formulation of a rationale for the exclusion of confessions in circumstances where they are considered inadmissible in England and Sri Lanka.

(a) Where undue pressures are shown to have been brought to bear on the mind of the accused, the probability that the accused would make a confession designed to placate the person receiving it, irrespective of its truth, is so great that the testimonial untrustworthiness, actual or potential, of the confession necessitates its exclusion.

(b) The peculiar vulnerability of an accused person in police custody or under interrogation by police officers, especially where the accused is inhibited by poverty, lack of education or other social, cultural or psychological factors, makes desirable the exclusion of confessions in order to deprive the prosecution of an unfair advantage.

(c) The doctrine against self-incrimination, which must be treated as a paramount objective of policy, is inconsistent with the reception of confessions in evidence.

(d) The refusal to act on confessions in judicial proceedings has the effect of discouraging oppressive or unscrupulous practices on the part of the police.

The assumption underlying rationale (a) is that the sole objection to the reception of confessions in evidence is the risk that they may turn out to be false in substance.²⁹⁴ In keeping with this approach it may be asserted that, so long as the court is satisfied that the confession is true, not only is there no valid reason why the confession should not be let in but the confession represents the best evidence of the accused's guilt. According to this view, the concern of the law should be to discriminate between true and untrue confessions and to ensure that no impediment is imposed on the admission of a confession, once its truth is apparent.

294. This assumption is made in several English cases. See, for example, *R. v. Thomas* (1836) 7 C. & P. 345 at p. 346; *R. v. Garner* (1848) 1 Den C. C. 329 at p. 331; *R. v. Scott* (1856) Dears and Bell 47 at p. 58; *R. v. Mansfield* (1881) 14 Cox. C. C. 639 at p. 640; *R. v. Ovenell* (1967) 1 Q. B. 17 at p. 23

The basis of rationale (b) was significantly stronger at the turn of the century, when the Evidence Ordinance of Sri Lanka was enacted, than it is today. The growth of the Welfare State, with the resulting improvement in the quality of life, has reduced inequalities in many spheres including education and the distribution of social and cultural benefits. Many lawyers and criminologists query whether it is not opportune now to re-examine the scope of the protection conferred on accused persons by the law of procedure and evidence and to ascertain whether equilibrium should not appropriately be restored by making concessions to the prosecution. There is a growing body of informed opinion that many of the traditional rules of relevancy—especially in contexts like similar fact evidence, evidence of character and the opinion of experts—deprive the jury, without adequate justification, of the opportunity of considering the entirety of the logically relevant evidence in a case.

This approach has been adopted by the New South Wales Law Reform Commission. This Commission in a recent report proposes rules which will allow the courts to receive a much wider range of evidence than is permissible under the existing law and will make unnecessary much of the interruption of witnesses which is a feature of trials at present. The basic approach of the Commission has been to let the court have as much reasonably reliable evidence as possible, but at the same time to preserve the opportunity of testing evidence by cross-examination wherever it is practicable to do so.

The doctrine against self-incrimination, referred to at paragraph (c) above, is looked upon as a feature of "adversary", as opposed to "inquisitorial", systems of criminal justice. The English and Sri Lanka systems exemplify the former approach. The Supreme Court of the United States of America has described the privilege against self-incrimination as "one of our nation's most cherished principles."²⁹⁵ Echoing a similar view, a Sri Lankan judge²⁹⁶ has observed: "To my mind, it is implicit in the scheme of our law that here, as in England, once proceedings have been initiated against an accused person, he is placed in a special category separating him and others in a like situation from the generality of mankind until the verdict has been pronounced. The precarious position in which he stands entitles him at the same time to protection in certain respects, and this is the basis of the special rule

295. *Miranda v. Arizona* (1966) 384 U. S. 436, per Warren, C. J.

96. Gratiaen J.

whereby he cannot be compelled or legally required to contribute to the proof of his alleged guilt by giving or providing, even indirectly, evidence against himself."²⁹⁷

The policy objective set out at (d) above, has received emphasis in the decided cases. The courts have been vigilant to exclude confessions obtained by the police by unfair means. This policy has been adopted deliberately to control the use of improper methods by the police. A Sri Lankan court has stated: "The object of the law is to make sure that a confession is really voluntary . . . It is in great part due to the desire to prevent harassing and oppression by the police."²⁹⁸

The crucial issue in this area is the question whether truth alone should be the criterion governing the admissibility of confessions in criminal proceedings. The Criminal Law Revision Committee in England has recommended that the law should be based entirely on the criterion of reliability. Statutory provisions in Victoria and New Zealand are founded on the same premise. The Victorian Evidence Act of 1928 provides that "No confession which is tendered in evidence shall be rejected on the ground that a promise or threat has been held out to the person confessing, unless the judge or other presiding officer is of opinion that the inducement was really calculated to cause an untrue admission of guilt to be made."²⁹⁹ The New Zealand provision³⁰⁰ is similar, except that the phrase "in fact likely" has been substituted for the words "really calculated". The statutory position in these jurisdictions is that the involuntary character of a confession of guilt is, *per se*, not sufficient to warrant its rejection in evidence.³⁰¹

However, the effect of judicial interpretation in these jurisdictions has been to discard truth as the sole and absolute test in respect of the admissibility of confessions. In New Zealand it has been held that the statutory provision does not govern the whole area of confessions, the provision being applicable only to cases of threats or promises but not to cases involving other violent procedures.³⁰² The High Court of Australia, on appeal from the Supreme Court of Victoria, has expressly held that "When a confession is tendered in evidence, its voluntary character must,

297. *de Mel v. Haniffa* (1952) 53 N. L. R. 433 at p. 438

298. *Inspector of Police v. Kanapathypillai* (1941) 42 N. L. R. 368 at pp 369-370

299. Section 141

300. Evidence Amendment Act, 1950, section 3

301. *R. v. Brown* (1887) 13 V. L. R. 469; *R. v. Kelly* (1921) V. L. R. 489; *Cornelius v. R.* (1936) Argus L. R. 519

302. *R. v. Gardner* (1932) N. Z. L. R. 1948

apart from section 141 of the Evidence Act, 1928, appear before it is admissible."³⁰³ The effect of this construction of the statutory provisions is that where, but for a particular promise or threat, a confession would be voluntary, it is necessary for the judge to determine whether the promise or threat was really likely to produce an untrue admission of guilt, while other forms of pressure might induce confessions to which the statutes would not apply and which would be inadmissible because they are involuntary.³⁰⁴ The remarkable feature of the case law in both Victoria and New Zealand is that, despite statutes which explicitly provide for the likelihood of truth as the criterion of admissibility of confessions obtained by threats or promises, an exclusionary discretion has been asserted effectively by the courts. The discretion may be exercised on grounds which are entirely independent of the criterion of truth.

It is submitted that a legal system which poses the question whether the actual confession is reliable or not, as test of admissibility of a confession, is unsatisfactory. It will be necessary, in accordance with this criterion, to assess the probable effect of the inducement on the particular accused and to decide whether the confession which was eventually made could be regarded as true. The investigation required for this purpose will extend to such subjective factors as the antecedents, the temperament, the social and educational background and the emotional idiosyncrasies of the accused.

The approach of the Supreme Court of South Australia in a recent case³⁰⁵ is of some interest. One of the matters considered by the court was the validity of the assertion that aborigines, when questioned by police officers have a natural - almost compelling - desire to answer all questions put to them even when they comprehend intellectually that they do not have to answer. The court stated that, in such a case, the self-generated wish or decision to answer questions and to make a confession could not render unfair an interview that had, *ex hypothesi*, been conducted without impropriety and in circumstances which would not otherwise render it unfair to admit the statements or answer. However, in the court's opinion, such a self-generated wish or decision, when it is shown to have existed, is one of the circumstances of the case which would be taken into account by the trial judge together with all other evidence properly placed before him, when deciding in the exercise

303. *Cornelius v. R.* (1936) 55 Commonwealth L. R. 235

304. Z. Cowen and P. B. Carter, *Essays on the Law of Evidence* (Oxford 1936), pages 53-54

305. *R. v. Williams* (1978) 14 S. A. S. R. 1

of his discretion whether to permit or exclude its reception. Thus, in some parts of the Commonwealth, courts have shown themselves inclined, in appropriate circumstances, to take subjective factors into account in determining the voluntariness of confessions. However, adoption of the truth of the actual confession as the applicable test, in such a manner as to dispense with the use of an objective standard, does not represent a satisfying solution.

The formulation of the exclusionary rule in Uganda is as follows: "A confession made by an accused person is irrelevant if the making of the confession appears to the court, having regard to the state of mind of the accused person and to all the circumstances, to have been caused by any inducement, threat or promise calculated in the opinion of the court to cause an untrue confession to be made."³⁰⁶ The objection to this mode of formulation of the applicable rule is that it allows scope for the argument that, even if the allegations of the accused that he was beaten or threatened are shown to be true, the accused must also prove that the beatings or threats were intended to cause an untrue confession to be made.

This difficulty arose, in fact, in a recent Ugandan case.³⁰⁷ The accused was charged with murder and the prosecution sought to produce a confession allegedly made by him to a Magistrate. At the time the statement was recorded the accused informed the Magistrate that he had not been forced to make the statement. At his trial the accused testified that before he was taken to the Magistrate he had been in custody for eight days during which he had been subject to interrogation and beatings. He alleged that the confession was untrue and that he made it for fear of his life. Counsel for the State submitted that, even if the allegations of the accused were true, this was not sufficient to exclude the confession, and that the accused must prove that the beatings and threats were intended to cause an untrue confession to be made. The court, rejecting this submission, stated that the proper interpretation of the provision was that, where a confession is shown to have been caused by any inducement, threat or promise – that is, if it appears to the court to have been involuntary – it is inadmissible. However, the fact that the meaning contended for by counsel for the State is suggested by the form of words used in the statutory provision militates against its suitability and justifies the absence of this method of formulation of the exclusionary principle from the law of England and Sri Lanka.

306. Evidence Act, Cap. 43, section 24 as amended by Decree No. 25 of 1971

307. *Uganda v Doyi Wabwire Kyeyo* (1976) H. C. B. 212

In constructing a rationale for exclusionary doctrines applicable to confessions, the proper question, it is submitted, is not whether the actual confession is unreliable but whether the circumstances are likely to produce an unreliable confession. Indeed, it is significant that the English Criminal Law Revision Committee, while opting for reliability as the sole criterion, recommended that a confession should be excluded if there was "oppressive treatment of the accused" or a "threat or inducement of a sort likely, in the circumstances existing at the time, to render unreliable any confession which might be made by the accused in consequence thereof."³⁰⁸ A test spelt out in these terms has a fundamentally objective character.

Broadly, the statutory provisions in Sri Lanka are consistent with this approach. Of the three exclusionary rules in regard to confessions embodied in the Evidence Ordinance of Sri Lanka,³⁰⁹ the first³¹⁰ has a direct bearing on the criterion of reliability. The object of this prohibition is to rule out confessions which are caused by a threat, inducement or promise. There is a high degree of probability that a confession made in these circumstances will not be true.

In Sri Lanka the question whether a confession has been caused by an inducement, threat or promise, is determined by reference to an objective standard. A confession made in response to an exhortation by a police officer to "tell the truth without fear; one need not be afraid to speak the truth"³¹¹ or to "tell the truth and get out of it"³¹² has been held to fall within the purview of the statutory prohibition. A similar conclusion was reached in a case³¹³ where an employer remarked to his servant that he would like to know before the following morning where the stolen bags of cement were.

Several conclusions in regard to aspects of causation can be derived from an analysis of the Sri Lankan and English case law:

- (i) The interval of time which has elapsed between the exhortation by the person in authority and the making of the confession by the accused is a relevant consideration. In a case³¹⁴ where the interval was five hours, the confession was held admissible. On the other

308. 11th Report, clause 2 (2)

309. Evidence Ordinance, sections 24, 25 and 26

310. Evidence Ordinance, section 24

311. *R. v. Havadiya* (1920) 21 N. L. R. 499

312. *R. v. Punchi Banda* (1942) 43 N. L. R. 569

313. *Inspector of Police v. Kanapathypillai* (1941) 42 N. L. R. 368

314. *ibid*

hand, when the interval was only forty five minutes³¹⁵ and, *a fortiori*, where there was no interval at all,³¹⁶ the confession was excluded. The governing principle is that, if the effect of coercion or undue pressure had dissipated altogether when the accused confessed, no taint attaches to the confession.

A similar principle emerges from the English cases. Where the prosecutor's wife said to the prisoner: "If you do not tell, I will send for a constable in the morning to take you to the Magistrate", and the prisoner did not say anything, but next morning, on being arrested, made a confession on his way to the Magistrate, the confession was held admissible.³¹⁷ The reason was that the inducement - namely, that the constable would not be sent for and that the prisoner would not be taken to the Magistrate - ceased when those events took place. In another case³¹⁸ a Magistrate, having told a prisoner that, if the latter would confess, he would use his influence to obtain a pardon for him, afterwards received a letter from the Secretary of State refusing the pardon, which letter the Magistrate communicated to the prisoner, the confession subsequently made was held admissible.³¹⁹ These cases are explicable on the footing that the effect of the original inducement had dissipated. With these decisions may be contrasted a case³²⁰ where the prosecutor's wife said to the prisoner: "You shall be forgiven if you confess." The prisoner was then taken before a Magistrate, but discharged without having confessed. Afterwards she was re-arrested, and the constable told her in the presence of her mistress: "You are not bound to say anything, but if you do, your mistress will hear you". The confession was held inadmissible on the ground that the original inducement might be considered to have been revived by the mistress not dissenting from the constable's remark.³²¹ In this type of situation the original inducement could well be considered to have a continuing influence on the mind of the accused.

- (ii) The presence of police officers at the time the confession is made, is inconclusive. Where a police constable was present only as the driver of a vehicle, the voluntary nature of the confession was held not to be affected.³²² In another case³²³ it was urged on behalf of the

315. *R. v. Franciscu Appuhamy* (1940) 42 N.I.R. 553

316. See the case cited at footnote 18, *supra*

317. *R. v. Richards* (1842) 5 C. & P. 221

318. *R. v. Clewes* (1830) 4 C. & P. 221

319. See also *R. v. Bate* (1871) 11 Cox 686

320. *R. v. Hewitt* (1842) 1 Car & M. 534

321. See also *R. v. Doherty* (1874) 13 Cox 23; *R. v. Rue* 34 L. T. 400

322. *R. v. Karaly Muttiah* (1940) 41 N.L.R. 172

323. *R. v. Arthur Perera* (1956) 57 N.L.R. 313

accused that he was virtually in the custody of the police at the time he made the confession, because police officers were present in the vicinity and were constantly using the telephone in a passage having access to the room in which the confession was recorded. Nevertheless, the confession was considered voluntary. The governing consideration in these circumstances is the court's assessment of the effect which the presence of police officers can be expected to have had on the confessor's mind.

- (iii) A confession cannot be regarded as involuntary merely because it has been elicited in answer to questions which were put to the accused in a leading form or which assume his guilt.³²⁴ Conversely, the mere fact that the confession was not made in answer to questions does not exclude the possibility of its having been made as the result of a threat or an exhortation to confess.³²⁵

The English courts have held that questioning, whether by the police³²⁶ or by private persons³²⁷ will not, as such, render a confession made in answer inadmissible. However, prolonged cross-examination will exclude confessions made in order to bring the ordeal to an end.³²⁸ A policeman's observation: "I need to take a statement from you" directed to an accused person is insufficient to exclude a resulting confession.³²⁹

- (iv) The law of Sri Lanka requires that the inducement, threat or promise should be sufficient in the opinion of the court to give the accused person grounds, which would appear to him reasonable, for supposing that by making the confession he would gain an advantage or avoid any evil in regard to the proceedings against him.³³⁰

Both subjective and objective criteria are involved in this requirement. The subjective criterion is inherent in the requirement that the grounds should appear reasonable to the accused. An objective standard is reflected in the reference to the court's opinion. The court should be satisfied that the accused genuinely believed that, in consequence of making the confession, he would acquire a benefit or avert a peril which, respectively, would otherwise not be available to him or would be visited upon him.

324. *R. v. Goonewardene* (1943) 44 N.L.R. 189

325. *R. v. Amaris Appoo* (1895) 1 N.L.R. 209

326. *R. v. Bass* (1953) 1 Q. B. 680

327. *R. v. Wild* (1835) 1 Moo. C. C. 452

328. *R. v. Winkel* 76 J. P. 191

329. *R. v. Joyce* (1958) 1 W. L. R. 140

330. Evidence Ordinance, section 24

The second and third exclusionary rules relating to confessions, contained in the Evidence Ordinance of Sri Lanka, do not depend on the actual unreliability of a confession, since a confession made to a police officer or made while the accused is in police custody may well be true. However, in these circumstances, the pressures, direct or insidious, operating on the accused to make an admission of guilt are substantial enough to justify doubts as to the unreliability of the confession. Moreover, the reception in evidence of confessions obtained in these circumstances is repugnant to the principle against self-incrimination and, in particular, is in direct conflict with the object of discouraging unfair police practices.

The law of Sri Lanka adopts the criterion of truth in the generality of circumstances, but a special rule operates in respect of confessions made to police officers or made while the accused is in police custody. In these situations the statutory provisions applicable in Sri Lanka contain an absolute principle of exclusion, irrespective of the reliability or otherwise of the confession.

In contrast with the law of Victoria and New Zealand, the law of England and Sri Lanka does not require the reception of all confessions the truth of which admits of no reasonable doubt. The assumption is valid in both jurisdictions that a confession which is in all probability true may be excluded justifiably for other reasons of policy, such as the doctrine against self-incrimination and the need to impose a deterrent against objectionable police methods of investigation. This attitude is defensible on the basis of pragmatic considerations.

However, neither in England nor in Sri Lanka is the law characterized by complete internal consistency. The doctrine of confirmation by subsequently discovered facts finds expression, in slightly varying forms, in the law of both jurisdictions. There can be no doubt that the foundation of this doctrine is related exclusively to the criterion of reliability, in that the relevant part of the confession is admitted in these circumstances for no other reason than that its dependability is demonstrable. However, the inclusionary principle recognized by the law of both jurisdictions in this context is fundamentally at variance with the doctrine against self-incrimination and the deterrent against unfair police methods—considerations which form significant elements of the rationale underlying the statutory prohibitions against the use of confessions in defined contexts in both jurisdictions.

The practical effect of this combination of incompatible principles is anomalous. Where a police officer obtains a confession from an accused person, the confession standing by itself is rigidly excluded in Sri Lanka. However, if the police officer shows greater perseverance and, as a result of systematic questioning, extracts from the accused information which leads to the discovery of a fact, the exclusionary principle no longer operates and the protection ordinarily available to the accused is denied. It is clear that the effectiveness of the safeguards enshrined in the prohibition is vitiated by the scope of this qualification.

The salient difference between the structural framework of English law and Sri Lankan law is that, in the former system, the test of voluntariness is capable of universal application to confessions in criminal proceedings while, under the latter system, absolute rules of exclusion govern specific categories of confessions – namely, confessions to police officers and confessions made in police custody – without reference to the criteria of voluntariness and spontaneity.

The inclusionary rule is based directly on the test of truth, in that discovery of a fact in consequence of a statement made by the accused is an indispensable requirement for admission of the relevant part of the confession. However, adoption of the inclusionary rule by the law of both England and Sri Lanka may be assailed convincingly on the basis that it is the product of a conflict of policy objectives which leaves the law in an unsatisfactory condition. A confession which falls within the ambit of the doctrine of confirmation by subsequently discovered facts becomes admissible simply because of the truth of the confession. But other aspects of the law in both countries clearly reflect the assumption that, in specific contexts, there are good reasons for excluding confessions, even though their truth is incontrovertible. The observation has been made recently by the House of Lords that “Any civilized system of criminal jurisprudence must accord to the judiciary some means of excluding confessions or admissions obtained by improper methods. This is not only because of the potential unreliability of such statements, but also, and perhaps mainly, because in a civilized society it is vital that persons in custody or charged with offences should not be subjected to ill treatment or improper pressure in order to extract confessions.”³³¹

331. *Wong Kam-Ming v. R.* (1979) 2 W. L. R. 81 at p. 90, per Lord Hailsham of St. Marylebourne.

The strength of the proof that the confession is true in substance, therefore, does not render any the less valid the reasons for excluding the confession, since these reasons are wholly unrelated to the truth or otherwise of the confession.

The only difference between the two systems in this regard is that, while the law of Sri Lanka in unequivocal terms treats as admissible that part of the confession which relates distinctly to the discovery of the facts, English law, although admitting evidence of the fact discovered in consequence of the confession, has not yet settled finally the question whether it is only the accused's knowledge of the whereabouts of the fact discovered that can be referred to in evidence, or whether those portions of the confession which have a direct bearing on the discovery of the fact fall within the ambit of the inclusionary rule.

Land Settlement and Urban Development in the Dry Zone

W. P. T. SILVA

Since the inception of the land settlement programme in the Dry Zone¹ in the 1930s, a very large extent of land has been distributed amongst colonists under the major colonization programmes. In 1978, there were eighty five such schemes and the total extent of land alienated amounted to nearly 700,000 acres, of which sixty percent was classified as irrigable land and the remainder as unirrigable land.² In 1945 the acreage under paddy in the dry zone amounted to 205,000 acres; by 1970 this had increased to 678,000 acres.

The basic objective of the colonization programme has been to provide irrigation water for the production of paddy on family farms. Colonization policy, therefore, was until very recently designed to bring into higher and better use water and related land resources in the dry zone and not develop regional economies. The main aim has been to integrate the use of resources and not the different sectors of the regional economy. Agricultural development therefore has been given priority; urban growth has been considered separately and not as being complementary and interrelated to agricultural development. This paper attempts to examine the patterns of urban development in the colonized areas with the intention of focussing attention on the need to integrate urban development and agricultural development in settlement schemes. The need to give adequate attention to such integration has become all the more urgent because of the accelerated Mahaweli Development Programme which attempts to increase the productivity of approximately 150,000 acres of existing agricultural land and to bring into productive use approximately 330,000 acres of land that have hitherto remained uncultivated.

1. The Dry Zone as defined here includes the districts of Jaffna, Vavuniya, Mannar, Puttalam, Anuradhapura, Trincomalee, Polonnaruwa, Batticaloa, Amparai, Moneragala and Hambantota.

2. Land Commissioner's Department.

Patterns of Urban Development in the Dry Zone 1946-1971

One of the significant developments in the Dry Zone within the past three decades has been the rapid increase in population. Between 1946 and 1971, the total population in the area increased by approximately 1.6 million, an increase of 120% compared to 79% for the wet zone. Furthermore, the Dry Zone accounted for 27% of the total increase in the island's population during this period as compared to 15% for the period between 1911 and 1946. The expansion that took place during this period has been due in part to the natural increase brought about by the reduction in mortality and the increase in the birth rate achieved as a result of the eradication of malaria and in part to the transfer of population from the densely populated areas in the Wet Zone to the colonization schemes that were started in the different districts.³

The increase in population has been accompanied by an increase in the urban population. In 1946, the dry zone had an urban population of nearly 150,000 and by 1971 this had increased to approximately 588,000. This recorded increase of almost 440,000 represented 28% of the increase in the island's urban population during this period.

