



A. LAWRENCE



MALAYAHA TAMILS

POWER SHARING AND LOCAL DEMOCRACY IN SRI LANKA



**MALAYAHA TAMILS, POWER-SHARING
AND LOCAL DEMOCRACY
IN SRI LANKA**

A. Lawrence

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Preface

We are glad to publish this book, because it makes an important contribution to the state reform discourse in Sri Lanka. Through this book, the author provides a voice to the political aspirations of the Up-Country (Malayaha) Tamil community. It is an important voice, because it articulates an agenda for political reform, deeply felt by a minority ethnic community.

The literature in English on the economic and social conditions of Sri Lanka's Up-Country Tamil community is quite rich. The same cannot be said about the political situation of this community. Some of the writings have been on their citizenship issue and the trade union movement, but writings on their political aspirations remain largely in Tamil. A few booklets in English have appeared recently under the sponsorship of the Foundation for Community Transformation, making a case for innovative power-sharing arrangements for areas where the Up-Country Tamil people are concentrated as well as dispersed. Mr. Lawrence's book is a valuable addition to this new body of literature. We are happy to support the translation and publication