It is necessary to point out that the recorded increase of 0.44 million does not of course represent the real increase in the urban population of the Dry Zone during this period. A part of the increase represents the growth in population in the three main types of urban areas as defined by the Ministry of Local Government and adopted by the Department of Census and Statistics i.e. municipal councils, urban councils and town councils. The balance represents the increase due to the elevation of certain village councils to town council status after 1953. In 1953 the Dry Zone had an urban population of 172,000 and by 1963 this had increased to 386,000. Of this increase of 214,000, 59% was due to the addition of new areas into the urban category, after 1953. Likewise of the increase of 201,000 persons that took place between 1963 and 1971, only 46% represented the expansion at the urban centres that existed in 1963. The remaining 54% was accounted for by the new town councils created during this period.

It is noteworthy that the increase in urban population in the dry zone since 1946 has been relatively low in comparison to the spectacular increase in the total population. This is particularly true of those districts that have benefited most from the colonization programme, i.e. Anuradhapura, Polonnaruwa, Trincomalee, Batticaloa and Amparai. By

3. ESCAP, Comparative Study of Population Growth and Agricultural Change-Case Study of Sri Lanka, Asian Population Studies No. 23 D Bangkok, 1975.

1971, these five districts had 77% of all the settlers who had been allocated land in the Dry Zone, 82% of the alienated lowland and 73% of the alienated highland. The opening up of this land for agricultural development inevitably led to a large influx of migrants from different parts of the country, especially the wet zone.⁴ These districts had a net in-migration of 72,518 between 1946 and 1953; 94,981 between 1953 and 1963 and 47,347 between 1963 and 1971. Partly because of this migration and partly because of the natural increase the total population in these districts increased by approximately 851,000 between 1956 and 1971. This represented 48% of the total increase in population in the Dry Zone during this period.

Although the total population in these districts increased substantially after 1946, the increase in urban population has been much less. In 1946, these districts had an urban population of nearly 58,000; by 1971 this had increased to a little over 230,000. This recorded increase of 172,000 represented only 39.2% of the total increase of the urban population of the dry zone during this period. Furthermore, a part of this increase was due to definitional changes. For instance, between 1963 and 1971 the urban population in these districts increased by nearly 79,000. Of this increase, only 50% was accounted for by the increase in population at the urban centres that existed in 1963; the remaining 50% represented the addition of new areas into the urban category after 1963. Thus while the total population of these five districts increased by almost 330,000 between 1963 and 1971, the corresponding increase in urban population was less than 40,000.

The relatively slow rate of urban expansion in those districts that benefited most from the colonization programme is brought out even more clearly when we examine the pattern of urban development in the dry zone between 1963 and 1971. As mentioned earlier the urban population during this period increased by 201,000 and of this 92,370 represented the increase at the urban centres that were in existence in 1963. The relative share of the different districts in this increase is given in Table I. It can be seen that the districts of Anuradhapura, Polonnaruwa, Trincomalee, Batticaloa and Amparai, which had the major share of the colonists, and the alienated land accounted for only 42.5% of the increase that took place. On the other hand Jaffna which had only 9.4% of the colonists, 8.3% of the alienated lowland and 11.0% of the alienated highland by 1971 accounted for 31.1% of the increase. Similarly the districts of

4. ESCAP, Population of Sri Lanka, Country Monograph Series No. 4 Bangkok, 1976.

Vavuniya, Mannar, Puttalam, Hambantota and Moneragala which had 13.5% of the colonists, 9.7% of the alienated lowland and 16.2% of the alienated highland accounted for 26.4% of the increase.

TABLE I

DRY ZONE DISTRICTS

Increase of population between 1963 and 1971 at Urban Centres that existed in 1963 and the Relative Share of Each District in the total increase for the Dry Zone

District	Increase of population at centres that existed in 1963	Percentage share of Increase in the dry zone
Anuradhapura	6,061	6.6
Polonnaruwa	3,640	3.9
Trincomalee	4,440	4.8
Batticaloa	21,574	23.4
Amparai	3,474	3.8
Jaffna	28,750	31.1
Vavuniya	9,427	10.2
Mannar	2,164	2.3
Puttalam	9,177	9.9
Hambantota	2,890	3.1
Moneragala	774	0.9
TOTAL	92,371	100.0

Source: Department of Census and Statistics and Ministry of Local Government.

The relatively slow rate of urban expansion in the five districts that were the major beneficiaries of the colonization programme is also reflected in the geographic distribution of urban places in the dry zone. Despite their large share of the colonists and alienated land and a significant share of the increase in the total population, these districts had in 1971 only 1 of the 2 municipal councils in the dry zone, 2 of the 10 urban councils and 10 of the 31 town councils. Thus with 47% of the land area in the dry zone, and 42% of its population in 1971, these five districts accounted for only 30% of all the urban places in the dry zone in that year.

It can be seen therefore that despite the large scale agricultural development programmes that have been started in different parts of the dry zone the expansion in urban population has been relatively slow.

One would have expected that the demand for goods and services from a large population engaged in a type of agriculture very different from that practised in the purana villages, would have led to a higher level of urban expansion and a more uniform distribution of urban places especially in those areas that have benefited most from the colonization programme. Clearly this type of development has not taken place. The reasons for this will be examined in the following section.

The planning and development of urban centres in colonization schemes

Prior to the initiation of the colonization programme the major elements of the urban network in the dry zone consisted of (1) the port of Trincomalee (2) a few administrative centres that served as dissemination points of colonial policy e.g. Anuradhapura and Hambantota and (3) several relatively small service centres that catered to the needs of a sparse and economically poor population e.g. Kekirawa. This network was inadequate to meet the needs of a large farming population partly because the towns were irregularly distributed and hence often located at points away from the colonized areas and partly because many of them lacked the ability to provide the settlers with the range of services they needed not only for the pursuance of their economic activities but also for their day to day living.

Because of the then existing network of urban centres those in charge of the colonization programme at the time decided to establish a network of service centres in each of the colonization schemes through a hierarchical system of civic centres and townships. The civic centres and townships were designed according to certain criteria and these have been outlined by Blok in a paper presented to the Engineering Association of Ceylon in 1953.⁵ Land for civic centres was reserved in relation to the needs of individual communities each comprising one hundred and fifty unirrigable highland units. It was assumed that a community would have approximately one thousand people consisting of a farm population of seven hundred and fifty persons (at an average of five persons per unit) and (b) a floating population of two hundred and fifty persons. The civic centre was designed to provide health, social and miscellaneous services to a community, and a reservation of 20 acres was considered adequate to cover all of these services. The township representing a higher level service centre was designed to cater to five communities comprising approximately 5000 persons. Sixty acres were to be reserved for each township, and

5. Blok, M.A. *Irrigation Planning*, The Engineering Association of Ceylon 1953.

within this reservation land was allocated for a variety of higher level services that included a cottage hospital, a council hall, park, rice-mill, co-operative store, marketing centre, school, places of worship, revenue office, shops and artisans' workplaces.

In keeping with this policy, land for civic centres and townships has been reserved in almost all of the colonization schemes that have been started. This may be illustrated by taking a brief look at two of the major colonization schemes in the dry zone (a) the Parakrama Samudra Scheme and (b) the Uda Walawe Scheme.

The Parakrama Samudra scheme located in the Polonnaruwa District was started in the early 1950s to provide irrigation to approximately 16,000 acres of paddy land. The unirrigable area within the scheme covers an area of approximately 11,500 acres and this land has been divided into homestead gardens with reservations for civic centres, parks, roads and forests. The entire extent of land coming within the scheme has been subdivided into 19 blocks (referred to as B.O.P.s) based on local variations in topography and drainage and in 14 of these land has been allocated for the provision of civic amenities. Of these 14, eleven have been provided with land for a single centre, one with 2 centres and two with 3 centres each. The extents provided varied from one B.O.P. to another. Of the 19 reservations, eleven are below 20 acres, five between 20 and 40 acres and three over 40 acres. With the exception of one B.O.P. where one of the three reservations has been made in the centre of the paddy tract, in all of the others the reservations have been made in the unirrigable areas. Where the highland lots are grouped together in a single tract the reservations have usually been made at the periphery of the highland area but in others where the lots are distributed among several tracts the reservations have been made at the periphery of the largest tract. In two of the reservations the extent of land that should be devoted to each type of activity has been indicated and the locational pattern for these activities specified, but in the other centres no attempt has been made to work out the land use patterns,

The Uda Walawe Scheme located in the south-east part of the island was started in the late 1950s with the primary objective of irrigating 63,000 acres of paddy land. Of this 28,500 acres fall within the right bank area and 34,500 acres within the left bank area. Much of the development up to date has taken place in the right bank area where the total extent of land has been divided into 19 tracts. Within each tract the unirrigable

land has been subdivided into homestead lots and the irrigable land into allotments for the cultivation of paddy and subsidiary crops such as cotton and sugar-cane.

As in the Parakrama Samudra scheme plans have been drawn up to develop the necessary social and economic infrastructure through a network of village centres and townships. Fourteen village centres have been established, the areal extents varying from 80 acres to a little over 250 acres. Within each centre land has been demarcated for a variety of uses such as primary schools, branch dispensaries, co-operative stores, sub-post offices, paddy and fertilizer stores and also for the erection of living quarters for those who would be managing these different institutions. In addition to these village centres four higher order service centres referred to as satellite townships have been planned at Embilipitiya, Angunukolapalessa, Timbolketiya and Suriyawewa. These townships were expected to emerge as the major urban centres serving the needs of the local population. Once developed Embilipitiya was expected to have a population of over 20,000, Angunukolapalessa 10,000 - 12,000, Timbolketiya 8,000 and Suriyawewa 10,000.

The civic or village centres and townships in the colonization schemes were designed as location points for the services needed by the farming population. It was expected that these centres would eventually emerge as viable urban centres serving the needs of the local population. But these expectations have failed to materialize. Thus Gunawardena, Silva and Dias have stated that within the Parakrama Samudra scheme (1) the planned civic centres had failed to develop (2) some of the basic needs of the local population were being met by several small service centres that had sprung up at locations away from the civic centre reservations and (3) these service centres did not provide the quantum and range of services needed by the local population.⁶

The pattern of development in the Uda Walawe Scheme has been very much the same. In the village centres that have been demarcated some of the planned services, such as markets and commercial institutions are totally absent while others such as tractor sheds and dispensaries have not been uniformly provided. Even in the case of the four townships that have been planned the record of progress has been slower than anticipated. In the new town of Embilipitiya for example which was designed as the major urban centre project area, land has been demarcated for a variety of

6. (Miss) K. A. Gunawardena, "Service Centres in the Parakrama Samudra Scheme" *Modernization of Peasant Agriculture*, Report No. 6.

economic and social institutions and services. But today most of the establishments catering to the needs of the local population are not located in the new town but at old service centres along the main road. Even in the other townships i. e. Uda Walawe, Suriyawewa and Angunukolapalessa, except for a few community services that have been provided, implementation up to date has been limited to the demarcation of land for the location of various social and economic institutions and residential quarters.

Effects of the Slow Development of Civic Centres and Townships on the Local Population

Because of the failure to co-ordinate urban growth and agricultural development in the different settlement schemes the range of facilities needed by the farming population has not been fully provided. The type of agriculture that developed in these areas created a demand for a much wider and larger range of agricultural inputs and marketing and storage facilities than what was available at the start of the colonization programme. The network of co-operative stores that was established in these areas was expected to meet this demand, but partly because of their irregular distribution and partly because of certain inherent weaknesses in the system, basic ingredients such as improved seeds, fertilizer, agrochemicals and marketing and storage facilities have often been lacking in most areas.⁷

Deficiencies also exist in the health and education facilities that have been provided. A network of schools and health centres (including rural hospitals, peripheral units, maternity homes and central dispensaries) has been established, but the facilities, staff and the services provided appear to be inadequate in comparison with those in the wet zone districts. This can be seen from Tables II and III which give the distribution of certain educational and health facilities in some selected districts in the dry zone and the wet zone.

7. Summary Report of the Socio-Economic Survey of Nine Colonization schemes in Ceylon 1967-68, Part I - Highlights of Findings: Comparative Analysis, Agricultural Economics Research Unit, Faculty of Agriculture, University of Ceylon, Peradeniya, 1969.

TABLE II

**Selected Education Facilities in the Districts of Anuradhapura,
Polonnaruwa, Galle, Kandy and Kalutara, 1979**

	Anuradha- pura	Polon- naruwa	Galle	Kandy	Kalutara
Total Population ..	388,770	163,653	735,173	1,187,925	729,514
Proportion of Schools With Grades					
1 - 5 ..	58.0 %	39.2 %	41.3 %	33.9 %	23.5 %
1 - 9 ..	31.0 %	46.6 %	35.8 %	42.5 %	58.3 %
1 - 10 ..	1.8 %	2.2 %	4.1 %	4.7 %	1.4 %
1 - 12 ..	9.2 %	12.0 %	18.8 %	18.9 %	16.8 %
Number of Schools .. (i. e. Madhya Maha Vidyalayas and Maha Vidyalayas)	44	19	109	125	73
Number of Schools with Laboratories ..	6	3	31	35	21

Source: Statistics Division, Ministry of Education

TABLE III

**Selected Health Facilities in the Districts of Anuradhapura,
Polonnaruwa, Galle, Kandy and Kalutara, 1979**

	Anuradha- pura S. H. S. Division (Anuradha- pura and Trincomalee Districts)	Matale S. H. S. Division (Matale and Polon- naruwa Districts)	Galle S. H. S. Division	Kandy S. H. S. Division	Kalutara S. H. S. Division
Total Population (1979)	662,000	542,000	850,000	1,835,000	847,000
Number of Specialists In Hospitals ..	9	5	16	35	13
Number of Radiogra- phers in Hospitals ..	3	3	5	9	6

Source: Statistics Division, Ministry of Health.

The better schools and hospitals in many of the Dry Zone districts are often found in the larger urban centres. But owing to their location and owing to the poorly developed transportation facilities they are not

easily accessible to the bulk of the farming population in various settlement schemes. The maldistribution of the better educational and medical facilities is brought out clearly in Table IV which gives the locational pattern of the better equipped schools and medical centres in the Anuradhapura District.

TABLE IV
Distribution of Central Schools, Government Employed
Medical Specialists, Dental Surgeons and Radiographers in
Anuradhapura and Trincomalee Districts - 1979

Number	Central Schools	Medical Specialists	Dental Surgeons	Radio- graphers
Anuradhapura ..	1	4	1	1
Kekirawa ..	1	5	3	2
Trincomalee ..	1	—	1	—
Total in Anuradhapura and Trincomalee Districts ..	3	9	7	3

Source: Statistics Division - Ministry of Education
Statistics Division - Ministry of Health.

Since the plans for the civic centres and townships have not been fully implemented the present urban network in the dry zone, is not very different from that which existed before the implementation of the colonization programme. At that time the larger urban centres such as Anuradhapura, Batticaloa, Trincomalee and Polonnaruwa were mainly administrative cum service centres, whereas, the smaller centres such as Kekirawa and Hingurakgoda were essentially service centres catering not only to the needs of their hinterland population but also to transients. These centres have continued to perform these same functions and hence even today a substantial proportion of the gainfully employed in the urban areas are engaged in community, social and personal services and wholesale and retail trade (Table V).

A striking feature of the urban development in many of the Dry Zone districts is the small number of people employed in the manufacturing sector. The figures in Table V show that the proportion engaged in manufacturing activities was less than 10%. The relative unimportance of the manufacturing sector in the urban centres within the colonized areas is brought out even more clearly in Table VI which gives the number of registered business establishments in Kaduruwela, Embilipitiya and Kekirawa.

TABLE V
**Employed Population Ten Years and over in Urban Areas in
 Anuradhapura, Batticaloa, Trincomalee and Polonnaruwa
 Districts Classified by Major Industry Division - 1971**

	Proportion Employed in Industry Division			
	Anuradha- pura	Batticaloa	Trincomalee	Polon- naruwa
Total Employed ..	12,406	17,369	18,673	6,174
Community, Social and Personal Services ..	33.6	22.9	24.5	25.5
Agriculture, Hunting, Forestry and Fishing ..	12.3	22.6	26.4	24.3
Wholesale and retail trade and restaurants and hotels ..	18.7	21.4	16.8	20.6
Manufacturing ..	6.9	13.9	0.4	7.9
Transport, Storage and Communications ..	10.4	5.8	13.4	5.5
Others ..				

Source: Department of Census and Statistics - Census of Population - 1971, Vol. 1 - Parts, 11, 17, 18.

TABLE VI
**Registered Business Establishments in Kaduruwela, Embilipitiya
 and Kekirawa Classified According to Industry Division**

	Proportion of Registered Establishments in		
	Kaduruwela 1970	Embilipitiya 1976	Kekirawa 1978
Total Number of Establishments ..	131	299	329
Community, Social and Personal Services ..	15.27	16.05	13.07
Wholesale and Retail Trade ..	70.99	67.89	75.38
Manufacturing ..	13.74	16.05	11.25
Others ..	—	—	0.30

Source: Town Councils of Polonnaruwa, Embilipitiya and Kekirawa.

It can be seen that nearly 85% of the establishments in each of these centres belonged to the wholesale and retail trade, and community, social and personal services. Furthermore, of the establishments that have been classified as manufacturing establishments, the majority consists of rice and grinding mills, bakeries, printing presses, blacksmiths and welding and lathe works where the total number of people employed per establishment is very small. Thus of the 48 registered manufacturing establishments in Embilipitiya in 1976, 50% were rice mills and 20% bakeries. Likewise, of the 37 registered manufacturing establishments in Kekirawa in 1978, 34% consisted of rice, grinding and oil mills, 20% welding and lathe works and 30% bakeries and printing works.

The poorly developed manufacturing sector presumably reflects the inability of the urban centres in the colonized areas to provide employment opportunities to those moving out of agriculture. Although the colonization programme led to a large influx of migrants into the Dry Zone, there has been at the same time an outflow of people even from these districts that benefited most from the colonization programme. Thus during the five year period from 1966-70 alone, there was an outflow of nearly 21,000 persons from the districts of Anuradhapura, Polonnaruwa, Batticaloa, Trincomalee and Amparai. A part of this migration represented the movement of people from one district to another within the dry zone itself and a part the movement from the dry zone Districts to the wet zone (Table VII).

TABLE VII

Proportion of the Population Born in the Districts of Anuradhapura, Polonnaruwa, Batticaloa, Trincomalee, and Amparai Living outside the District of Birth

District of Birth	Total Living outside District of Birth	Proportion Living in		
		Other Dry Zone Districts	Colombo District	Wet Zone Districts other than Colombo
Anuradhapura ..	24,297	51.6	19.3	29.1
Polonnaruwa ..	8,279	53.8	13.2	33.0
Batticaloa ..	23,438	80.9	11.1	8.0
Trincomalee ..	13,628	69.3	17.4	13.3
Amparai ..	5,892	64.7	11.0	24.3
TOTAL ..	75,534	65.1	15.1	19.8

Source: Department of Census and Statistics - Census of Population 1971, Sri Lanka - General Report.

The figures show that approximately two thirds of the people who have moved out of these districts have stayed in the dry zone and of the remaining one third some have settled down in the Colombo district and the rest in other districts within the wet zone. It is significant that in the case of the Anuradhapura and Polonnaruwa districts which have had the highest number of in-migrants since 1946 and the largest extents of alienated land, nearly half the number of out-migrants had gone to Colombo and the other wet zone districts.

It is possible that some of the out-migrants who have remained in the dry zone moved into the towns located in the neighbouring districts, but the absence of data prevents a quantitative estimate of this movement. However it is more likely that the majority of these out-migrants represent those who settled down in other districts either as allottees under the various land settlement schemes or as encroachers on crown land. If the rural to urban movement had been of any significance, the different urban centres in these districts would have shown a substantial increase in population. But this has not been the case. If we take the five districts referred to earlier, the nine urban centres that were in existence in 1963, had increased their population only by 41,700 by 1971.⁸ Of these nine centres, one (ie. Batticaloa) showed an increase of over 10,000 and three (ie Trincomalee, Eravur and Anuradhapura) an increase of between 5,000 and 10,000. It is very likely, therefore, that of the out-migrants from these districts who did not go in search of agricultural land elsewhere in the dry zone, the majority did not go to the local urban centres but moved into the wet zone in search of employment opportunities. It is also possible, that the increase in the urban population in these districts is more a reflection of natural growth and the influx of people from the wet zone and perhaps Jaffna district rather than an external rural to urban movement. In this connection it is noteworthy that of the 344,000 persons who were living in these districts in 1971 but born outside, 13% were from the Colombo district and 9% from the Jaffna district.

It is clear from the foregoing discussion that the policy of providing the necessary economic and social infrastructure in the different settlement schemes in the dry zone via a programme of civic centres has not been very successful. Some of the basic facilities needed by the farming population such as co-operatives, primary schools and dispensaries have been located at these centres but beyond that little attempt has been made to develop them into urban centres that would serve as markets for

8. The nine centres were Batticaloa, Eravur, Kaththankudi, Kalmunaj, Samanthurai, Trincomalee, Anuradhapura, Kekirawa and Polonnaruwa.

agricultural commodities, as locational points for social services and much needed agricultural services and above all as centres providing employment opportunities to the nonagricultural population.

Urban Development and the Mahaweli Development Programme

The Mahaweli Development Programme is the latest and by far the largest of the settlement schemes started in Sri Lanka. The first area to be developed under this programme is Area 'H' located in the Kala Oya Basin covering an extent of approximately 70,000 acres. Plans have been drawn up to settle nearly 25,000 families in this area through a network of family farms, each farm comprising $2\frac{1}{2}$ acres of irrigable land and $\frac{1}{2}$ acre of unirrigable land. The necessary social and economic infrastructure needed by this farming population is to be supplied through a hierarchical system of service centres distributed within the settlement area.

Since the individual homesteads in each of the settlement blocks have been grouped into hamlets, the lowest level service centre envisaged is the hamlet centre, which is designed to cater to 100-125 families. Four to six hamlets comprising 500-700 families will be served by the next order village centre, and 5-6 of these clusters consisting of 3000-3600 families by the highest order township centre. Plans have also been drawn up, to provide the village centres and townships with a suitable industrial base. The smaller industries eg. textile weaving centres, small scale paddy and fibre processing mills and cottage industries will be located at the village centres while the larger industries such as textile mills, rice processing mills, and agro-based industries such as groundnut oil and straw ware manufacturing would be located at the township level.

In deciding to provide the necessary economic and social infrastructure through a hierarchical system of service centres those in charge of settlement planning in Area 'H' have in effect accepted a principle that had been adopted in the earlier settlement schemes. But having accepted the principle the Mahaweli planners have gone much farther ahead than in any of the other settlement schemes in determining not only the range of services that have to be provided but also their spatial distribution (Table VIII).

If the planned settlements are going to develop into viable agricultural communities it is very necessary that the farming population be supplied with all their necessities as early as possible. In all of the previous settlement schemes there has been a wide time gap between the settling of people and the provision of even the basic service facilities. Moreover, even after some of those facilities have been supplied it has taken a considerable amount of time for them to be developed to a satisfactory standard.

TABLE VIII

Area "H" - Infrastructure Services Planned

SETTLEMENT LEVEL	ADMINIS-TRATIVE	COMMERCIAL	AGRICULTURAL	EDUCATIONAL	CULTURAL	HEALTH	OTHERS
Hamlet Centre 100-125 families (500-600 persons)		Co-operative Depot, Post Box Boutiques	Farmers organisation Representative	Primary School	Area to be reserved for Recreation, Religious & Community Activities	Mobile Dispensary	Cemetery (One for two hamlets)
Village Centre for 4-6 Hamlets 500-700 families (2500-3500 persons)	Grama Sevaka's office Range Office (one for every two clusters)	Branch Co-operative Society & Co-op. Depot Sub-Post Office (One for two clusters) Repair Shops Shops and Sunday Fair (Pola Grounds)	Fertilizer Store Paddy Store Tractor Repair Station Project Office (Cluster level)	Primary Educational Institution Junior Secondary School Play Ground	Community Centre Multipurpose Hall, Reading Room Library Play Ground etc. Archaeological & Architectural Ruins to be preserved. Religious Institutions Temple, Church Kovil, Mosque etc.	Public Health Midwife Dispensary (Visiting) (one for two clusters)	Bus Stops Parking Area Green Belts Cemetery Public Toilets
Township (5-6 Clusters or Villages 3000-3600 families) (15000-20000 persons)	Town Council Range & Regional Office Police Station	Multipurpose Co-operative Society Primary Co-operative Retail Depot. Post Office Banks, Central Market, Shops Repair Shops Filling Stations Cinemas	Agricultural Training Centre Sub-area farmers Committee Office Paddy Store Fertilizer Store Agricultural Service Centre	Senior Secondary School & Play Ground Other Educational Institution Technical & Commercial	Community Centre Multipurpose Hall Library Play Ground Cinema etc. Religious Institutions Archaeological & Architectural Ruins to be preserved	Central Dispensary & Maternity Ward Public Health Centre, Hospitals (Peripheral Unit or Rural) (For type or distribution see F Studies)	Bus Stands (Main) Bus Stops Railway Station (If Passing through) Parking Lots Green Belts Public Toilets Cemetery & Crematorium

Source: Settlement Planning Division, Mahaveli Development Board.

In view of this past record the question is raised as to whether the plans drawn up for area 'H' can be implemented quickly and efficiently. The settlement programme in the area commenced about 3 years ago and since then about 50% of the blocks have been settled. Although there is a carefully prepared set of plans for these areas, there exists today a wide gap between the facilities that have been planned and those that have been provided. This is particularly true of the medical and educational facilities (Table IX).

TABLE IX

Educational Medical and Postal Facilities that have been planned for Blocks 301 - 311 and the Facilities that are available at present

		Planned ¹ Facilities	Available ² Facilities
EDUCATIONAL			
1. Junior Secondary School	..	42	9
2. Senior Secondary School	..	3	-
PUBLIC HEALTH			
1. Public Health Midwife	..	6	-
2. Public Health Inspector	..	3	-
3. Public Health Nurse	..	3	-
MEDICAL			
1. Central Dispensary	..	2	1
2. Central Dispensary and Maternity Home	..	1	-
POSTAL			
1. Post Box	..	14	
2. Sub-Post Office	..	5	2
3. Post Office	..	2	1

1. Source: Mahaweli Ganga Development Project I-Feasibility Study for Stage II, Vol. VII - Settlement Planning and Development.

2. Source: Community Development Division, Mahaweli Development Board, Galnewa

The delay in the provision of these facilities has already given rise to several problems in the area. Firstly in the absence of government sponsored medical facilities in the area farmers have had to rely on facilities located outside the project area. Thus for example in a study made of 250 farmers located in Blocks 302, 303, 304 in Maha 1977/78 it was found that of those who suffered from malaria, 70% had to travel out of the project area to obtain the necessary treatment.⁹ Since the government medical

9. P. Silva, Miss J. Perera and W. N. Wilson - Man and the Biosphere. National Committee for Sri Lanka; Environmental Studies Mahaweli Development Area; Socio-Economic Survey - Statistical Abstract (Interim Report No. '6)

institutions are located some distance away from their residences and the transport facilities are poor, the farmers have had to incur inconvenience and expenditure in making use of these services. Secondly, some of the farmers in the neighbouring Purana villages who have been allocated land within the project area have been reluctant to move in and occupy their homesteads because the facilities in their villages are considered to be superior to those that are presently available in the project area. In Blocks 302 and 303 for example, which were opened up for settlement over two years ago 13% of the farmers in the sample referred to earlier were still residing in their old villages at the end of the 1978 Yala season.¹⁰ Thirdly, the absence of suitable facilities has prevented some of the farmers who have moved in from other districts from establishing themselves in the area. In a study that is being done of 130 farmers in Block 306, preliminary observations have shown that nearly one third of the farmers have not brought their children of school-going age into the area because of the lack of proper educational facilities.¹¹ Fourthly, the delay in the implementation of plans for the setting up of boutiques at points away from the planned centres. By the end of 1978 there were approximately 50 tea boutiques and grocery stores located along major roads in Blocks 302, 303 and 304, and of these 75% had come into existence after 1975. Likewise there were 21 service establishments such as rice mills, barber saloons, bicycle repair shops and clinics also located along the main roads, and all of them had been established after 1975.

The delay in the provision of some of the essential facilities and services has inevitably led to haphazard patterns of development quite contrary to what has been planned. Furthermore, it has forced the farmers to face several unexpected difficulties. It is essential therefore that all the planned facilities and services be provided as quickly as possible because as has been pointed out "any delay in the provision of the essential facilities and services would seriously jeopardize the smooth implementation and ultimately the success of the project."¹²

If we assume that the plans for the development of the different levels of service centres will be implemented quickly, the question is then raised, as to whether these centres would provide the type of urban development that is needed in the area. In order to answer this question

10. P. Silva, et. al. op. cit.

11. This study is being done by the author and two other colleagues under the Man and the Biosphere Programme sponsored by the National Science Council.

12. Mahaweli Ganga Development, Project I; Feasibility Study for Stage II; Vol. III - Settlement Planning and Development.

it is necessary first to find out what functions the urban centres in this area are expected to perform. These functions of course would depend to a large extent on the demand for various types of services and facilities from the different groups of people resident in the area.

The largest and the most important group would be the farmers and as far as they are concerned the service centres will have to perform three major functions. Firstly, since agriculture in the area is heavily dependent on a continuous flow of inputs such as improved seeds, fertilizers, pesticides, agricultural machinery and technical knowledge, the service centres will have to distribute these efficiently and economically through a network of co-operative stores, distribution centres and extension agencies. Secondly, because of the higher production in agriculture, these centres will have to meet the demand for a wide variety of services such as storage, finance, insurance and marketing. Thirdly, due to the higher incomes accruing from agriculture, they will also be called upon to provide a wide range of facilities such as schools, hospitals, banks, recreational centres and shops.

The second group would consist of those people who have not been able to obtain land for agricultural purposes. In the past persons within settlement areas who were not selected as allottees were able to move into other areas either legally as settlers or illegally as encroachers. But once the Mahaweli and the other settlement programmes are completed much of the land in the dry zone would be parcelled out and the land frontier would then cease to be a major source of accommodation, in which case the landless persons and those moving out of agriculture for other reasons will have to be provided with employment opportunities in the non-agricultural sector. Hence as far as these two groups of people are concerned, the main function of the service centres would be to provide off-farm employment opportunities.

The third group of people would be the professional workers, administrators and businessmen. These people would expect the service centre to be a place where they will find appropriate residential facilities and acceptable services and amenities. They cannot be sufficiently motivated unless the service centre provides them with the kind of environment that gives them an opportunity to exchange ideas with other people on the same level, special cultural and social facilities and other amenities of city life. In other words what they would be looking for in the service centre is the kind of environment that is usually found only in towns.

In addition to the functions outlined above, the service centres would also be called upon to play a role in preventing regional leakage. Hitherto, because of the uneven spatial development in the country much of the economic surplus from the newly settled areas has been transferred to Colombo and other urban areas in the wet zone. One way in which this surplus can be retained in the settlement areas is by the provision of suitable facilities and investment opportunities in the local service centres.

The hierarchical system of service centres planned for Area 'H' would no doubt look after the different needs of the farming population. In fact if the planned facilities are properly and quickly implemented they would provide the farmers and their dependants with economic, social and cultural services at least on a parity with similar centres in the wet zone. However, a great deal of further thought will have to be given to the structure and spatial distribution of these centres if they are also going to provide (a) adequate employment opportunities to the nonfarming population and the underemployed farming population, (b) a suitable physical environment to the professional workers, administrators and entrepreneurs and (c) an economic base that would reduce the leakage of the agricultural surplus.

In any settlement scheme, the demand for employment opportunities outside agriculture will come from two major groups of people (i) those who have not been able to obtain land and (2) the children of allottees who would be entering the labour force. Being young and to a certain extent educated their job aspirations would be such that they will be reluctant to become agricultural labourers even if there is an increase in the absorptive capacity of labour. At the same time the exhaustion of the land frontier would prevent them from becoming farmers themselves.

Besides these two groups there could also be a group of people released from agriculture and hence looking for employment opportunities. It is commonly argued that with continuous capital investment in land and the adoption of improved techniques there is inevitably a decrease in the demand for labour in agriculture, in which case off-farm employment opportunities will have to be supplied to these people as well. Even if we assume that there will be no such reduction in the absorption of labour in agriculture there could still be a demand for part-time employment opportunities outside agriculture. This is because paddy cultivation is not a full time occupation and the long slack season between planting and harvesting operations provides most paddy cultivators and agricultural labourers with an opportunity of obtaining some off-farm employment.

In most settlement schemes employment opportunities outside agriculture have been provided mainly by the tertiary sector. But since many of the planned services and facilities have not been implemented the employment opportunities provided by this sector have been somewhat limited. It is possible that with the implementation of the infrastructure programme in Area 'H' there could be an appreciable increase in the labour absorptive capacity of the tertiary sector. But even so, it seems very unlikely that this increase would provide employment opportunities to all those people not absorbed by agriculture.

Thus the only way in which employment opportunities can be further expanded is by developing the secondary sector. In doing so considerable attention will have to be paid not only to the kinds of industries that would be most suitable for the areas under discussion but also to the desired location for such industries. The latter consideration is of particular importance because unlike tertiary activities which can be uniformly distributed in village centres, industries will have to be located at the most appropriate locations. This implies policy measures that would enable the selection from amongst the village centres those centres that provide the greatest potential for industrial growth. Once selected these centres will have to be supplied with the kind of infrastructure needed to encourage the concentration of industrial investments.

In all settlement schemes there is a pressing need to mobilize skilled personnel for development work, and people of this calibre can be drawn in and retained within the area only if they can be given adequate services and the type of cultural atmosphere that will appeal to them. Hence all the necessary services and their locations should be carefully planned and such plans quickly implemented in order to provide the mechanism that would retain within the region the skilled personnel as well as the educated local population. By integrating the needed services in a few selected centres it will be possible to provide not only the professional workers, administrators and entrepreneurs but also the local population with services similar to those in urban areas. Furthermore the integration of these services through a few centres would also enable the establishment and maintenance of an improved and efficient set of services.

Once a group of selected village centres is developed as higher order service centres and located points for industry, they could play a major role in reducing regional leakage because of their potential of becoming nuclei for the future economic and social development of the surrounding areas. As the demand for food increases and the farmers are paid a viable

price for their produce the enhanced income would lead them to spend more on (a) better seeds, more fertilizer, agricultural implements, wells etc., (b) consumer goods such as clothes, radios and bicycles (c) education and health and (d) housing, recreational facilities etc. At the same time because of the social and cultural facilities that will be established at these centres the skilled personnel will find these areas more attractive to live in and this in turn would stimulate the demand for a variety of goods and services. Both kinds of spending could provide a wide range of new investment opportunities not only in the tertiary sector but also in the secondary sector.

What is needed is the re-structuring of the service centres to meet the needs of all the people residing in the newly settled areas. The village centre should be designed to provide the basic requirements of the farmers for the pursuit of their agricultural activities and day to day living and located along the main roads in relation to population and accessibility rather than to variations in topography. Village centres with the greatest potential for the location of secondary and tertiary activities should then be selected to function as "rural towns". These should be designed not only to provide higher order services for the farming population but also to provide non-farm employment opportunities, the kind of physical environment needed to attract and retain skilled personnel and a means of reducing regional leakage. In addition to these "rural towns" steps should also be taken to strengthen the facilities at the existing urban centres on the periphery of the settlement area. Many of these towns already possess the necessary urban infrastructure and hence all that is needed is some added investment that would enable them to develop into "regional centres". In fact these towns should be developed even before the settlers are brought in because of the need to provide the professional people and administrators who move into these areas at the very early stages of development with the amenities that would motivate them to stay in the area and get on with their job of work efficiently and punctually.

What is called for therefore is a strategy aimed at promoting urban development in the newly settled areas through a system of "rural towns". The present strategy of first developing the agricultural resources by providing the necessary physical infrastructure and then supplying the needs of the farming population over a period of time has to be replaced by one in which agricultural development and urban growth are considered complementary and interrelated and not as separate and competitive. It is only by developing viable urban centres that we will be able to eliminate

some of the very familiar but pressing problems in newly settled areas such as the need to (a) provide employment opportunities to the second generation, (b) attract professional people such as doctors and lawyers, (c) maintain the quality of the economic and social services that have been provided and (d) motivate those in charge of the development programmes to get themselves totally involved in the entire development process. Furthermore, as Hermansen has pointed out "Viewing regional communities as physical-spatial systems consisting of complex networks of nodes and flows that have to be functionally ordered, the physical planners usually fail to conceive the significance of urban areas as tools for modernization and poles of economic growth capable of transmitting impulses for growth and change throughout their spheres of influence. Too much emphasis is apt to be given to static design and location of physical facilities without sufficient attention to the self-perpetuating forces inherent in the process of economic growth that have to be accommodated. Therefore, it seems appropriate to call for a more dynamic physical planning which is less concerned with drawing up detailed static pictures of end situations, say, fifteen to twenty years ahead, and more concerned with the process of urban-industrial growth and the ways and means to control and direct this process."¹³

In conclusion it must be stressed that the integration of agricultural and urban development can best be achieved by adopting a regional approach to development. Hitherto in almost all of the settlement schemes the primary aim has been to develop the agricultural resources and to set up those supporting services needed for agricultural development. Agriculture is certainly the most important sector and should be given top priority in any land settlement programme in the Dry Zone. But as Andrade has pointed out agriculture cannot grow alone and a great deal of development outside agriculture is necessary to obtain optimal economic and social returns on the investment made within this sector.¹⁴ The regional economy consists of several sectors and all of them should be considered together and integrated if there is going to be a balanced development of the region.

13. Tormod Hermansen, (1975) "Spatial organization and economic development. The scope and tasks of spatial planning" in *Regional Disaggregation of National Policies and Plans*, ed. A. Kuklinski, United Nations Research Centre for Social Development, Geneva.

14. Preston Andrade, (1972) "The Growth Centre Concept" in *Readings on Micro-Level Planning and Rural Growth Centres* ed. L. K. Sen, National Institute of Community Development, Hyderabad,

A Catholic Shrine in its Social Context

R. L. STIRRAT

Introduction

In this paper I am concerned with describing certain aspects of a Roman Catholic shrine in Sri Lanka. Ten years ago it did not exist; yet by 1974 the shrine at Devagama had become one of the most important Catholic centres of pilgrimage in the country. Since 1975 numbers have declined, but it still remains a major religious centre.¹

The central theme of this essay concerns the sacredness of the shrine. The focus is upon those processes through which the shrine has come to be defined as sacred, how its sacredness is maintained, and what are the threats to its sacred status. I shall argue that the rise of Devagama as a sacred centre is intimately related to certain political developments in Sri Lanka over the last few years, coupled with re-interpretations of Catholicism current not only in certain sections of the Sinhalese Church but also in the Catholic Church as a whole.

It is important to point out at this point that the rise of Devagama is not a unique event. There are a number of other Catholic shrines of recent origin in Sri Lanka which centre around individuals who claim to be possessed by saints and which share many features in common with Devagama. Similarly, parallel developments have taken place amongst the Buddhists of the country.

Furthermore, the account presented here is only one of a series of possible accounts. For instance one could produce an account which stresses the similarities between what is happening here and the recent developments amongst Sinhalese Buddhists. In both religions we find an

1. The fieldwork on which this paper is based was carried out at various times between 1974 and 1976. It was financially supported by the Social Science Research Council and the Carnegie Trust. I should like also to acknowledge the help, advice and encouragement I have received from Professor G. Obeyesekere and D. Winslow. Finally, I must thank Father Somaratne and the devotees of the shrine at Devagama. They have always treated me with the utmost politeness and generosity despite the fact that they knew full well I did not share their beliefs. Names have been changed in the text to avoid offence.

increase in the incidence of possession, in the belief in direct intervention of supernatural beings in the mundane world, and in what Wilson (1973) would call "thaumaturgical" activities. In many ways the modes of interaction between man and the divine are identical, no matter what the stated religion is. As such, and for certain purposes, it may well be preferable to talk in terms of "Sinhalese Catholicism" or whatever. And in terms of this type of approach, the points developed by Obeyesekere in his analyses of Folk Buddhism are directly relevant to understanding what is happening amongst certain sections of the Catholic population including those who frequent Devagama (Obeyesekere 1970; 1974; 1977).

But in this paper I wish to stress not the similarities but rather the differences between Catholics and Buddhists in Sri Lanka. In particular I want to stress the notion that in Sri Lanka, religious identity is an important political factor, and that to be a Buddhist, Hindu, Muslim or Catholic is to make a political statement. As I hope to show, the growth of Devagama as a shrine is directly related to the changing implications of what it means to be a Catholic. On the one hand, the rise of the shrine consists of a series of metaphorical statements concerning these implications. On the other, it is an attempt to change the nature of these implications.

The Rise of Devagama

Devagama is a small village about fifty miles inland from Colombo. Travel to Colombo and the coast from Devagama is relatively easy both by train and road, a factor not without importance in the rise of the shrine. The village itself is in the foothills of the "Up Country", the mountainous interior of Sri Lanka which remained independent of foreign rule up to 1815 and which even today retains a certain identity separate from "Low Country" Sri Lanka. In administrative terms, Devagama is in a territorial unit which in some senses is marginal to both Up Country and Low Country Sri Lanka. The area around Devagama is remarkably beautiful, flat stretches of paddy land being surrounded by steeply sloping hills covered in rubber, teak and the gardens of the villagers.

The people of Devagama are mainly members of the Batgama caste, a large but low status group whose traditional occupation seems to have been as servants to their caste superiors. Their low status appears to have attracted missionary attention as early as the middle of the nineteenth century. The first group of missionaries to take an interest in the village were members of the Salvation Army. They were followed by Anglicans and then in the early twentieth century by Catholic missionaries. Today,

Buddhists form the largest single religious group in the village, but there are substantial numbers of Catholics and Anglicans along with smaller groups of Seventh Day Adventists and members of the Salvation Army.

Most of the Catholic missionaries active in this area were Italian Jesuits. In 1930, with financial help from Low Country Catholics, they built a church at Devagama on top of a huge rock. Leading up to the church they laid out a "Way of the Cross" which culminated in a set of life-size concrete statues depicting the crucifixion scene. The church was dedicated to Our Lady of Lourdes and fittingly, a grotto modelled after that at Lourdes was built behind the church on the highest point of the rock.

Thereafter, the parish of Devagama seems to have been left in a state of benign neglect. Only infrequently was there a resident priest in the village. Normally a priest from a neighbouring parish came to the village every fortnight or so. Devagama was just another insignificant village, unknown to anyone not living in the immediate vicinity. But things began to change with the appointment to the parish of a priest called Father Somaratne in 1970, and from this time, Devagama began its rise to fame.

Father Somaratne's parents were both Catholic teachers. Even as a child he seems to have been a particularly devout Catholic, very early developing a special devotion to the Virgin, and it was no surprise when he decided to enter the Church. After attending a seminary in Sri Lanka, he went for further training to a Catholic seminary in India.

Even whilst a seminarian, Somaratne was the centre of some controversy. Some of his classmates claim that he was nearly expelled from the seminary on a number of occasions for not showing himself suitable for the priesthood. They claim that he frequently took insufficient interest in his studies, oscillating between extreme pietistic devotion to the Virgin, and periods of non-interest in religious affairs. But he survived, returned to Sri Lanka, and was ordained a priest.

When Father Somaratne arrived at Devagama, it was just another remote rural parish, not by any means a coveted appointment and more suitable as the last charge for a priest about to retire than as a first appointment for an active young man. At first he appears to have been content with encouraging the cult of the Virgin amongst his parishioners. Thus he encouraged the villagers to wear the scapular and to say the Rosary every night. He introduced communal Rosaries on Saturdays at the grotto behind the church, and led his congregation through the Way of the Cross on

Fridays. How successful he was at involving his parishioners in such devotions I cannot say. And although his pietistic attitudes were somewhat unusual in comparison with most priests in Sri Lanka, these Marian devotions in themselves would probably not have led to Devagama becoming the shrine it is today. What seems to have been crucial in its rise was the presence at Devagama of a "Holy Relic".

Sometime in the 1930s, one of the Italian Jesuits involved in building the church at Devagama brought back from Rome what was claimed to be a Thorn from Christ's Crown of Thorns. For some reason, he deposited the thorn in Devagama church. The sacred claims for this Thorn were not generally accepted by the clergy in Sri Lanka. It was not accompanied by any authentication and it seemed most unlikely that if it was a true Thorn that it would end up in Devagama. Thus no-one took it very seriously, the general attitude towards it being summed up by a priest who told me it was "simply a piece of rubbish foisted off on colonials by those sharks in the Vatican". So when Father Somaratne arrived at Devagama, the Thorn was languishing in a cupboard in the Mission House, neither treated with any great veneration nor the centre of any devotion.

At first, Father Somaratne seems to have been unaware of the Thorn's existence, but when he realised its sacred claims he brought it out of its obscurity and began to treat it with the reverence proper to a relic of Christ's passion. Soon he realised that if it was truly a relic, then it must have supernatural powers. So when two villagers were brought to him suffering from demonic possession, he blessed them with the Thorn, pressing it against their foreheads. The demons were successfully eliminated, and so the Thorn began to be used to heal others, both those possessed by demons and those suffering from more mundane problems.

The fame of the Thorn soon began to spread outside the immediate areas of Devagama. At first, only those from local towns came to the church. But as its fame grew the shrine began to attract pilgrims and devotees from all over Sri Lanka, even from distant Tamil speaking areas.

At the beginning, the lure of Devagama lay in the miraculous curing power of the Thorn. But very quickly a transformation of sorts occurred. Devagama became a sacred place; a divinely chosen spot. The miraculous cures effected at Devagama began to be interpreted as an indication, not only that the Thorn was a true relic, but that the place itself was divinely chosen. Furthermore, the belief developed that this divine choice had been exercised by the Virgin Mary who had also chosen Father Somaratne to be her agent on earth. So whilst at first only the sick

and lame had been brought to Devagama to be healed, now people began to come for a whole host of reasons, some for directly pragmatic reasons, others, ostensibly at least, out of more spiritual interests. And so a circular process of growth set in. Because of the miracles at Devagama so the sacredness of the place increased. And as its sacredness developed, so the greater the number of miracles.

By 1974 a relatively fixed pattern of public rituals had developed at Devagama which has remained constant ever since. The same set of rituals occur every weekend, modified only by the occurrence of special feasts such as Easter and the various feasts of the Virgin. The rituals begin on Friday evenings with the Way of the Cross. This is followed by a mass at Calvary and, after a short break, with midnight vigils in the grotto. On Saturdays there are novenas in the grotto followed by a long series of communal blessings when Father Somaratne blesses the people with the Thorn and with a "miraculous" statue of the Virgin. After these communal blessings there follows a long series of individual interviews and blessings from Father Somaratne. Many of the faithful begin to leave on Saturday evening but others remain until after morning mass on Sunday.

The largest crowds, numbering anything up to 5,000 people, come on the first weekend of each month, but on any weekend there are rarely less than 1,000 devotees present. Since 1975 there has been a decline in the numbers present at Devagama, perhaps by as much as 50%. Even so, Devagama remains one of the most important Catholic shrines in the country in terms of the numbers it attracts and the frequency of their visits. Individual motives for coming to the shrine may, as I have said, be mundane and pragmatic in the extreme, but the fact that people come to Devagama depends upon its peculiarly sacred nature, upon it being defined as a centre of worship and of contact with the divine. This, in the eyes of the faithful, makes it qualitatively different from other religious centres in Sri Lanka. And it is to these sacred aspects of Devagama that I now wish to turn.

The Sacredness of Devagama

A fairly orthodox approach in anthropology is to argue that what is sacred is that which relates two otherwise discrete entities. Given a radical distinction between the divine and the mundane, then if the divine is to have any relevance for the mundane, some form of communication must exist between these separate levels. And the vehicles of communication are entities which partake of the essence of both levels, being both divine and mundane. Thus Christ, the Virgin Mary and the Saints all bridge this

gap. They are (or were) both human and divine beings. Furthermore, if religion is to have any relevance for profane everyday life, then religious action must be focussed upon these sacred entities through which communication with the divine can be attained and maintained.² The shrine at Devagama is such a sacred entity. Here, the ontological gulf which separates this world and the divine is bridged. It is a place where people can communicate with the divine and approach the power of the divine through the sacredness of the shrine. To quote Christian's comments on Spanish shrines, Devagama is "a specially charged transaction site with well proven intermediaries for communication with the divine". (Christian 1972: 101).

For the faithful who frequent Devagama there is no problem concerning the sacred nature of the shrine. For them, the miraculous cures; the boons granted; the very "feel" of the place are sufficient to justify their knowledge that Devagama is a sacred place. Such supernatural events are proof that the Virgin has chosen Devagama for her divine purposes and that Father Somaratne is Her specially chosen vehicle. Of course, the faithful may well be correct in their views, but to the cynical anthropologist it is clear that the Virgin is not the agent defining Devagama as sacred but rather that the defining agents are the people themselves. It is because they define Devagama as sacred that they come to the shrine for divine aid.

At Devagama, three sets of items seem to be crucial foci of the shrine's sacredness; these three sets being more or less interdependent on one another. First of all, Father Somaratne is considered to have a special relationship with the Virgin Mary which makes him a sacred, supernaturally charged person. Secondly, the place itself is considered divinely chosen by the Virgin and because of this is imbued with a special quality. And thirdly, the relics of the shrine are supernaturally charged. Furthermore, their presence at the shrine is again related to the will of the Virgin, for she is the one who has united relics, place and priest, bringing them together for Her divine purposes.

Let us first look at Father Somaratne for he triggered off the development of the shrine at Devagama by bringing the Thorn out of obscurity and by instigating Marian devotions at the shrine. Furthermore, he alone of the three foci of sacredness has control over his actions. By his actions he can reinforce or undermine his own sacred status.

2. On this point, see for instance Leach 1976; Douglas 1966 and Christian 1972.

The faithful consider that Father Somaratne has been chosen by the Virgin as Her mouthpiece on earth. Some say She chose him because of his great devotion to Her; others see his piety as the result of the Virgin choosing him. But whatever the causal chain, Father Somaratne is seen as enjoying a very special relationship with the Virgin. It is generally believed that She communicates with him through dreams. Thus it was only through a dream that Father Somaratne discovered the Thorn, and only through her promptings that he began to use the Thorn, for blessing the sick. Such is this relationship with Her that Father Somaratne is thought to be qualitatively different from ordinary mortals, including other priests. He is considered to be "almost" a saint. His touch alone is often sufficient to cure the sick and to drive out devils. He is supposed to have the power of foretelling the future and of instantaneous travel from one place to the next. Even his clothes possess these supernatural properties of healing and people expect them to become relics when he dies. Some even say that he is already "like a relic".

Stories concerning Father Somaratne are such as to reinforce his sacred status. Some, like those mentioned above, stress his supernatural powers or his close personal relationship with the Virgin. Others, like the two below, are of interest in that they point to a symbolic equation of Father Somaratne with Christ, the most sacred of all mediators. Both of these myths are concerned with temptation and both stress his rejection of the secular world.

The first appears to refer to Father Somaratne's problems with the hierarchy whilst a young man. This story claims that whilst he was an assistant priest he began to have doubts as to his vocation and considered leaving the priesthood to get married. But then in a dream the Virgin made Her first appearance. She told Father Somaratne that She had a special purpose for him, and that he should remain in holy orders. Only when he came to Devagama did the Virgin reveal the nature of this mission. Since then, She has continually appeared to him, encouraging his work at the shrine and telling him what rituals should be performed.

The other myth deals with Father Somaratne's relations with demons and sorcerers. Many of the pilgrims who come to Devagama for aid are thought to be charmed; to be the victims of sorcerers who send demons to attack them (see Stirrat 1977). It is claimed that on a number of occasions powerful demons have tempted Father Somaratne with promises of power, wealth and sensual delight. But Father Somaratne has always spurned these blandishments and, with the aid of the Virgin and through his powers as a priest, consigned these demons to hell.

What these myths do is to set Father Somaratne apart from the generality of laymen and priests by stressing his special, close relationship with the Virgin Mary. He is Her chosen tool and his actions are manifestations of Her desires. Through this special relationship, Father Somaratne is thought to possess a unique and sacred status.

For himself, Father Somaratne studiously refrains from either affirming or denying any of these stories about him. To affirm them would be to expose himself to action by the Church hierarchy, whilst to deny them would put at risk the sacred character of the shrine. Yet his actions effectively back up the explicit claims of others as to his sacred status, for they reinforce the view that somehow he is in closer contact with the divine than is the normal priest.

Thus in his public life Father Somaratne continually displays his extreme devotion to the Virgin. He always wears the scapular. He always carries his rosary, his lips moving in continual prayer as he fingers his beads. On his face there is an ever-present look of saintliness and otherworldliness further expressed by his seeming inability to cope with the day-to-day aspects of organising a major pilgrimage centre.

His private life appears to be as pietistic as his public persona. He leads a particularly austere life. His mission house is bare, food is scarce and is continually being given away. In general he rejects comfort, even his vestments being frequently torn and ragged. From Thursday night until Sunday morning he fasts, and on Friday nights he is involved in continual prayers.

Since the rituals at Devagama began, Father Somaratne appears to have adopted more and more extreme forms of devotion. It is as if to maintain his sacred status his behaviour should become more and more saintly. Thus his weekend fasting appears to have started in early 1974. In 1976, more spectacularly perhaps, his role in the Way of the Cross changed. Previously he had simply led the prayers at each Station. But in 1975 he began to walk barefoot up the hill carrying a huge wooden cross, stumbling where Christ stumbled and generally replicating Christ's Passion.

In sum there is a sense in which Father Somaratne's behaviour and the myths which surround him indicate a position structurally analogous with that of Christ. The stories of his temptation and his supernatural powers and his general behaviour parallels that of Christ. Thus his performance with the Cross on Friday nights is interpreted as a penance for the sins of man and is explicitly compared by the devotees with Christ's

Passion. Admittedly, Father Somaratne does not openly claim the status of Christ nor does he claim to be the Son of the Virgin, but he does seem to model his behaviour on that of Christ, and this parallel is not lost on the devotees at the shrine.³

Now let us turn to the relics present at Devagama, those objects which possess a peculiar sacred power and which mediate between man and the divine.

I have already mentioned the Thorn, found and activated by Father Somaratne. For reasons which I shall discuss below, the Thorn was officially superseded in 1976 by what is claimed to be a piece of the True Cross. The striking feature of the Thorn and the piece of the True Cross is that both are directly related to Christ, the prime mediator between man and God, and both are related to His passion and death, the sacrifice through which humanity can find salvation. The sacred power in these objects is the result of a kind of osmosis; Christ's sacredness seeping through to the objects which surround him.

Of a slightly different order are two statues of the Virgin, kept at Devagama, both of which are supposed to have miraculous powers. Their history is exceedingly obscure but for both it appears that their sacredness lies in the fact that they have been proved efficacious in the past and if they are efficacious then obviously they must be sacred.⁴ However, it is not surprising that at a shrine dedicated to Our Lady of Lourdes there should be miraculous statues of the Virgin. And furthermore as the prime mediator after Christ between man and God, it is fitting that miraculous statues of Her should co-exist with relics of Christ. If the Thorn and the piece of the True Cross have their sacredness rooted in their metonymical relationship with Christ, then the status of these statues depends upon their metaphorical relationship with the Virgin.

Father Somaratne can, as it were, take an active part in the process of defining himself as sacred. But the sacredness of the relics is something that is imposed on the objects from without. There is nothing inherent in a thorn or a piece of rotting wood or even a wooden representation of the

3. Indeed, one could go further and argue that not only is Father Somaratne a structural analogue of Christ but also of God; Pilgrims at Devagama frequently claim that he sleeps with one of the miraculous statues of the Virgin. They interpret this behaviour as a sign of devotion to Our Lady, but one could argue that Father Somaratne is not only a metaphorical Christ, but also a metaphorical God, sleeping with a metaphorical Virgin.

4. At least one of these statues appears to have been brought to Sri Lanka from Europe.

Virgin which makes them sacred. Similarly with the place itself. Its sacredness depends upon people defining it as sacred, and selecting certain features of the place as significant for this definition. Admittedly, when Father Somaratne arrived at Devagama, the place was already equipped with a church, a grotto and the Way of the Cross. What he did was to activate them and in so doing, the meaning and significance of the place were altered. Many churches in Sri Lanka have grottos and Ways of the Cross but only Devagama is especially sacred.

For the faithful there are a number of features which make it a suitable place to be chosen by the Virgin. First of all, there is its rural beauty. Devagama is considered to be a splendid place to think about religion, far from the mundane noise and bustle of urban life. And because the Virgin has an affinity with beauty, therefore She chose this spot. Secondly, they stress the point that Devagama is a low caste village. This they say is important in that caste is a thing of this world. It is not a divinely ordained institution. By choosing Devagama the Virgin was affirming the ideal that all are equal before God. Furthermore, they claim (fallaciously it seems) that the rock at Devagama was the site of an ancient Portuguese church where Catholics were killed by Buddhists. Thus the site is sanctified by the martyrs' blood.

Yet all these reasons which are given as to why Devagama should be chosen by the Virgin are *post facto* statements. At base what makes Devagama sacred are the miraculous cures; the public and visible exorcism of devils; the boons and favours granted to those who have faith. Here there is a certain circularity of argument and a certain arbitrariness of thought. The shrine is sacred because of the miracles that take place here. Yet these miracles only take place because the place is sacred.

Whatever the myths and stories used to explain why the Virgin chose this particular spot, what is more important on an everyday basis is the maintenance of this sacredness no matter how this sacredness was originally obtained. And just as Father Somaratne modulates and controls his behaviour to retain his status and just as by treating the relics in a particular fashion their status can be maintained, so too the sanctity of the site has to be maintained by hedging it about with behavioural prescriptions and proscriptions. Thus certain types of behaviour are rigorously excluded: drinking, using drugs, fighting, quarrelling, flirting, buying and selling, and so on. Pilgrims are expected to act with decorum, behave in a seemly fashion and generally be "religious". For the faithful, what has gone

wrong with many of the older centres of pilgrimage in Sri Lanka is that they have become like holiday camps. And this has destroyed their sacred status and their spiritual potency.⁵

Overall then, the sacredness of the shrine is a property imposed upon it by the people themselves. In no way is sacredness a quality inherent in the object or the priest. Ultimately, the shrine is an extremely arbitrary construction of myths and tales, justifying its sacredness. It is sacred because people believe it is sacred. Given this, various events can take place there, predicated upon its sacredness but also reinforcing its sacred nature. Thus the problem remains as to how we should go about understanding the process through which Devagama became a sacred shrine. And to achieve such an understanding, I would claim that we have to shift the level of discussion from the shrine itself to a consideration of its position within Sinhalese Catholicism and the various processes taking place inside the Church in Sri Lanka.

Political Modalities of Catholicism in Sri Lanka

Although Catholicism was first introduced into Sri Lanka by the Portuguese in the sixteenth century, the Church as it exists today is essentially a development of the forms of religion introduced in the nineteenth century. The efforts of the Portuguese missionaries and the heroisms of the Oratorians from Goa during the Dutch period are now largely matters of myth. They have little direct relevance for the forms of Catholicism which exist in Sri Lanka today.⁶

After the British occupation of the Maritime Provinces in 1795, religious toleration was introduced which allowed an influx of missionaries into the island to recover and re-educate the Catholic groups in Sri Lanka. Most of the missionaries were European, mainly from France, Italy and Iberia, the French influence being dominant. And despite colonial rivalry elsewhere in the world, relations between the French missionaries and the

5. Here one is reminded of Durkheim's notion of the sacred as "things set apart". Not only must the sacred mediate between the divine and the mundane: it must also be separated out from the mundane (Durkheim 1976: 36-38). However, one must remember that for Durkheim the sacred meant something slightly different from what Leach *et al* mean by the term.

6. One of the most conspicuous gaps in the history of Sri Lanka is an adequate treatment of the fortunes and vicissitudes of the Catholic Church in the country. For the Portuguese period, there are some important primary and secondary sources available (e. g. Abeysinghe 1966; de Silva 1972; de Queyroz 1930; Pieris 1913), and for the Dutch period, there is the important work of Boudens (1957). But for the nineteenth century, there is almost nothing of any importance written on the subject.

British administration seem to have been good. Today the only signs of any conflict there may have been are the remnants of an attempt to introduce the cult of Joan of Arc.

The brand of Catholicism introduced and propounded by these missionaries was pietistic in the extreme.⁷ Essentially it involved the encouragement of prayers, devotions, the use of the Rosary, and the cults of the Virgin and of the Sacred Heart. It stressed a view of the cosmos in which there is a major discontinuity between the mundane and the divine, this gap being bridged by various mediators such as Christ, the Virgin, the Saints and the Church. Salvation was defined in purely spiritual, otherworldly terms, and could only be gained through spiritual action. Indeed, such was the stress laid by Catholic missionaries on ritual and on the sacred that during the nineteenth century, Protestant missionaries made frequent attacks on the idolatry and superstition peddled by Catholic priests seeing their teachings as a bastardised form of Christianity closely akin to the religions of the heathen. (Robinson 1855, Selkirk 1844).

Parallel with their claims to be mediators between man and divine the priests claimed a similar role in politics, interposing themselves between the Catholic laity and the colonial regime. At the national level the government dealt directly with higher levels of the Church hierarchy whilst at the local level administrators tended to deal with the local population through the priests.⁸ The clergy tended to be rather isolated from their congregations occupying large mission houses, leading lives similar in many respects to their administrative counterparts, and dealing with their parishioners through lay leaders known as *muppu rahalas* and *annaavi rahalas*.

The result was a congruence of the political and the religious orders. In both the relationship between the common man and the sources of power, secular or divine was achieved, not directly but through a series of mediators. The hierarchical organisation of the sacred paralleled the hierarchy of the polity, the missionary priests playing a crucial role in both structures. Not surprisingly, there was a close - one might say symbiotic -

7. I am aware that "pietistic" may not be the accepted term for the type of Catholicism I am describing here. Yet it is frequently used by Catholic priests in Sri Lanka to describe such religious behaviour, and I have difficulty in producing an alternative term. One could, perhaps, use the terminology employed by Pin, but these terms do not neatly fit with the data in question here. See Pin 1963 quoted in Vallier 1970.

8. In any fishing disputes which occurred, the first move by a government agent appears to have been to contact the local priest and if possible get him to settle the dispute. The intercedary role of the priest is frequently mentioned in the diaries and reports of the colonial civil servants.

relationship between missionary priest and colonial administrator, each supporting the other. And these contacts were made even closer as both parties shared much the same life styles, interests and education, especially in comparison with the local population.

Throughout the nineteenth century in both religious and political aspects of life, the Church stressed the exclusivity of the Catholic population in this Buddhist dominated country. On the political level the use by the administration of the priests as political mediators encouraged this process, Catholics being treated as an identifiable entity by the government. And in the religious sphere, continual attempts were made to instill in the Catholic population a sense that their religion was radically different from their non-Catholic counterparts. Various sanctions ranging up to excommunication were used to discourage Catholics from engaging in non-Catholic activities such as frequenting *devales* or *viharas* or taking part in non-Catholic rituals. Marriage between Catholics and non-Catholics was discouraged. The pulpit was freely used to persuade the laity that they alone possessed the "true" religion, that they alone were assured of salvation. In sum, the nineteenth century saw, if not the origins then the consolidation of a particular Catholic identity amongst the Catholics of Sri Lanka.

Particularly important in this context was the development of a Church-controlled educational system. Throughout the century, an excellent network of Catholic schools and colleges grew up in Catholic areas of Sri Lanka. Not only did this reinforce the sense of a separate identity amongst the Catholics, but it also led to Catholics being over-represented in the higher levels of business, commerce, in the civil service and in other governmental sectors (Ames 1973).

In sum then, the re-establishment of Catholicism in the nineteenth century created a European missionary-dominated Church. In religious terms it produced an extremely pietistic form of religious activity. In political terms it encouraged the development of a specific Catholic identity in Sri Lanka with priests acting as mediators between the laity and the government. Catholics became a privileged minority in colonial Sri Lanka, the Church effectively furthering its own interests and those of its members.

The early years of independence did little to change this picture, the religious neutrality of the early U.N.P. government effectively favouring the Catholic church. But from the mid 1950s, the position of both the Church and the Catholic population began to deteriorate rapidly. This

period saw the political ascendancy of Sinhalese-Buddhist nationalism and the development of a strong sense of national, linguistic, and religious identity amongst the majority community of the island, the Sinhalese Buddhists. And for various reasons, to the groups now in control of the country, Catholicism became something which had to be fought against. (Wriggins 1960; Kearney 1964).

To the Sinhalese Buddhists, Catholicism was not simply an alien religion: it was also a relic of colonialism. Founded on alien theological and philosophical principle and purveyed (even in the 1950s) by European missionaries, the existence of a strong Catholic church in Sri Lanka was a reminder of the past indignities suffered by the Buddhist religion. The Church itself did little to contradict these views. It continued to brand Buddhism as a heathen religion, and continued to stress its relationship with Rome rather than with the state or the culture of Sri Lanka.

At the same time, the wealth, power and influence of the church, and the privileged position of Catholics in all sectors of Sri Lankan society were further spurs to anti-Catholic action. Whether Catholics had gained their position through superior educational facilities or through, as was often claimed, a sort of 'mafia' system, was not really important. The facts of the case as far as the Buddhists were concerned, were that Catholics formed an over-privileged minority in the country as a whole.⁹

The result, once the Sinhalese-Buddhists gained control of Parliament, was a series of confrontations between the State and the Church; between Buddhists and Catholics, all of which ended with defeats for the Catholics. Thus most missionary priests and nuns were repatriated and proposals were made to limit the number of Catholics in the Civil Service and in the Universities. But probably the most important event was the government takeover of Catholic schools in 1961. The Church fought this takeover bitterly, actively encouraging laymen to occupy the schools. In the end, a settlement was achieved through the intercession of the Bishop of Bombay, and the Sinhalese bishops had to withdraw ignominiously. Yet in the process they effectively abandoned the laity, and this incident still stirs strong emotions over fifteen years later.¹⁰

By the mid sixties, if not earlier, the Church had realised that it had failed as an effective political institution. In every confrontation with the State the Church had been defeated. Now all it could do was to fight a

9. These are most clearly presented in the report of the Buddhist Committee of Inquiry.

10. On Catholic attitudes to the take-over, see the pamphlet by "L. X. F." The impact of the take-over is discussed in Kearney 1964.

rearguard action, accommodate itself to whoever was in power, and attempt to retain what influence it had. One of the most obvious changes here was that by the late 1960s, the Church ceased to direct its members as to how they should vote, and adopted a position of political neutrality. Also important was that priests began to lose their mediatory role between the administration and the laity. On one side they were bypassed by the electoral process; on the other by an ever-expanding bureaucracy. Admittedly, priests continue to perform such roles in certain situations, but as clients of the ruling party rather than as priests *per se*. And whilst in the past a villager might turn to a priest in his dealings with the administration, today it is much more likely that a villager will turn to the M.P.

As far as the laity were concerned, in particular those in "middle class" situations, the decline from their previous privileged position was such that they began to feel themselves an oppressed minority, actively discriminated against in various spheres of life, notably in appointments to government posts. This feeling of discrimination was only exacerbated by various government moves which were interpreted as stages in the establishment of Buddhism as the State religion. Such events included the declaration that Anuradhapura was a sacred (Buddhist) city, with the subsequent removal of the Catholic church outside city limits, and the substitution of Sundays by poya days as the weekly holidays.

In sum then, the Church as a political institution has failed as a mediator between the Catholic population and Church to defend and further the interests of its members. And so the implications of what it means to be a Catholic in Sri Lanka have changed. Over the years, the Church has fostered the development of a specific Catholic identity and was able to guarantee specific advantages for those who subscribed to this identity. But with the political eclipse of the Church, to be a Catholic no longer ensured advantages but rather the opposite.

This political decline would in itself have been sufficient to put in question the claims of the Church to be the prime mediator between man and God. If the Church fails in this world, then how can it succeed in its claims to be the divinely instituted channel of communication with an omnipotent God? But the situation is complicated and exacerbated by factors working at a slightly different, though related, level.

One of the major strands in the theological history of the Catholic Church, and the cause of frequent debates, schisms and heresies, has been the nature of the relationship between man and God. At one extreme we find the position roughly exemplified by the type of Catholicism introduced

into Sri Lanka during the nineteenth century. This stance posits the radical separation of man from the Divine, the gulf being bridged by various sacred entities in whom characteristics of the Divine and the mundane are amalgamated. Here we find an elaboration of the category of the sacred; of religious actions being defined as concerned with the sacred, and with salvation being defined in other-worldly terms. Furthermore, the Church as a divinely ordained institution becomes a crucial mediator between man and God. The clergy is given a peculiarly sacred status, priests being viewed as ritual operators particularly concerned with the sacred. Finally, this set of notions concerning the man/God relationship tends to be associated with political philosophies stressing the hierarchical and holistic nature of political society.¹¹

At the other extreme we find a radically different set of ideas concerning the relationship between man and God. Rather than there being a great divide, God and the divine are effectively present in all men. Christ, rather than being a sacred mediator, is the prototypical man, an exemplification of what man should be. In this conceptualisation of man/God relations, there is little room for a category of the sacred, for there is no need for a set of mediators between two ontologically separate domains. Furthermore, the role of the Church and of the priest is radically altered. For now all men are in direct contact with the divine. In its extreme Protestant form, there is a priesthood of all believers. And salvation, far from being defined in other-worldly terms, begins to be seen in the context of this world rather than in terms of some spiritually separate domain, for there is no such separation. Finally, such theological notions tend to be associated with views of political society which stress egalitarian and individualistic forms of social organization. (Leach, 1973; Hill, 1958; 1972).

In its most recent manifestations, this debate has been represented in the discussions before, during and after the Second Vatican Council. Whilst the Church as a whole can be seen as moving gradually from the first to the second positions mentioned above, the extreme positions are more easily recognisable. Thus at one end of the continuum we find figures such as Bishop LeFebvre with his stress on conservative theology, the importance of the sacred, a spiritual definition of salvation and the divine mission of the Church. At the other extreme, Camillo Torres is, at least symbolically, an exemplification of a radical extreme. Here the institutions of the Church are seen as a barrier to salvation, the sacred as irrelevant if not actively dangerous to true Catholicism, and salvation as something to be discovered in this world. Whilst LeFebvre is associated with right-wing,

11. For a parallel though distinct and more particular argument, see Leach, 1973.

anti-communist political positions, Torres stresses the political and social role of priests and their role in a left-wing revolutionary movement (Gerassi, 1971).

These processes and tensions visible in the universal Church are just as obvious in the local context of Sri Lanka. And just as the crisis of Vatican II was directly related to the decline of the European powers and the growth of egalitarian political ideologies, so in Sri Lanka the more local reverberations of this debate are related to changes in the dominant political ideologies and in the political structures of the country.

With the decline in their political power and a growing realization that the Church in Sri Lanka had to make certain accommodations, the hierarchy was forced to shift its position. Thus services are now in Sinhala and attempts have been made to indigenise the rituals involved.¹² Furthermore, there has been an attempt to create some sort of dialogue with other religious groups in Sri Lanka and to discourage the more pietistic of devotions and Catholic extremism in general. Priests are actively encouraged to take part in social and economic activities which even ten years ago would have been unthinkable.

But within the Church there is a small minority of extremely vocal and socially visible priests for whom the Hierarchy is not moving fast enough and for whom the Church is a bastion of reaction and irrelevant ritualistic activities. These priests and their few lay followers follow radical Catholic lines of thought which deny any utility to pietistic forms of religious activity and attack the various devotions to the sacred. For them the cults of the saints and of the Virgin are mystifications, misleading the laymen. Rather, they see "true" Catholicism as being a radical political doctrine, and the priest's role as being to involve himself wholeheartedly in over-throwing existing hierarchical forms of political and social organisation. Furthermore, given their political positions, they tend to cultivate links with other like-minded political groups rather than with the Church as a whole, a strategy which for them at least solves the problem of the political implications of being a Catholic in Sri Lanka.

I must stress again that such extreme radicals are a small minority in the Church, but they are extremely vocal and in a sense embody the direction in which the Church in Sri Lanka has been moving over the last

12. In one instance, a Sinhalese bishop approached an anthropologist (not the writer) for advice as to how to indigenise the rituals of the Catholic Church in Sri Lanka.

few years. Few they may be, but for the layman the activities and doctrines of these priests pose major problems, as indeed does the general shift in the teachings of the Church over the last few years.

I began this section by describing how, over the last 150 years, Catholics in Sri Lanka have been inculcated with certain notions as to their separate identity in Sri Lanka, and with certain ideas of what Catholicism as a religion involves. Now they find that not only has their privileged position as Catholics been eroded, but that even their own priests are attacking what was previously considered proper Catholic behaviour. The situation today is one which Durkheim might well have described as "anomic" (Durkheim, 1952). Even if there is not a state of "normlessness" there is at least a state in which there is no one internally consistent set of guides to belief and action. "Truth" has disappeared to be replaced by a number of conflicting 'truths'.

Devagama in the widest context

Given the processes outlined in the previous section, Devagama can be seen as an attempt to return to, and to the development of, a set of sacred components – what certain Catholics see as the "true" faith. Admittedly, for the observer, such a return is impossible. Yet the themes of traditional Catholicism in Sri Lanka – the importance of the sacred, the crucial role of the priest, and the significance of a peculiar Catholic identity are all central features of the shrine. And furthermore, this is not simply a set of symbolic statements. Given the particular view of the cosmos subscribed to by the devotees at the shrine, Devagama is the path through which real power can be regained.

For the faithful at Devagama the universe, including this world, is governed by a series of spiritual forces, the centrepiece being the ceaseless battle between the forces of good and evil. Evil forces are always trying to lead human beings astray, and thus suffering and hardship are introduced into the world. The road to salvation thus lies through good spiritual action. Through these actions, and with the help of God and his supernatural agents, the forces of evil will be defeated. Put in to the Sri Lankan context, the political decline of the Church is directly related to the fact that the Church has forgotten its spiritual role. The changing teaching of the priests coupled with their reformulations of what religion should be are seen as the work of the devil. The Church has been infiltrated and subverted by demonically inspired supernatural forces and thus has lost its political power. Not only does Devagama represent to the faithful a spiritual regeneration for themselves but by returning to true Catholicism a chance to recover their privileged position in society.

Crucial here is the belief that the Church and the priesthood have become too involved in the mundane and the secular. For instance, it is frequently claimed that the Church is more interested in its wealth and in its possessions than in the spiritual welfare of its members or in fighting evil forces. Central to this issue is the role of the priest.

As I have pointed out, priests were traditionally somewhat isolated from their congregations, their main contacts with them being achieved via intermediaries, and their functions broadly limited to the spiritual and to interacting with the administration. As such, most of their time was spent within their churches and mission houses and in general they had little contact with the day to day life of their congregations. They were expected to shun women, always wear cassocks, and generally set an example of the spiritual life.

The new generation of priests act in a very different fashion. Seeing their role as involving active participation in social and economic activities, they have attempted to become actively involved in the mundane world, moving out of the mission houses into the villages. In the process, many of them have begun to shed their cassocks, coming into frequent contact with women,¹³ and at times actively involving themselves in left-wing politics.¹⁴ Furthermore, in their attempts to play down pietistic elements in Catholicism, they actively discourage more spiritualistic forms of religious expression and in certain cases have begun to remove the statues and other ornaments from the churches.

To the faithful, Father Somaratne's behaviour is the model of what a priest's life should be. He actively shuns the mundane world, refusing to involve himself in non-spiritual activities. In his manner and in his sermons, he displays the epitome of what a priest should be: a truly spiritual person, an example to all of the religious life. And even if his devotees admit that not all priests could behave in quite as perfect a manner as Father Somaratne, yet they claim that his is the example to be followed. Furthermore, Father Somaratne continues to perform functions which elsewhere, even if not banned, are at least heavily discouraged. He blesses the sick, chases out demons, and encourages traditional forms of devotions. Here, vows can freely be made to the Virgin which priests elsewhere would frown upon.

13. This contact with women must in part lie behind the number of priests who left the priesthood in the early seventies.

14. During the J. V. P. insurrection in 1971, more than one priest was actively involved in helping the rebels.

Thus Devagama has captured those of the laity left somewhat bewildered by shifts in the definition of true Catholicism. In a sense Father Somaratne's own devotions to the Virgin, his encouragement of Marian devotions at Devagama, and his discovery of the supernaturally charged Thorn, were isolated and chance events. But they happened to coincide with an inchoate set of feelings amongst many of the Catholic laity. The rise of the shrine depended upon the conjunction and the coincidence of a particular set of isolated incidents with these much wider forces at work in Catholic Sri Lanka.¹⁵

In part, the rise to fame of Devagama was achieved through knowledge of the shrine passing from person to person. As knowledge of the miraculous events at Devagama spread, so more and more pilgrims came to the shrine. But perhaps of equal importance in its rise to fame was the way in which Devagama became linked with wider conservative movements in the Church as a whole.

Recent theological developments in Catholicism have not gone unchallenged, either in Sri Lanka or in the wider world. In Sri Lanka one of the leading conservatives, rumoured to have the backing of senior priests who do not care to make their views public, has been one of the few remaining foreign missionaries. In the late sixties and early seventies, he was already causing embarrassment to members of the hierarchy by questioning the decisions of Vatican II and by acting as a propagandist for an almost antediluvian form of Catholicism. When he discovered Devagama he quickly became impressed by it, and became a frequent visitor to the shrine. Through his efforts, not only did the fame of Devagama spread more quickly than it would otherwise have done, but it also became the symbol of conservative Catholicism.

Through these contacts, Devagama became part of the international conservative Catholic movement involved in fighting radicalism where ever it occurred. Thus at Devagama, pamphlets printed in Canada, the United States and France are freely available reporting apparitions in various parts of the world, giving information on other Marian shrines, and generally attacking non-pietistic forms, of Catholicism. These contacts further support the faith of the devotees at the shrine for now they see themselves as part of a world-wide movement.

So far I have discussed the rise of Devagama mainly in theological terms, seeing it as a reaction to the rise of new forms of Catholicism as a self-conscious return to the "true" and "traditional" religion. As such,

15. For a similar approach, and one which I return to later, see Fry 1976.

it must involve an elaboration of the sacred domain. Firstly almost by definition, traditional Catholicism involves the sacred. The hierarchy of Church, by attacking the category of the sacred, has necessarily implied its reproduction elsewhere. And secondly, the disenchantment with the established Church is in part to do with the assumption that the Church has lost its divine power and thus cannot mediate between man and God. To re-create this contact the sacred mediators must be re-created.

But Devagama cannot simply be understood in terms of theological wranglings within Catholicism. If, for the devotees at Devagama the hierarchy in general and the radical priests in particular are the prime enemies, the Buddhist majority in Sri Lanka run them a close second. Despite the fact that some Buddhists do frequent Devagama, experiment with these alternative religious techniques and receive Father Somaratne's blessing,¹⁶ Devagama is generally an arena for the expression of anti-Buddhist sentiments. Buddhism is identified as the work of the devil; as a heathen doctrine guaranteed to send its adherents to hell, and dedicated to the overthrow of true Catholicism.

Expressions of such sentiments are quite explicit. Historically, Devagama is seen as the site of Christians being martyred by Buddhists. Furthermore, the demons who possess the afflicted who come to Devagama are mostly the gods of the Hindus and the Buddhists. Thus the exorcism of these demons is, for the faithful, an expression of the superiority of Catholicism over Buddhism (Stirrat, 1977). It is not that these evil beings do not exist. Rather, it is that they are not Gods but demons, and that their powers are inferior, both in effect and in morality to those of the Virgin.

Perhaps the most interesting manifestation of these anti-Buddhist feelings is a myth frequently repeated at Devagama. It tells how in the 1950s a *bhikkhu* living in a nearby village wrote a scurrilous pamphlet attacking the cult of the Virgin. Since then, all his relations have died horrible deaths, the revenge of the Virgin. The monk himself is still alive but very ill, and he is only being kept alive so that he can witness the ultimate victory of the Virgin. Before he dies, she will appear to him.

Just as Devagama is a vehicle for the expression of anti-Buddhist sentiments reminiscent of nineteenth century missionaries, so the political attitudes expressed here are reminiscent of those held by the Church before it lost its political power. Whilst the hierarchy today is careful

16. On one occasion a *bhikkhu* appeared at Devagama and received Father Somaratne's personal blessing.

not to make open statements about politics, many of the devotees at Devagama come for political help. In general, it is felt that the Virgin is on the side of right-wing and anti-communist parties. Thus continual requests are made to Her that She saves Sri Lanka from the communist menace. These political aspects were particularly noticeable prior to the 1977 election.

In sum then, there are a number of inter-related themes present in the shrine which re-present those themes which typified the form of traditional Catholicism in Sri Lanka. Thus here we find an emphasis on the sacred and the spiritual role of the priest. We find the elaboration of anti-Buddhist and isolationist Catholic sentiments. And we find these associated with a politically right-wing ideological stance. Admittedly, this is no exact reduplication of the past, for the rise of the shrine is thought to be closely associated with the direct intervention of the Virgin Mary. But it is an attempt to recreate what is seen as a "golden age" of the past.

Furthermore, the rise of Devagama should not be seen simply as an effloration of an affective or symbolic nature. It is crucially concerned with a search for real power. What is at stake here is an attempt to tap Divine power (see Christian 1972; Leach 1976). As far as the faithful at Devagama are concerned, the deteriorating position of Catholics in Sri Lanka is the result of the Church forgetting its true role. By returning to the "true" religion; by recreating the "correct" moral and spiritual order Catholics will once again enjoy real power in the world.

Here, it is worth noting the prominence of middle-class devotees at Devagama. They dominate not so much in numbers but rather in that they are the ones who return time after time to the shrine and whose interests in and motives for coming to the shrine are less narrowly particularistic than other pilgrims. It is amongst these people that the ideology of the shrine is generated, pilgrims from peasant or working class backgrounds being content with obtaining what the shrine can offer. In part, this predominance of the middle classes has to be viewed in terms of similar activities amongst Buddhists (see Obeysekere 1970). But it is also amongst the middle classes that a feeling of anti-Catholic discrimination is most strongly felt, for they are the Catholics who are in most direct competition for scarce jobs and resources with the Buddhists.

The most clear expressions of the fact that Devagama is concerned with the search for real power is to be found amongst the small minority of devotees at the shrine who subscribe to a millenarian ideology. For them, Devagama is the first step in the process towards the millenium.

They believe that the Virgin is going to appear at the shrine. Here, She will rally her forces and lead them in a triumphant last battle against the forces of evil. In this battle Buddhists, Communists and those in the Church who have abandoned the true religion will all be destroyed and condemned to eternal damnation. Only those who have faith will live to enjoy the millenium.

In sum then, the rise of Devagama and the development of its sacred character appear to me to be directly related to the wider context of Catholicism in Sri Lanka. The political decline of the Church puts in question its claims to be the sacred mediator between man and God, the situation being exacerbated by various shifts to the theological position of the clergy. Father Somaratne's arrival at Devagama, his discovery of the Thorn, and his encouragement of Marian devotions were chance events. But they happened to coincide with a situation in which many Catholic laymen felt a lack of faith in the direction the Church was going, and found in Devagama a mode of expression which allowed themselves to re-assert the traditional tenets of Catholicism in Sri Lanka. And this was not simply just a matter of expression. For the faithful at Devagama, the shrine represents a rediscovery of divine power; of contact with the Divine through the sacred which the Church once promised them. Through Devagama to be a Catholic once more becomes a highly privileged status.

Internal and External threats to the Shrine.

Devagama is not a static phenomenon. Rather, it is a moment in a series of continuing processes in Catholicism and in Sri Lanka, and any stability is purely temporary, a short-lived balance between various forces at work in the wider context. Thus those processes, tendencies and contradictions which have led to the rise of the shrine since 1970 are continuing and will inevitably lead to further changes in the structure and content of the shrine.

Since about 1975 or 1976, the number of pilgrims coming to Devagama has begun to decline. For various reasons I hesitate to interpret this decline in numbers as necessarily implying a decline in the importance of the shrine. The fall in numbers is a purely quantitative factor in itself of little meaning. Whilst in the first rush of enthusiasm people came in great numbers, their absence does not necessarily imply any lack of commitment but perhaps simply a lack of energy.

The faithful at Devagama are well aware of this decline and put forward various reasons for it. The most popular is to argue that people simply cannot afford to come to the shrine. They point to declining living

standards, coupled with a high rate of inflation, and it is true that for a family to come from Colombo to Devagama for a weekend does involve very heavy expenditure. The faithful go on to point out that the great mass of pilgrims at the shrine have always come for very specific purposes: to make vows, to ask for boons, to be healed. Having visited Devagama and having received Divine aid, there is no reason to return week after week. Such is the efficacy of the shrine that numbers will inevitably decline.

There is some truth in both these arguments. Those who want to come may be dissuaded by the expense involved, and those who came in the past do not need to come now. These factors do not necessarily imply any decline in people's faith in the shrine. But there are forces at work, both internal and external, which do threaten the sacred nature of Devagama and which may ultimately destroy people's faith in the shrine.

At the heart of its sacredness there is a basic ambiguity which is difficult to maintain. As I have argued above, the sacred depends upon a juxtaposition and interpenetration of two ontological categories which are normally separate: the divine and the profane. At any time the maintenance of the sacred depends upon the maintenance of this delicate balance. If the sacred becomes too divine, then it ceases to be a mediator. Alternatively, if it becomes too profane, then it is useless as a channel of communication with the divine.

It is difficult to conceive of a situation where Devagama becomes so divine that it ceases to be relevant as a sacred mediator. Possibilities come to mind of Father Somaratne slowly withdrawing from his priestly role, becoming more and more of an ascetic world renouncer. This is possible though unlikely. More obvious are the threats to its sacredness from the secular world.

Devagama started off as a remote parish church, little known and insignificant. In a matter of three or four years it grew to national importance attracting hundreds of pilgrims. Simply to cope with these numbers, a number of pragmatic problems had to be solved: the supply of food, water, sanitation, sleeping accommodation and the control of the crowds.

The obvious person to handle these problems is Father Somaratne yet he has remained aloof from such matters. To involve himself in such activities would jeopardise his claims to supernatural status. His role is to act as a sacred mediator between man and the Divine, not to act as a sanitary inspector. Rather, he must be the personification of the spiritual

priest. And so the actual organisation of the shrine has been largely left to the devices of the faithful. Thus whilst Father Somaratne may have protected his own purity, he has put at risk the sacred status of the shrine as a whole.

The people who run the shrine in the sense of organising day-to-day affairs are a group of young laymen known as Father Somaratne's *gelayo*, a word which can be translated as "disciples". Most of these youths are fairly well educated but many are unemployed. One or two stay around the shrine all week, whilst others come at weekends. None of them are paid although they may receive food and shelter at the shrine. And although they work with Father Somaratne's permission, they are effectively their own masters. They marshall the crowds, act as acolytes, give advice to pilgrims, clean up the shrine, handle the money offerings, make sure the lights and the loudspeakers work. But most importantly, these young men control access to Father Somaratne.

This control of access to the priest is crucially important, not only in that he has a special power in himself, but also in that it is through him that one approaches the sacred relics. When the shrine began its rise to fame, it seems that anyone who came could approach him directly. But as numbers grew, this simply became impractical, and meeting the priest became more and more dependent on the good offices of the *gelayo*. They thus form a series of intermediaries between the laymen and the divine. In a primitive fashion they represent the first stages of bureaucratisation. Alternatively, they can be seen in terms of what Weber called the "routinisation of charisma" (Eisenstadt, 1968). As early as 1975 the role of these young men was beginning to be a matter for resentment amongst some of the pilgrims. The *gelayo* were said to have favourites: some claimed they accepted bribes.

At the same time as the *gelayo* began to emerge at Devagama, the class composition of pilgrims at the shrine seems to have changed. When the shrine started, devotees tended to have been in the main rural peasants. Later the majority seem to have come from the lower classes of Colombo. But its fame percolated up through the class hierarchy and more and more devotees from middle class backgrounds began to frequent the shrine. And the latter have attempted to model Devagama after their own image of what a shrine should be.

First of all, the middle class elements have attempted to control forms of private devotion at the shrine. Both formally and informally they have tried to reduce the incidence of more "boisterous" and less "seemly" types of behaviour at Devagama. They have in effect tried to bourgeoisify the shrine.

Secondly, the middle class patrons of Devagama have tried to assert their class privileges within the confines of the shrine. They argue that as they give more money to the shrine they should enjoy certain privileges at the shrine. They claim that because they are "better" people than the peasants, then they should have easier access to the priest, the relics and the blessings. And in conjunction with the *golayo* they have been generally successful.

The effects of the growing control of Devagama by the *golayo* in particular and the middle class patrons in general has led to a growing resentment and disillusion amongst other devotees at Devagama. For one of the features to which all pay lip service is that here all are equal before God and the Virgin. Its sacredness in part depends upon an ideal of something Turner would label 'communitas', and which stands in stark contrast to the organisation of secular society (Turner 1973). But as Devagama becomes progressively bureaucratised and bourgeoisified, its claims to sacredness come into question amongst the poorer pilgrims. Indeed, some of the newer shrines in the coastal areas of Sri Lanka seem to in part be a reaction to these processes at Devagama, the devotees at these new shrines in many cases shifting their allegiance from Devagama.

A further group of developments which has threatened the sanctity of Devagama has been the commercialisation of the shrine. As numbers of devotees grew in the early sixties so there was a mushrooming of commercial establishments catering for the needs of the pilgrims. Boutiques grew up to supply food and drink, rooms for the night, and to sell the religious paraphernalia of Catholicism: rosaries, incense, olive oil, candles, pictures and scapulars. Admittedly these boutiques do not exist on Church land or within the sacred areas, but abutt directly on to it from all sides. And these entrepreneurs spare no effort in getting what they can from the pilgrims; prices in Devagama being noticeably higher than elsewhere, even rising when the crowds are at their largest. The result is that in this centre of spiritual devotion the commercial world is brutally present.¹⁷

Furthermore, as numbers grew at the shrine, so too did the numbers of those present for non-religious purposes. The most obvious are the beggars, frauds and fools who congregate at any shrine. But probably more important is the way in which Devagama has become something of a holiday resort. This is particularly evident on the first weekend of each month when the numbers present are at their greatest. On these days, a

17. One of the most visible signs of the decline in numbers attending the shrine is the number of boutiques which today stand abandoned.

striking number of fashionably dressed young people appear at the shrine, more intent on being seen and noted by their peers than in attaining a state of grace.

These various processes, all internal to the shrine, have tended to erode the sacred nature of Devagama by introducing the profane and the mundane. A constant theme of Father Somaratne's sermons is how Devagama is a sacred spot and how it should be kept sacred. The more committed devotees too are continually on the look-out for forms of behaviour which threaten the shrine's sacred status. Yet just as other Catholic shrines in Sri Lanka are dismissed by the Devagama devotees for their profanity, so some old devotees of the shrine are beginning to desert Devagama for the same reasons. And this process seems to be continuing inexorably.

Externally too the sacredness of the shrine is under attack from the wider Catholic Church. Father Somaratne himself is careful to say or do nothing which might expose himself to disciplinary action by the Church. For instance, technically speaking he does not exorcise demons, for he is not licensed as an exorciser. Rather, what he does is to "bless" those who are demonically possessed. Similarly, he is careful, at least on the public stage, not to claim any special direct relationship with the Virgin, nor to openly criticise or attack the hierarchy. Yet the whole stance taken by Father Somaratne and the beliefs and actions current at the shrine are a direct challenge to the authority of the Church.

If the Church ignores Devagama, then by ignoring it they can be seen as countenancing what is going on at the shrine and the type of Catholicism exemplified here. On the other hand, if they take direct and drastic action against the shrine, they risk a head on clash with large numbers of the laity and the possibility of creating martyrs. As a result, the Church has moved very cautiously, different sections of the Church taking slightly different positions.

Perhaps the only members of the priesthood for which Devagama poses no problems are the conservatives in the hierarchy. For them it is a symbol of what the Church should be, and in certain instances they seem to have actively encouraged their congregations to go to the shrine. But this is rare. A more frequent reaction has been that exemplified by Father Somaratne's own superior. On the one hand, he implicitly gives Devagama his approval by occasionally visiting the shrine on important feast days. Yet on the other he attempts to bring the shrine directly under his control and thus prevent the more extreme expresses at Devagama. Thus, in 1976, he ordered

the Thorn to be withdrawn from public use at Devagama. The problem with the Thorn was simply that as a relic, it was insufficiently documented. But in a sense more was involved. The Bishop's action was a reminder to all that he was Father Somaratne's superior. And as if in revolt against this, the devotees still see the Thorn as the most important relic at Devagama even today.

A further move by the Bishop has been to appoint an administrator to look after the financial and organisational aspects of the shrine. The administrator is another parish priest who comes for two or three days every week. Some devotees at the shrine rationalise his presence by arguing that Father Somaratne is too busy to deal with such things, and that the administrator is simply there to help. Others see it as a directly hostile move, the administrator siphoning off funds from the shrine for the diocesan coffers, spying on what is going on at the shrine, and waiting for Father Somaratne to overstep the mark.¹⁸

So far the Church as an institution has done little to discourage pilgrims from going to Devagama. Any direct attack might well backfire on the attackers. Many priests wait for a slow institutionalisation of the shrine into the wider Church, regularisation of this deviation from the norm. At the same time, the Church waits for Father Somaratne to go beyond his competence and thus expose himself to disciplinary action. A common solution suggested by priests hostile to the shrine is that Father Somaratne should be sent abroad for a couple of years for "further training". By doing so, it is hoped that Devagama would decline as a shrine, any other priest at the church refusing to encourage the present forms of religious activity.

But perhaps the most common view, especially amongst the radical priests most opposed to the type of religious activity found at Devagama, is to argue that Devagama will decline of itself. They argue that it is a purely ephemeral phenomenon which will soon disappear for it represents a form of Catholicism doomed to disappear with the spread of education about the "true" nature of religion. This may well be true in the limited sense that Devagama will decline as a shrine. But it will only disappear to be replaced by other, very similar centres of religious enthusiasm of a type equally abhorrent to these radical Catholics.

18. Only a few welcome the administrator's appointment in that it does prevent the worst of financial irregularities.

Conclusion

By way of a conclusion, let me summarise and re-present my discussion on the rise of Devagama in a slightly different form. In a sense this involves turning my presentation back to front.

One of the differences noted by many writers between the so-called "world religions" and more localised religious traditions is that the former are in a way more "free floating" and more "flexible" than the latter. It is difficult to conceive of Nuer religion or the religion of the Lugbara becoming the subject for missionary activity in the way in which Buddhism or Islam or Christianity have been spread across the world. They are, as it were, too embedded in the social institutions of Nuer or Lugbara society.

The world religions are partly world religions simply because of their plasticity. As theological systems they can be conceived of by their adherents as independent of particular social context. They represent absolute truths and can be exported at will. Such is their flexibility that Catholicism for instance can be found co-existing and co-operating with an infinite number of socio-political systems. In the course of achieving these accommodations, however, the same religion becomes differentiated from one context to another. Thus French Catholicism and the Catholicism of, say, Latin America, are very different animals. There is a relationship between the two, but that relationship appears to exist more at the institutional levels of the Church and at the theological level of the priests rather than at the sociological level (see Geertz 1968).

It seems to me that this plasticity is not simply a matter of different social contexts but is rather a central feature of Christianity and any other of the world religions. Inherent in Catholicism is a multitude of possible theological positions. In other words, it is impossible to summarise the "principles of Catholicism" which are true for all ages and for all Catholics in a few pages, an exercise which is common in anthropological writings on other world religions such as Buddhism and is just as invalid in these other contexts.

In this paper I have mentioned only two of the possible theological positions inherent in Catholicism which can be conceived of as "conservative" and "radical". The former postulates a radical distinction between man and God, contact with the divine being achieved through a series of sacred mediators. This theological position tends to be associated with a hierarchical ecclesiastical organisation which in turn is associated with

notions of the proper ordering of society. On the other hand, the radical, almost Protestant position denies the wide gulf separating man from God. Rather, God is in us all; there is no need for a series of sacred intermediaries nor of a hierarchical ecclesiastical structure. And this theological position tends to be associated with egalitarian and individualistic social philosophies.

In Sri Lanka until recently, the brand of Catholicism in general vogue tended to be of the first variety and was associated with hierarchical notions of what the social order should be and was like. Associated with this theological stance and its associated ecclesiastical institutions was the political situation in which certain advantages of a pragmatic nature accrued to Catholics. But a number of things happened which broke this tight system,

The first was the failure of the Church to protect the interests of its followers. The political failure of the Church put in question its claim to spiritual effectiveness.

Secondly, there was a shift in how priests tended to view the true nature of Catholicism; a shift which in the terms used in this paper can be viewed as involving a change from conservative to radical Catholicism. In a sense, this was an independent factor and has to be understood purely in theological terms. But it was also related to the changing fortunes of the Church in the world context and to the changing situation of Catholics in Sri Lanka.

The result of these various factors was that a large section of the Catholic lay population in Sri Lanka was left in some confusion as to what was the nature of "true" catholicism. Having been educated in one type of Catholicism they were now told that their traditional forms of religious activity were misguided. Furthermore, they found that the advantages which had once accrued to them as Catholics were now no more.

It was in this situation that Father Somaratne began his ministry at Devagama. The rise of the shrine as a centre for conservative Catholics, the restatement of the sacred and a search for a recovery of power is the result of the coincidence of the man with a particular social situation. Father Somaratne is by any standards a charismatic figure. But his success lies not simply in his charisma but in his ability to act as catalyst; his ability to articulate the sentiments and mood of a sizeable proportion of the Catholic population in Sri Lanka.

Peter Fry in his recent book on spirit cults in Zimbabwe has produced an argument similar to that which I have presented here. His comments on these spirit mediums are just as relevant for Father Somaratne:

“these spirit mediums transformed the sentiment of protest from *vox populi* to *vox dei*. . . They were charismatic figures whose relevant message was acceptable and accepted by the people”. (Fry 1976: 61)

Father Somaratne's message was and is acceptable to and accepted by the people. It was the *vox populi* which made Devagama sacred, turning their sense of protest into *vox dei*.

REFERENCES

- | | | |
|--------------------------------|------|---|
| Tikiri Abeyasinghe, | 1966 | <i>Portuguese Rule in Ceylon, 1594 - 1612.</i> Colombo, Lake House. |
| M. Ames, | 1973 | “Westernization and Modernization: the case of Sinhalese Buddhism” <i>Social Compass</i> 20; 130-170. |
| R. Boudens, | 1957 | <i>The Catholic Church in Ceylon under Dutch Rule,</i> Rome, Catholic Book Agency. |
| Buddhist Committee of Inquiry, | 1956 | <i>The Betrayal of Buddhism.</i> Balangoda, Dharmavijaya Press. |
| W. A. Christian, | 1972 | <i>Person and God in a Spanish Valley,</i> London, Seminar Press. |
| C. R. de Silva, | 1972 | <i>The Portuguese in Ceylon. 1616 - 1638.</i> Colombo, Cave and Co. |
| Fernao de Queyroz, | 1930 | <i>The Temporal and Spiritual Conquest of Ceylon.</i> (3 volumes) Trans. by Fr. S. G. Perera Colombo. |
| Mary Douglas, | 1966 | <i>Purity and Pollution.</i> London, Routledge and Kegan Paul. |
| Emile Durkheim, | 1952 | <i>Suicide.</i> London, Routledge and Kegan Paul. |
| | 1976 | <i>The Elementary Forms of the Religious Life.</i> London. |
| S. N. Eisenstant, | 1968 | <i>Max Weber on Charisma and Institution Building</i> Chicago University Press. |
| Peter Fry, | 1976 | <i>Spirits of Protest.</i> London, Cambridge University Press. |
| C. Geertz, | 1968 | <i>Islam Observed.</i> Chicago, Chicago University Press. |
| John Gerassi, | 1971 | <i>Revolutionary Priest. The Complete Writings of Camillo Torres.</i> London, Jonathan Cape. |
| Christopher Hill, | 1958 | <i>Puritanism and Revolution.</i> London, Secker and Warburg. |

- 1972 *The World Turned Upside Down*. London, Temple Smith.
- R. N. Kearney, 1964 "Sinhalese nationalism and social conflict in Ceylon" *Pacific Affairs* 37 : 125-136.
- E. R. Leach, 1973 "Melchisedech and the emperor: icons of subversion and orthodoxy." *Proceedings of the Royal Anthropological Institute of Great Britain and Ireland for 1972*: 5-14.
- 1976 *Culture and Communication*. London, Cambridge University Press.
- "L. X. F.", (no date) *Some Reflections on National Education*. Colombo, Catholic Press.
- G. Obeyesekere, 1970 "Religious symbolism and political change in Ceylon", *Modern Ceylon Studies* 1: 43-63.
- 1974 "The firewalkers of Kataragama: the rise of bhakti religiosity in modern Sri Lanka", Paper read at the Annual Meeting of the American Anthropological Association in Mexico City, 1974.
- 1977 "Social change and the deities: the rise of the Kataragama cult in modern Sri Lanka". *Man* (N.S.) 12: 377 - 396.
- P. E. Pieris, 1913 *Ceylon, The Portuguese Era*. (2 volumes) Colombo, Colombo Apothecaries.
- Emile Pin, 1963 *Elementos para una sociologia del Catolicismo Latinoamericano*. Fribourg, Switzerland, Oficina Internacional de Investigaciones Sociales de FERES.
- E. J. Robinson, 1855 *Romanism in Ceylon, India and China*, London, Hoppe.
- James Selkirk, 1844 *Recollections of Ceylon*. London, J Hatchard and Sons.
- R. L. Stirrat, 1977 "Demonic possession in Roman Catholic Sri Lanka" *Journal of Anthropological Research* 33: 133 - 157.
- Victor Turner, 1973 "The centre is out there: Pilgrim's Goal". *History of Religions* 12: 191-230.
- Ivan Vallier, 1970 *Catholicism, Social Control and Modernisation in Latin America*. Englewood Cliffs, Prentice-Hall.
- Bryan Wilson, 1973 *Magic and the Millenium*. London, Heinemann.
- W. Howard Wriggins, 1960 *Ceylon Dilemmas of a New Nation*, Princeton, Princeton University Press.

Traditional Exchange - Labour in Hill Country Sri Lanka a study of the attam institution

M. M. KARUNANAYAKE

In most peasant societies reciprocal exchange of labour has traditionally been an important institution. Among the peasantry of Sri Lanka, reciprocal exchange-labour finds articulation in the *attam* institution. Curiously enough, the *attam* institution has received scant attention of social scientists. However, it is important to examine the underlying principles of the *attam* institution with a view to ascertaining the relevance of such principles in modern contexts. This necessity is all the more evident because the *attam* institution is subject to rapid disintegration. The present study is aimed at an identification of the *attam* principles with reference to Madulla—a village located in the Eastern hill country.¹ The selection of Madulla has been purposive. The rugged relief necessitates terraced cultivation of paddy. Terracing at higher levels results in narrow *liyaddas* (fields enclosed by bunds) which place a high premium on human labour. In Madulla the fact that animal or mechanical traction cannot be easily substituted for human labour has tended to delay the process of disintegration. Hence, the salient characteristics of the *attam* institution are still identifiable at Madulla.

Definition

The term *attam* refers to reciprocal exchange of labour in irrigated paddy cultivation. As Gunasinghe states 'the crux of the system is balanced reciprocity as it consists of a series of voluntary contracts between sets of individuals which stipulate the duration, nature and the type of labour to be exchanged. Though the contract is never one between two groups or an individual and a group, it is not a fragmented pact between two individuals. It achieves social nature as various individuals are involved

1. Madulla lies in the Yatipalatha Korale of the Walapane Division. The village is located in the valley of the Madulla Oya and the surrounding relief shows an elevation varying from 1250' to 3000'. This region has until recently been an isolated and neglected part of the hill country.

with numerous others in contracts of exchange labour'.² Therefore, it signifies a finely calculated and balanced system of economic relationships of a contractual nature. It is necessary to distinguish between the *attam* and *kaiyya* institutions. At times the two terms are mistakenly interchanged. *Kaiyya* has also been referred to as a component element of the *attam* institution. Thus Hewavitarane states that '*kaiyya* is the occasion on which labour is mutually exchanged and *attam*—the portions of labour contributed by each'.³

However, in regard to traditional systems of labour mobilization it is necessary to identify the *kaiyya* as a distinctly separate institution. It refers to communal mobilization of labour which may be used at the level of the individual or that of community. Thus it is possible for an individual to work his fields by mobilizing *kaiyya* labour. But it is a cardinal principle particularly at the level of the individual, that there should be justifiable grounds for the invocation of such labour. The operational exigencies arising for reasons beyond an individual's control (eg. sickness or ceremonies of the life cycle) illustrate the point. Hence, the *kaiyya* unlike *attam* is not regularly utilized. It is true enough that reciprocity is an essential characteristic of *kaiyya* but the interdependence arising out of *kaiyya* is more long-term oriented. The recipient of assistance is in debt to each individual member of the *kaiyya* until the debt is cancelled off in each case in similar circumstances at a later stage. Theoretically, the entire village community is mobilised for a *kaiyya*; but in practice this is not so. *Kaiyya* and *attam* both involve costs to the recipient. It is technically possible to limit a *kaiyya* to a specified number by resorting to personal invitations; at other times invitations are of a more general nature. The construction of a road or the digging of a community well are examples of the mobilization of *kaiyya* labour at the village level. Hence, at the village level 'communal labour mobilization is governed by a coincidence of interests held by different individuals'.⁴

Determinants

Viewed in the historical perspective origins of the *attam* institution in Madulla was primarily determined by the relative absence of wage labour. All respondents interviewed at Madulla emphasized this fact. As Gunasinghe points out it is the 'labour-labour' principle which underlies the *attam*

2. N. Gunasinghe, (1976) 'Social Change and the Disintegration of a Traditional System of Exchange Labour in Kandyan Sri Lanka', *Economic Review* January: 5—8.
3. B. Hewavitarana, (1971) 'Non - Monetized Capital Formation in Ceylon: A Marga'. *Marga* 1:93 p.139.
4. N. Gunasinghe, (1976) op. cit.

system.⁵ This in turn was determined by the fact that paddy cultivation was essentially for subsistence. Besides, in a labour intensive peasant system, the marginal surplus generated enters into an internalized exchanged system on the basis of 'generalized reciprocities' explained by Sahlins.⁶ This situation is substantially true of Madulla even today. In a relative sense the paddy crop does not enter the market, and hence does not facilitate a 'labour-money' relationship. Indeed, the stresses to which the *attam* institution in Madulla is increasingly being subjected to is due to an overflow of a 'labour-money' relationship originating outside the 'sector'. This point is further elaborated in a later section.

The capital scarce-labour intensive technology associated with irrigated paddy cultivation in Madulla was another firm determinant of the *attam* institution. Production capital (buffaloes, ploughs and other implements) is limited in a subsistence oriented peasant system. *Attam* provided both the means of reciprocal exchange labour and of pooling production capital on a group basis. Hence, it enabled maximizing on the production capital available within the economic system.

The fact that irrigated paddy cultivation formed the basis of the subsistence economy of Madulla too contributed to the *attam* institution. In Madulla the variegated topography resulted in the dispersed location of the *yayas* (paddy fields). Further, the hilly terrain necessitated terraced paddy cultivation. Both factors necessitated a well regulated pattern of labour utilization; terraced cultivation in particular optimizes on the input of labour. *Attam*, therefore, enabled the easy mobilization of labour.

The pattern of land tenure was equally important. Land was held in small plots and such plots were widely dispersed within the *yaya*⁷. The wide dispersion of plots was necessitated by the differential fertility of the *yaya*; access to irrigation water was an equally significant factor. The fragmented ownership of land minimized the risk involved in *yaya* cultivation. The *yaya* operations necessitated movement among plots and distances involved were considerable. Further, there was the need to transfer the factors of production among the different plots. The dispersed ownership pattern also had implications at the level of economic relation-

5. N. Gunasinghe, (1976) Ibid

6. M.D. Sahlins, (1965) 'On the Sociology of Primitive Exchange' in M. Banton, (ed) *The Relevance of Models for Social Anthropology*, Tavistock.

7. The field work did not involve a statistical analysis of data relating to units of ownership and the extent of fragmentation. The dispersed and fragmented system of land tenure is prevalent even today for the same reasons; indeed, the tendency is for the increased incidence of fragmentation.

hips (e.g., in *yaya* 1, A's plot may be adjacent to B and C; but in *yaya* 2, A's immediate neighbours may be D and E). In effect, larger the number of *yayas* and wider the dispersion of land holdings the more complex is the network of economic relations which bound the individual. All this meant that at the operational level the network of relationships necessitated a collective co-operative approach to labour mobilization which found articulation in the *attam* institution.

Functional Characteristics

The *attam* group is mobilized on a *yaya* basis; residential and kinship alignments further reinforce cohesion within the group. The important principle is that the selection of partners is not left to individual choice. The limits set by residential and kinship groupings also prevent the *attam* group being formed across caste barriers.

The functional characteristics of *attam* demonstrate that exchange-labour is precisely balanced both in terms of duration and task performance. Indeed the term *attama* is at times used to refer to 'units of labour'. Thus *waru-attama* refers to one half-day's labour and '*tispeya attama*' refers to one full-day's labour. For the exchanges to be even, the units of labour must be precisely balanced. If a person is called upon to provide more units of labour than he is bound to, such excess units of labour have to be compensated for by payment in either cash or kind. Cash payment is clearly a recent innovation; the traditional practice had always been for such payments to be made in kind. When the *attam* group performs *waru-attam* this does not involve the provision of meals by the recipient; in contrast, one full-day's *attam* entails a substantial expense on the recipient because the *ambula*⁸ (noonmeal) has to be provided for in addition to at least two cups of tea per individual. The principle of balance involved in *attam* also necessitates that task performance too should be precisely weighted. The weighting is so significant an element that it recognizes the sexual division of labour; that is to say, some tasks (planting, weeding, transfer of paddy stalks to the threshing floor) are performed exclusively by women. The implication is that a unit of male labour cannot be equated to a unit of female labour. Hence in Madulla within the predominantly male oriented *attam* institution, female *attam* groups emerge. It should, however, be noted that the mobilization of labour on *attam* lines is made possible by the low-levels of specialization involved in the various operational tasks of irrigated paddy cultivation as demonstrated by the traditional methods obtained at Madulla.

8. It serves as an informal reward providing tacit compensation for the assistance rendered.

The contractual relationships entered into in *attam* are of an absolutely binding nature and cannot be easily shirked off. In the event a recipient of *attam* finds it difficult to reciprocate for reasons beyond his control (e. g. either sickness or death in the family) he is bound to send a substitute—usually another adult member of the family or pay the wage of a labourer employed for the purpose. Here again, the principle of balance is in operation; a unit of adult male labour cannot be substituted by a unit of female or child labour. Indeed, effective social controls exist to enforce the binding inherent in the contractual relationship. Thus any violation of this principle results in ‘avoidance’ and ‘taboos’ placed on such offending individuals. They may be referred to in the derogatory term ‘*attam-warawa*.’

The *attam* group does not have a formal leader; but informal leadership is recognized in the terms ‘*labana-aruwā*’ and ‘*gevena-aruwā*’. These refer to two informal leaders who occupy the two extremities of a row of workers and act as pace-setters. The two *aruwa* roles, therefore, operate in competition. The two *karuwa* roles provide assistance to the *aruwa*. This arrangement is schematically shown in figure 1. Apart from the terms used to designate the informal leadership roles there are no special terms to designate the other operational roles within the *attam* group. Hence the following construction of roles may be useful.⁹

- (a) initiator — an individual who enlists the support of the *attam* group.
- (b) *aruwa* — informal leader; *labana* (upper end) and *gevena* (lower end) refer to field positioning.
- (c) *karuwa* — assistant to *aruwa*.
- (d) participant — an individual who enters into a contractual relationship with other participants.
- (e) host participant — the initiator who works alongside the group and acts as host to the others.

Of these categories, roles ‘b’ and ‘c’ require a relatively higher degree of skill than the roles ‘d’ and ‘e’. Even though it is theoretically possible for each role to rotate within the group, technically the *aruwa* and *karuwa* roles tend to rest with the more skilled individuals within the group.

9. For a comparison see P. R. Goethals, (1967) ‘Rarak: A Swidden village of West Sumbawa’ in Koentjaraningrat (ed) *Village in Indonesia*, Cornell University Press.

Significance

The functional significance of the *attam* institution is being eroded away in Madulla for reasons explained in the next section. However, the *attam* institution when in operation is important for several reasons. The experience at Madulla suggests that it enables the easy mobilization of labour in irrigated paddy cultivation. It regularizes the supply of labour because at the inception of the agricultural cycle the *attam* groups are formed on a *yaya* basis. In Madulla particular advantages are to be derived from the *attam* institution as it enables to meet the competing demands of agricultural operations between flow irrigated paddy and *hen* cultivation. This avoids competition and ensures complementarity between the two systems.

The collective-co-operative approach to irrigated paddy cultivation in Madulla is particularly significant from the point of view of cultural practices adopted in terraced paddy cultivation. Thus it is customary for the *agavata* fields (fields lying at lower elevations) to be ploughed first to ensure the supply of water and there is progression upwards to the *mulata* fields. (fields nearer to source of water supply). In *yala* the usual practice is for the fields to be cultivated in the reverse order and in rotation. The water issues to each tract is dependent on the volume of water in the supplying stream.¹⁰ In regard to the preparation of the fields the narrower terraces are prepared by hoeing. This is essentially a matter of convenience in that the manoeuvrability of the buffalo drawn plough is greatly retarded in the narrower *liyaddas*. For the same reason, in such fields harrowing by buffaloes is dispensed with and the clods are trodden under-foot by men and levelled with the hoe. Hence, the significance of the *attam* institution as a means of providing the labour supply.

Another factor which contributes to the significance of *attam* is that it enables the optimization of the factors of production. It has previously been mentioned that the pooling of production capital is an important principle of the *attam* institution. The above mentioned cultural practices provide a rational approach to flow irrigated paddy cultivation; however, unless the factors of production are put into effective use it would not permit the systematic working of the *yaya*. Hence, a collective-co-operative approach to the utilization of the factors of production

10. This cultural practice is now abandoned as the *yala* paddy crop is a rarity and depends on the availability of water.

enable the successful sequential operation of the *yaya*. Thus it prevents the non-working of the *yaya* owing to the non-availability of production capital.

The *attam* institution is also important because of the interest and collective responsibility with which the agricultural operations are performed by individual members of the group. The 'roles' defined previously rotate within the group; hence, the need to share collective responsibility. There is further compulsion because the 'principle of balance' is extended to cover task performance as well i.e., A' should pay sufficient attention to the performance of tasks relating to B's fields for B to reciprocate in the same manner. It should also be emphasized that the *aruwa* and *karuwa* roles provide for the maintenance of a normative level efficiency in task performance.

It is also significant that the *attam* institution allows for a collective approach to farming within a tenorial framework based on individual ownership of land. This prevents an intensely individualistic approach to farming which is very desirable because overt competition for irrigation water is bound to strain the social cohesiveness of the group. Experience suggests that a weakening of group norms relating to irrigation water leads to misappropriation by individuals resulting in dissension and conflict. In fact, the ritual occasions of the peasantry relating to agriculture aim at resolving such disruptive tendencies within the group.¹¹ Hence the *attam* institution minimized the potential and prevented the surfacing of such disruptive tendencies within the community.

Disintegration

As pointed out earlier a tendency towards the gradual disintegration of the *attam* institution is increasingly noticeable in Madulla. A growing inequality in the pattern of land ownership as indicated by the high incidence of share-cropping is a causal factor contributing to this tendency. As the principles outlined above indicate 'balanced reciprocity' inherent in *attam* and relating to labour units and task performance can only be rationally worked out in a situation which provides for equality in the pattern of land ownership. This is because *attam* labour is recruited on a *yaya* basis and not on the basis of labour units. Now, given a situation where there is inequality in the pattern of land ownership the balancing of labour inputs in terms of labour units and task performance becomes

11. M. M. Karunanayake, (1979) 'Muttimangalaya: Vidyodaya Journal of Arts, Science and Letters (forthcoming).

problematic. This problem is further accentuated when there is joint ownership of paddy land. In such a situation the small holders find themselves in a disadvantageous position in resorting to *attam* labour; this has its corollary in the fact that those owning relatively larger extents are compelled to use wage labour. These changes have to be viewed in the contextual situation of a rapidly expanding cash nexus in Madulla. Within the past few years tobacco cultivation has gained in importance as a cash crop; the village entrepreneurial class in particular—because of the capital at its disposal has taken to it in a big way. This has affected the *attam* institution. Paddy land has become a saleable commodity and is increasingly been acquired by the new wealthy. Tobacco cultivation entails attractive wages. It has attacked at the very roots of the *attam* institution, because labour is attracted to work in tobacco farms. Thus the mobilization of *attam* groups on the 'labour-labour' principle becomes rather difficult. This tendency is further encouraged by the increased internal circulation of money in Madulla facilitated by a changing system of land use. Thus the *yala* paddy crop is now being replaced by vegetables for the market. Vegetable cultivation needs less water and ideally suits as a *yala* crop, further it fetches a sizable cash income.¹² The paddy crop itself is to some extent viewed as a cash crop with the increased floor price for paddy under the price guarantee.¹³ Hence, the growing importance of wage labour in the Madulla peasant economy.

However, it should not be inferred that in Madulla the disintegration of the *attam* institution is complete. The institution is, in fact, throwing up defences to contain the process. Thus there is in Madulla a tendency for smaller *attam* groups to evolve; these may not be commissioned on a *yaya* basis. There is also a tendency for some tasks (for example, the harvesting and threshing operations) to be performed on an *attam* basis while still other tasks are performed on a wage basis. This in effect implies an integration of the 'labour-labour' and 'labour-money' principles. Similar adjustments in the *attam* institution have been recognized elsewhere. The *attam kontrattu* system referred to by Gunasinghe is a case in point.¹⁴

12. A more recent development is for the *yala* fallowing of the *yaya*; instead emphasis is placed on tobacco especially as a *hen* crop. This is more in response to the drought hazard than to changing price levels.

13. The price guarantee has been most utilized in respect of paddy and attempts to ensure a fair price to the producer by framing a floor price. It is assured that the market price is steadied at or about the level set by the 'price guarantee'. At the time of the study the guaranteed price was Rs. 33/- per bushel—this has now been raised to Rs. 40/- per bushel.

14. N. Gunasinghe, (1970) *op. cit.*

Implications for Modernization

The above discussion illustrates that the *attam* institution enabled a collective-co-operative approach to *yaya* operations. The disintegration of the system introduces a more individualistic and competitive approach which adversely affects production efficiency. The problems of water management in particular have been discussed by Chambers with reference to large scale irrigation works.¹⁵ In Madulla the non-compliance with the *sirita* rules of irrigation is a further pointer in the same direction.¹⁶ Hence, it is inevitable that agricultural modernization necessitates an approach which permits a group approach to farming. As pointed out by Gooneratne *et al* 'it enables to realize the advantages of large scale operations in a situation of small individual holdings'.¹⁷ Besides the effective implementation of central agricultural policies at the farmers level is made easier by such an approach.

It is the thesis of this paper that 'group production' as referred to in the modern context should not be introduced in a contextual vacuum.¹⁸ The author is of the view that any approach to group production could be placed in a local cultural context by a judicious transfer of the *attam* principles into new group production situations. The group production experiment at Beminiwatte (Kegalle District) carried out by the Agricultural Research and Training Institute laid particular emphasis on the corporate nature of the group in dealing with the several institutions servicing the peasant sector.¹⁹ It is suggested here that further refinement of the concept of group production by defining the internal mechanics of the system in terms of the principles underlining *attam*, will ensure the successful adoption of group farming as a strategy for agricultural development at the village level. It is, therefore, useful to recapitulate on the principles with a view to their transferability.

- (a) the mobilization of the group on a *yaya* basis; where the *yaya* is too extensive to permit such mobilization several sub-groups may be formed. However, the group should be large enough to efficiently perform its corporate functions.

15. R. Chambers, (1976) 'On Substituting Political and Administrative will for Foreign Exchange' in S. W. R. de A Samarasinghe (ed) *Agriculture in the Peasant Sector of Sri Lanka*, Peradeniya, Ceylon Studies Seminar.

16. The non-adherence to the *mulata* principle mentioned above is a case in point. This tendency has been encouraged by the failure of the Cultivation Committee to carry out effectively its supervisory functions.

17. R. W. Gooneratne, *et. al*, (1977) 'Group Production : a case study'. Agrarian Research and Training Institute, Colombo.

18. R. W. Gooneratne, *et. al*, (1977) *Ibid*.

19. R. W. Gooneratne, *et. al*, (1977) *Ibid*.

- (b) the collective-co-operative approach to agricultural operations without disturbing the existing tenurial arrangements.²⁰ It has, of course, to be stressed that in the traditional *attam* system the group functions at the level of efficiency of the least skilled member. Hence, it is necessary to upgrade the performance level of the entire group in the modern context. This is possible by effective servicing of the 'group' with reference to extension services and technical inputs. The possibilities arising from a group approach to farming has been demonstrated by Potter in his study of social and economic change in rural China.²¹
- (c) Work norms may be determined on the 'labour-labour' principle. Its applicability is particularly relevant as a means of realizing non-monetized capital.²² The weighting attached to labour units and task performance is of relevance here.
- (d) The pooling of production capital is useful and should be encouraged in the group production context.
- (e) The informal leadership roles and the informal rewards system contained in the *attam* institution should be made use of.

Conclusion

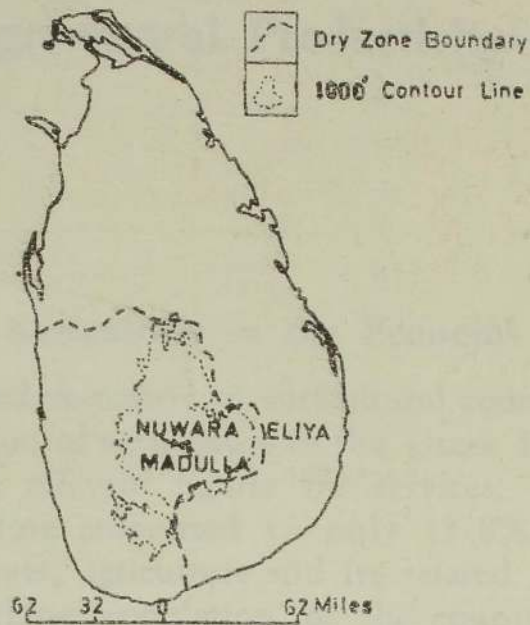
This study brings out that the *attam* institution contains a set of distinctly identifiable principles. These principles enable both the mobilization and the regularization of the supply of labour in a labour intensive system of peasant agriculture. It is also clear that the *attam* institution is subject to disintegration. However, it is useful to transfer the underlining principles of *attam* into new situations demanding a group approach to farming. This will contribute to a more efficient approach to group production while providing an acceptable contextual basis for its implementation.

20. However, when there is high inequality in land ownership, land reform should be a prelude to the application of group production techniques to farming, particularly if the *attam* principles are to be rationally utilised,

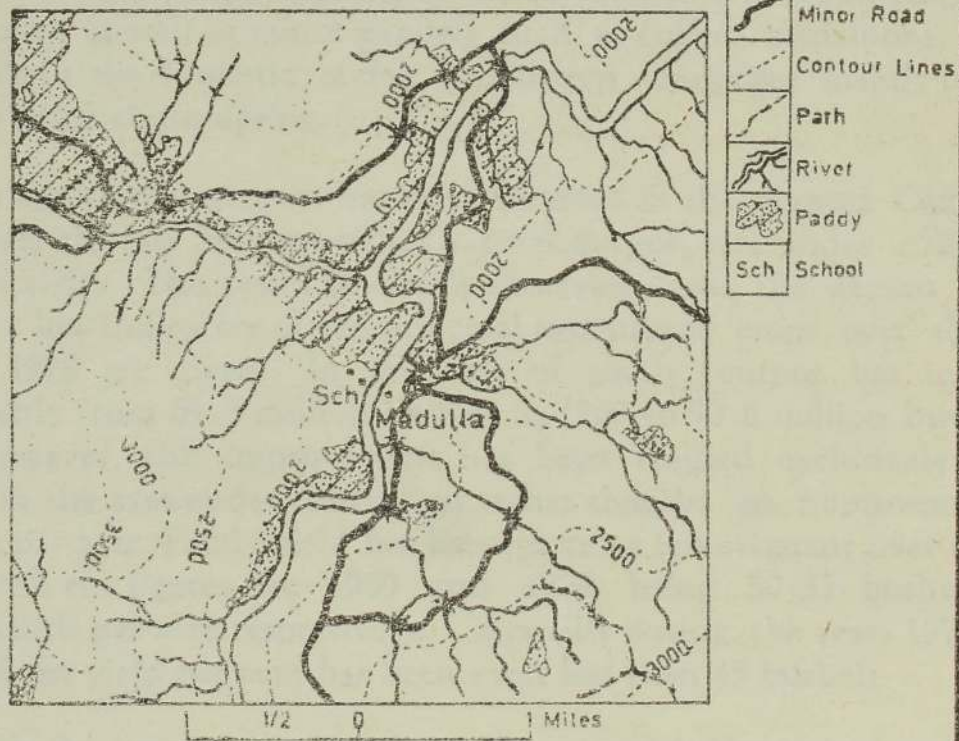
21. J. M., Potter, (1967) 'From Peasants to Rural Proletarians: Social and Economic Change in Rural Communist China' in Potter, J.M et.al *Peasant Society: a reader*.

22. B. Hewavitarane, (1971) op. cit.

LOCATION



MADULLA VILLAGE

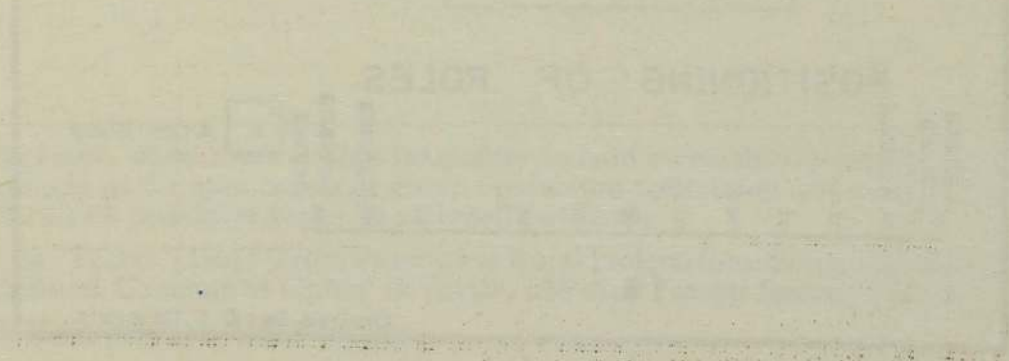
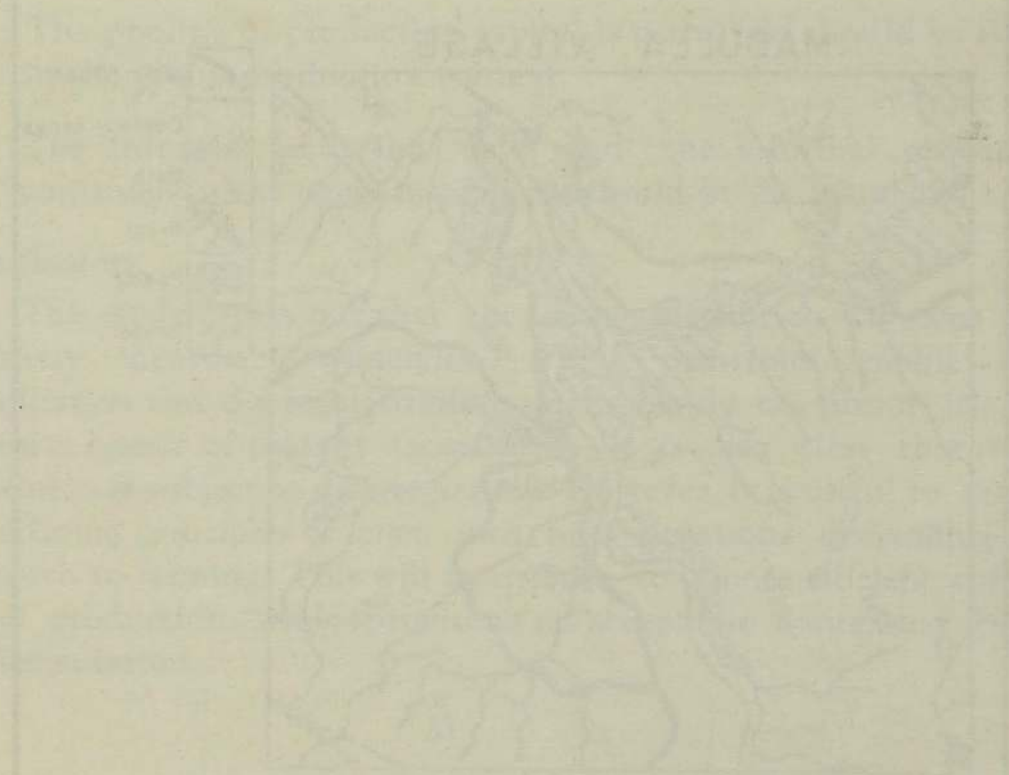
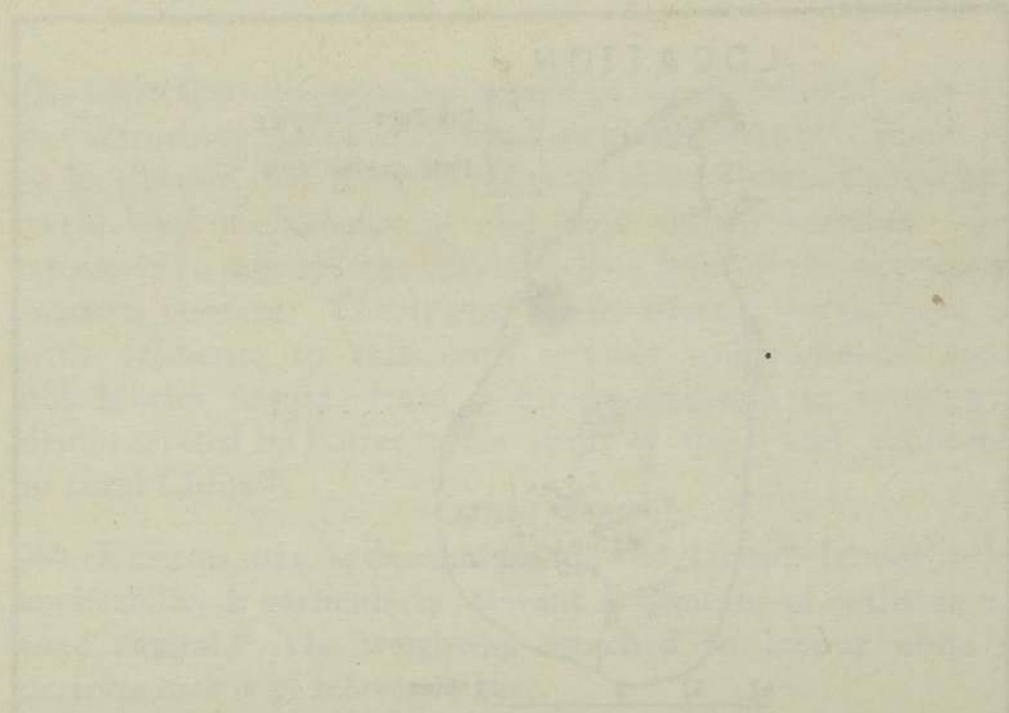


POSITIONING OF ROLES



Fig. 1

Drafted by: G. F. De Alwis



Fertilizer & Agricultural Productivity*

C. R. KURUPPU

Predominance of Agriculture in the Economy

Sri Lanka is predominantly an agricultural country. During the year 1978, the contribution of agriculture to the Gross National Product was 28.4% whereas the relevant figures for services, wholesale and retail trade, and manufacture amounted to only 13.8%, 13.6% and 12.6% respectively.¹ Moreover, agriculture and its related activities account for over 70% of the working population of the country. The agricultural activities of the island could be broadly classified into two sectors. The export Cash Crop Sector consists of the three main tree crops, tea, rubber and coconut as well as minor exports such as coffee, cardamons, pepper etc., while in the domestic sector production comprises mainly of food items for local consumption.

No significant progress has been achieved in the Export Cash Crop Sector over the last 10 years either in total output, area under cultivation or productivity. This could be clearly observed from the data in Table I where the key indicators of the principal agricultural crops over the years 1969 to 1978 are given. In the case of paddy, output has increased considerably from 65.8 million bushels in 1969 to 90.6 million bushels by 1978. However, this improvement has been realised exclusively by an increase in the area under cultivation rather than by an improvement in the yield per acre. Paddy yield has been more or less stagnant over the last decade with the figures for 1969 and 1978 being 50.33 bushels and 50.70 bushels per acre respectively. Actually during the years 1973, 1975 and 1976 the yield per acre has been even less than 45 bushels.

With the rapid improvement in educational facilities since attainment of political independence in 1948, the country has witnessed a revolution of rising expectations among the population at large, especially among the ranks of the younger generation. These expectations have by far outstripped the growth of the overall economy over the last three decades.

* The writer acknowledges the assistance given by Dr. U. Volz, Consultant, Fertilizer Secretariat, for the preparation of the outline of certain parts of this article.

1. Annual Report of the Central Bank of Ceylon (1978) P 11.

TABLE I
Key Indicators of Principal Agricultural Crops 1969 - 1978

Category	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978 (Provi- sional)
1. TEA										
Production (Mn. lbs.)	484	468	480	471	466	450	471	433	460	439
Total acreage	556,514	597,499	597,171	597,645	598,740	598,466	597,691	594,481	598,024	603,464
Yield per acre (lbs.)	811	811	833	816	805	882	920	839	899	838
2. RUBBER										
Production (Mn. lbs.)	333	351	312	309	341	291	328	335	322	343
Total acreage	563,633	568,900	567,994	567,060	565,000	563,406	562,464	560,872	559,850	559,257
Yield per acre (lbs.)	674	707	657	658	694	634	691	705	690	753
3. COCONUT										
Production (Mn. nuts)	2,440	2,510	2,610	2,963	1,935	2,031	2,398	2,330	1,821	2,207
4. PADDY										
Production (Mn. bushels)	65.8	77.5	66.9	62.9	62.9	76.8	55.3	60.0	80.4	90.6
Acreage-harvested ('000)	1,539	1,776	1,714	1,579	1,660	1,969	1,476	1,570	1,933	2,074
Yield per acre (bushels)	50.33	51.30	45.91	46.87	44.58	45.65	44.04	44.91	48.92	50.70

Source: - Annual Report of Central Bank of Ceylon, 1978 — page 21.

Consequently, there is social instability and disequilibrium that could give rise to explosive situations. In these circumstances, the need of the hour is the rapid expansion of the overall economy to provide expanding employment opportunities to raise the levels of income to satisfy at least partially the genuine aspirations of a comparatively educated population. In a predominantly agricultural country, it is imperative that this sector should play a leading role in realising an accelerated level of economic progress. The rapid growth of the export agricultural sector would raise the volume of foreign exchange earnings, while in the domestic sector considerable savings could be effected in external resources. Moreover, the expansion of output in these two sectors would contribute to increased employment opportunities both directly as well as in related activities.

A Strategy for Rapid Agricultural Development

Thus, it is absolutely necessary to substantially raise agricultural output in the shortest possible time by resorting to import substitution in the domestic sector and the expansion of agricultural exports in the cash crop sector. There are two possible means to realise these twin objectives: an extension of the area under cultivation and the intensification of production. In view of the limitation of suitable land resources a significant extension of the area under export crops is not feasible. It would be possible to double the present cultivated extent in the domestic sector; but such extension is medium to long term in character and requires heavy capital investments.

On the other hand, there is much scope for intensifying agricultural production on existing land under cultivation. A comparison of the actual average production in the cultivated land with potential in respect of the four major agricultural crops of the country, tea, rubber, coconut and paddy (rough rice), as given in Table II amply illustrates this point.

TABLE II
Agricultural & Potential Annual Yields of Major Crops

	YIELD	
	Actual	Potential
Made tea, upcountry ..	1,500 kg	2,500 kg.
Made tea, low country ..	1,500 kg.	4,500 kg.
Rubber ..	700 kg.	2,000 kg.
Coconut ..	4,000 nuts	16,000 nuts
Rice (Rough) ..	2.5 tons	5 tons

Source: Masterplan on Promotion of Fertilizer Distribution and Consumption — Main Report, Table I, p. 3.

The adoption of a package of measures such as the use of high yielding varieties; proper weed, pest and disease control; soil and water conservation with appropriate drainage facilities; and the application of fertilizer conforming to the dosages recommended by the relevant Research Institutes is the answer to the problem of low agricultural productivity of the country. Of these measures, fertilizer application is one of the most important; the present consumption of this commodity in the agricultural sector is far from satisfactory, as indicated in the data in Table III, where the current fertilizer use in relation to the quantities recommended by the appropriate research organizations are given.

TABLE III
Current Fertilizer Use*

	Current Fertilizer use in relation to recommended dosage (%)
Tea	75
Rubber	35
Coconut	20
Rice	37

Source: Master Plan, Main Report, Table II - page 3

* These figures are based on the overall consumption of fertilizer for the year 1976 which was low being around 264,000 tons whereas in 1978 it was 380,000 tons.

It will be observed from this data that especially in coconut, and also in rubber and paddy, there is much scope for higher levels of fertilizer application and these would invariably lead to an improvement in productivity. In fact, an increase in the consumption of fertilizer appears to be the only effective short term solution to the low levels of agricultural productivity in Sri Lanka. Such an approach, while raising agricultural productivity would also contribute substantially to the expansion of the economy and thereby relieve the despair and frustration amongst a large section of the people that is threatening the social fabric of the nation.

Consumption of Fertilizer

In non-technical terms, fertilizer is the food for plants. There are three main ingredients of plant food required for the successful cultivation of crops and they are nitrogen, phosphorous and potassium; other nutrients such as sulphur, magnesium, copper and iron are considered less important since they are required in relatively smaller quantities. The food for plants is supplied as chemical fertilizer and organic manures such as green leaf, cattle manure and compost. A large quantity of organic manure amounting to around 5 - 10 tons is needed to obtain a nutrient content of approximately 100 lbs. The inconvenience and high cost of collecting, transporting

and spreading such a quantity of organic fertilizer is such that in most instances, the only feasible way to provide food for plants is the application of chemical fertilizer. This has been emphasised in recent decades with the need for higher volume of fertilizer on account of the adoption of better yielding varieties of plants.

The application of fertilizer to the three main plantation crops, tea, rubber and coconut, commenced well over 50 years ago. However, among subsidiary food crops and fruit crops, the practice of the application of chemical fertilizer began only in the post-independence years. Even today, apart from the estates belonging to State organizations and the large private sector plantations, the importance of fertilizer application to obtain satisfactory levels of output is not adequately realised. Actually during periods of poor prices for agricultural commodities or when there is a sharp increase in the cost of production, the first item of expenditure to be curtailed or totally abandoned is fertilizer application.

Until recently, all the fertilizer required for agriculture was obtained from abroad. However, a few years back a large deposit of apatite was discovered at Eppawela in the North Central Province. Consequently, in recent years ground apatite is being progressively used as a substitute for imported rock phosphate in tea plantations at higher elevations.² Apart from rock phosphate, the important fertilizers that are imported and used in Sri Lanka are sulphate of ammonia (S. A.) and urea for nitrogen requirements and triple super phosphate and muriate of potash for phosphorus and potassium requirements respectively. The actual quantities of fertilizer consumed during the year 1978 on a cropwise basis is given in Table IV. It is clear from this data that the highest amount of fertilizer at

TABLE IV
Estimated Fertilizer Consumption 1978

	S.A.	Urea	R.P.	T.S.P.	M.P.	N.P.K.	Others	Total
Paddy	4,757	81,446	2,146	14,415	11,780	21,583		136,127
Tea	55,774	23,367	15,074	26	19,751	—	1,514	115,506
Rubber	6,122	1,273	7,480	54	4,129	—	1,886	20,944
Coconut	15,841	1,032	9,589	—	12,965	—	3,126	42,553
Others	29,999	12,450	9,826	9,989	1,917	—	2,275	64,456
Total	112,493	119,568	44,115	24,484	50,542	21,583	8,801	381,586

Source: Ceylon Fertilizer Corporation

S.A. = Sulphate of Ammonia

T.S.P. = Triple Super Phosphate

R.P. = Rock Phosphate

M.P. = Muriate of Potash

N.P.K. = Nitrogen, Phosphorus and Potassium

2. It cannot be used at lower levels due to the inferior solubility of that mineral.

present is consumed in the production of paddy while tea has accounted for a substantial quantity. The quantum of fertilizer utilized in rubber and coconut production is comparatively small.

In recent years, a conscious attempt has been made by the Government to increase the consumption of urea as nitrogen fertilizer both on account of the local urea factory that is now nearing completion at Sapugaskanda as well as the economies in storage and transport arising from the use of that high analysis fertilizer.³ In 1978, urea accounted for 119,568 tons whereas the corresponding figure for S.A. is 112,493 tons. In terms of nutrient content, the consumption of urea and S. A. in 1978 has been around 62,000 and 24,000 tons respectively⁴.

An Analysis of Fertilizer Consumption

A crop-wise consumption of fertilizer in terms of weight over the years 1961 to 1978 is given in Table V. Information in this table indicates that there has been no significant increase in the overall utilization of

TABLE V
Fertilizer Consumption 1961 (crop-wise analysis) in 1,000 tons

Year	Tea	Rubber	Coconut	Paddy	Others	Total
1961	143	29	43	29	34	278
1962	148	28	43	38	35	291
1963	161	27	45	47	30	311
1964	172	27	48	60	32	336
1965	157	23	48	42	46	316
1966	157	22	52	44	54	330
1967	142	22	49	73	49	336
1968	133	18	63	85	64	363
1969	111	20	59	84	64	338
1970	107	20	64	87	56	334
1971	111	17	58	95	60	342
1972	97	11	48	88	49	294
1973	92	15	39	126	54	325
1974	97	12	40	96	46	291
1975	100	9	27	49	26	210
1976	95	13	31	72	53	264
1977	80	12	29	122	53	298
1978	115	21	43	136	65	380

Source: Ceylon Fertilizer Corporation

3. The Urea factory of the State Fertilizer Manufacturing Corporation, which falls within the purview of the Ministry of Industries & Scientific Affairs, is located at Sapugaskanda adjacent to the Oil Refinery of the Ceylon Petroleum Corporation. The feedstock for the manufacture of urea is naphtha which is a by-product in the refining of crude oil. Naphtha for the urea factory will be obtained direct by pipe line from the oil refinery. The estimated capital cost of the urea project is Rs. 2,400 million and it is the largest single industrial project to be undertaken by this country in terms of cost.
4. The nutrient content of urea is 46% whereas the figure for S.A. is only 21%.

fertilizer during the period under analysis except in the final year-1978, when total consumption recorded an unprecedented figure of 380,000 tons. The average consumption of fertilizer in the production of tea has actually declined from around 143,000 tons in 1961 to 115,000 tons in 1978 when the total consumption in the island reached the highest level. Moreover, during the years 1976 and 1977, fertilizer use in tea was as low as 95,000 tons and 80,000 tons respectively.

There has also been a similar decline in the use of fertilizer in the production of rubber where consumption has fallen from 29,000 tons in 1961 to 21,000 tons in 1978. In the coconut sector, fertilizer use has remained more or less constant being 43,000 tons in both 1961 and 1978, though in certain years such as 1968 and 1970 utilization has been as high as 63,000 tons and 64,000 tons respectively.

The only major agricultural crop that has recorded substantial increases in fertilizer use is paddy. From 29,000 tons in 1961, the use of fertilizer for this crop has reached a record figure of 136,000 tons by 1978. In this connection however, it should be noted that as stated earlier, unlike in the case of tea, rubber and coconut, there has been a considerable increase in the area under paddy cultivation over the past several years.⁵ Even after making allowance for this factor there has been substantial progress in fertilizer usage in this crop over the period under consideration.

Progress in the use of fertilizer over the period under analysis is not as negative as indicated in the data in Table V for the reason that urea came to be applied in appreciable quantities only in the latter part of the period. Actually in 1978, the consumption of urea has been in the region of 120,000 tons and if this was consumed in the form of S.A. the quantum of fertilizer used in terms of weight would be around 263,000. Thus, for a proper evaluation of the progress in the use of fertilizer in the country over the period 1961 to 1978, another 143,000 tons should be added to the total consumption figure of 380,000 tons for the year 1978.

Even when this factor is taken into account, however, the performance in the utilization of fertilizer over the last 18 years has not been satisfactory, especially since in several countries of the world substantial increases in output have been realised by the greater application of fertilizer.

From the data in Table III, which indicates the current fertilizer use in relation to quantities recommended by the relevant research institutions, it will be seen that fertilizer consumption is high among those crops where

5. The area harvested has increased from 1,539,000 acres in 1969 to 2,074,000 acres by 1978 - Annual Report of the Central Bank of Ceylon 1978 - page 21.

the bulk of the cultivation is undertaken on a large scale and the time taken for fertilizer application to yield beneficial results is limited. On both these counts, tea is at an advantage where the small holdings account for only 18% of the area under cultivation and the time taken for fertilizer to generate results being around two years. On the other hand, in the coconut sector approximately 80% of the area under cultivation is operated on a small scale basis⁶ and it takes over four years to reap the full benefits of fertilizer application.

Another important phenomenon that has to be borne in mind is that although in the tea sector the overall application of fertilizer in 1976 was around 75% of the recommended dosage, the larger plantations managed by state organizations or under private ownership have been effecting fertilizer applications at much higher levels. On the other hand, among the small holdings, the use of fertilizer has been on a much lesser scale. This would apply to other crops as well though in the case of paddy and coconut large scale operations are a scarce factor.

Thus, to realise a significant break-through in the consumption of fertilizer in the country it is imperative that the small agricultural producer be convinced of the commercial desirability of utilising a higher volume of fertilizer. This is by no means an easy task since farmers are used to certain methods of cultivation; some of them do not use any chemical fertilizer at all and see no reason why they should do so when their forefathers had not adopted such practices. Others are not commercially oriented and would be unwilling to exploit opportunities for financial advancement; they may be content with an income that would enable them to satisfy their existing requirements with no desire to expand their traditional needs.

However, the task would not be overwhelming since most people would be anxious to raise their levels of income and benefit from the commercial gain to be realised by the greater application of fertilizer. In fact, in the paddy and coconut sectors an investment of Rs. 1/- on fertilizer should usually yield a rate of return of around Rs. 10/- and Rs. 7/- respectively.

Measures for the encouragement of the greater use of Fertilizer

Most important requirement to encourage the greater use of fertilizer is to ensure its ready availability in all relevant areas, especially in the villages, at the proper time at reasonable prices. Until the liberalisation of

6. Masterplan on Promotion of Fertilizer Distribution and Consumption, Main Report, Page 4.

fertilizer imports in November 1978, the Ceylon Fertilizer Corporation (CFC), which falls within the purview of the Ministry of Agricultural Development and Research, was the sole importer of this commodity into the country. This institution still continues to be the only importer of fertilizer although other wholesalers, both in the private and public sector, are proposing to enter the import arena in the near future. Including the Ceylon Fertilizer Corporation, there are at present 6 institutions that are engaged in the wholesale distribution of fertilizer in the island. Three of these institutions are in the public sector (Ceylon Fertilizer Corporation, Colombo Commercial Company and Janatha Estates Development Board) while the other three are in the private sector (Baur & Co., Roberts Forage Works and Amalgamated Manure Works.)

The public sector institutions account for 80% of the imported fertilizer at the wholesale level while the balance 20% is distributed by the organizations in the private sector. These six wholesalers engage both in the mixing and sale of fertilizer. They transport the fertilizer from the Port to their storage and mixing plants and with the exception of the CFC sell mixed or straight fertilizer to customers at their gates. The CFC has a number of warehouses located in the various part of the island from where sales are effected.

The large State and private sector plantations obtain their fertilizer requirements direct from the wholesalers. The transport that brings the produce of the estates to the metropolis takes fertilizer on their return journeys back to the plantations. Thus, there is no serious problem in the supply of fertilizer to the large plantations. However, in the case of smaller estates, and especially small holders and individual farmers intermediary agencies are involved in the transport and sale of fertilizer to users. Most of the distribution of fertilizer at the retail level is undertaken by Mu'ti-Purpose Co-operatives Societies (MPCSS). Others engaged in this activity are private dealers authorised by the CFC and the Agricultural Service Centres of the Ministry of Agricultural Development & Research.

In recent times the Ceylon Fertilizer Corporation has been successful in making available the different varieties of fertilizer at the wholesale level in sufficient quantities although the distribution of this commodity at the intermediary and retail level has not been that satisfactory. To ensure the availability of fertilizer at the intermediary level, a chain of regional fertilizer warehouses are being established in the districts to service mainly the non-plantation sector. The first of such warehouses is nearing completion at Maho with a storage capacity of 16,000 tons and facilities to

undertake the mixing of fertilizer. This warehouse is expected to be fully commissioned towards the end of 1979. Action is also being taken to establish a second such warehouse in the South with a storage capacity of around 10,000 tons. Other locations recommended in the Masterplan on the Promotion of Fertilizer Distribution and Consumption are Anuradhapura, Polonnaruwa and Badulla. The CFC is responsible for the establishment and operation of these warehouses while the Federal Republic of Germany is financing their capital costs from counterpart funds.

The philosophy of the regional warehouse concept is to store adequate quantities of fertilizer in these warehouses so that it would be easily available to retailers (or to direct users in the surrounding areas) especially at the commencement of the fertilizer season. These warehouses are being so located that they are connected to the national railway system thereby reducing the cost of transport to the minimum.

However, it is necessary to ensure that fertilizer is available to the small holders and farmers at the village level at the required time. For this purpose, it is necessary that retailers should possess adequate stocks of their own at the commencement of the fertilizer season to meet the first wave of demand that could be subsequently replenished by supplies from the regional warehouses. Most retailers are reluctant to deal in fertilizer since it is inconvenient, difficult and unpleasant to handle and store. To encourage retailers, both private and co-operatives, to engage in the fertilizer retail business a higher margin of profit and adequate credit facilities should be provided.

With regard to the prices of fertilizer, there is already a state subsidy of 50% of the C & F cost currently in operation. This commodity is also free of customs duty and the Business Turnover Tax. Despite the state subsidy, the prices of fertilizer has been significantly fluctuating over the several years, at times even within a fertilizer season. This will be seen from the data in Table VI in respect of two major types of fertilizer, urea and VImixtures. This type of fluctuation discourages the expansion of fertilizer consumption.

TABLE VI
Changes in Retail Prices of Fertilizer 1973 - 1978

Date of change in prices	VI*	Urea
	Retail prices in Rs. per cwt.	
Before 1973	18.90	20.13
73-10-01	26.30	26.63
74-07-12	109.20	134.25
74-09-09	173.25	134.25
74-10-21	84.00	94.00
75-05-21	84.00	94.00
75-11-06	61.75	94.00
76-10-01	61.70	67.15
77-03-15	57.25	50.39
78-01-01	60.25	33.00
78-07-05	80.66	93.62
77-08-21	74.71	83.20

Source: Masrerplan on Promotion of Fertilizer Distribution and Consumption; Ceylon Fertilizer Corporation

* One of the most popular paddy fertilizer mixtures in the island.

What is important is that the prices of fertilizer should be stabilised over a reasonable period of time at levels that would encourage greater consumption.⁷ Once reasonable prices are determined the state subsidy could fluctuate depending on the world market prices and the local cost of production of fertilizer should not be determined at too low a level where its true value would not be appreciated by those who handle and use that commodity. Exceptionally low prices would lead to unnecessary waste arising from negligence and carelessness in handling, transport and storage. Waste should be minimised since the value of fertilizer to the nation would always be substantial although its retail prices may be artificially reduced by state subsidies to encourage greater use. Moreover, substantially reduced prices would also be an invitation for its smuggling out of the island in appreciable quantities. It would also be an encouragement for the production of undesirable commodities based on fertilizer.⁸

7. Since the profitability of different crops vary, it would be difficult to decide on a reasonable retail price for fertilizer applicable to all of them. In the circumstances it would be preferable to determine a fair retail price to satisfy the requirements of the major crop that is least profitable.

8. It is reported that illicit liquors are being manufactured using urea as a base.

To encourage the use of fertilizer among small holders and individual farmers continuous propaganda is necessary, both at the national and village levels, to convince them of the advantages of the higher application of fertilizer. Simultaneously, credit facilities should be extended to provide them with the means to purchase fertilizer at the appropriate time and also adequate extension services should be established to impart proper instructions for the maximisation of the benefits of fertilisation. The operation of demonstration plots at the village level could have a considerable impact because these would enable the cultivators themselves to witness the success of fertilizer application.

However, while encouraging the farmer and the small-holder to use larger quantities of fertilizer it is most important to ensure its availability in sufficient quantities. Otherwise, the users who have been motivated to apply fertilizer in increasing dosages would be frustrated if supplies are not forthcoming at the appropriate time.

Thus, the primary short-term objective in the agricultural sector of Sri Lanka is clear; to encourage and promote the use of fertilizer in increasing quantities so that the stagnation in the growth of agricultural activity could give way to a significant and accelerated rise in production in the shortest possible time. To realise this goal it is necessary that while motivating the small-holder and the farmer in the greater use of fertilizer, measures be adopted to ensure that this commodity is readily available at reasonable prices. Action should also be taken to ensure the operation of other factors that are required for the maximisation of the benefits of fertilisation such as the use of high yielding plant materials; weed, pest and disease control; and adequate water and drainage facilities. In the higher application of fertilizer for greater agricultural productivity the interests of the producer would undoubtedly coincide with the welfare of the nation.

Sri Lanka Journal of Social Sciences

INSTRUCTIONS TO CONTRIBUTORS

SUBMISSION OF PAPERS

Papers are accepted for editorial consideration with the understanding that they have not been published, submitted or accepted for publication elsewhere. Papers accepted for publication may not be published elsewhere in the same form, either in the language of the paper or any other language, without the consent of the Editorial Board.

PRESENTATION OF MANUSCRIPTS

No maximum length of contributions is prescribed but articles should not normally exceed 15,000 words in length. Articles should be written clearly and concisely. All unnecessary textual matter, figures and tables should be eliminated.

Tables should not repeat data which is available elsewhere in the script. They should be numbered consecutively. Tabulated matter should be clearly set out and the number of columns in each table should not be unwieldy. Tables should carry legends which make their general meanings clear without reference to the text and all table columns should have explanatory headings. Units of measure should be indicated in parentheses in the heading of each column. If the data is secondary the source should be clearly indicated at the bottom of the table.

Maps and line drawings should be sent in their final form ready for the printer. They should be fully labelled and captioned.

References and footnotes should be numbered consecutively and given at the bottom of each page. References should be in the following order: Initials followed by name of author(s), year in parentheses, title of article, name of journal, book, volume/edition, (place of publication and publisher in the case of a book), inclusive pages.

Special care must be taken in citing references correctly. Responsibility for the accuracy of these rests entirely with the authors. It is the authors' responsibility to obtain written permission to reproduce material which has appeared in another publication.

FORM OF MANUSCRIPTS

Contributors are requested to send three copies (including the original typewritten copy) typed throughout in double spacing on one side of the paper only. Adequate margins should be left (4cm) with sufficient spacing at the top and bottom of each page. The typescript should be free of corrections.

OFFPRINTS

Contributors will receive free of charge 25 offprints of articles published. Additional offprints can be ordered.

The Social Science Research Centre (Sri Lanka)

The Social Science Research Centre was set up in May 1977 under the National Science Council of Sri Lanka. Its main objective is to promote research in the social sciences in relation to Sri Lanka's national requirements. It fulfils a long felt need for an official agency at the national level to undertake, sponsor, organise, coordinate and direct research in the field of social sciences. Sri Lanka has had very few institutions for social science research, and those that exist do not adequately fulfil the research needs in the entire field of social sciences. Many of them specialise in certain areas to the exclusion of others.

The Centre is administered by the Statutory Working Committee on Social Science Research which has been set up under Section 19 of the National Science Council of Sri Lanka Law No: 36 of 1975. The Social Science Research Centre has been the main implementing arm of the Statutory Working Committee on Social Science Research. The latter hopes to achieve most of its objectives through the Research Centre.

Among these objectives would be the identification of priority areas for research in social science in accordance with national needs; the promotion of research at the postgraduate level; and coordination of research activity in these areas within the country. The Centre will also provide social scientists with a continuing forum to meet and discuss their research interests and problems.

Social science research and studies in Sri Lanka need considerable encouragement by giving it due recognition and financial support. Moreover, there must also be facilities to disseminate this research and to get some sort of recognition from the government and policy makers. An urgent and immediate task is to create a research environment within which potential researchers could be stimulated to work. It is hoped that in the course of time the Centre will help to overcome these shortcomings.

CONTRIBUTORS TO THIS ISSUE

G. L. PEIRIS, LL. B. (Ceylon), D. Phil (Oxford), Ph.D. (Sri Lanka)
Professor and Head of the Department of Law, University of Colombo.

R. S. de SOYSA, LL. B. (Sri Lanka), LL. M. (Harvard)
Assistant Lecturer in Law, University of Colombo.

W. P. T. SILVA, B.A. (Ceylon), Ph.D. (Toronto)
Senior Lecturer in Geography, University of Colombo.

R. L. STIRRAT, Ph. D. (Cantab)
Lecturer in Anthropology, University of Sussex.

M. M. KARUNANAYAKE, B.A. (Ceylon), B. Phil, (Liverpool) Ph. D.
Professor of Geography, University of Sri Jayawardenapura.

C. R. KURUPPU, B.A. (Ceylon), Dip. Dev. Adm. (Lond.)
Director, National Fertilizer Secretariat,
Ministry of Plan Implementation, Colombo.

Vol. 1 No. 2 December 1978

Contents

- 1 History and Historians in Twentieth Century Sri Lanka - the G. C. Mendis Memorial Lecture
K. M. de Silva
- 13 The Brain Drain: Internal and External
D. Nesiah
- 50 Shortage of Skills & Manpower Training Facilities
H. N. S. Karunatilake
- 65 Reaction Coefficient from Cross Section Data
R. Mahalingasivam
- 88 The Politics of University Admissions: A review of some aspects of the admission policy in Sri Lanka 1971-1978.
C. R. de Silva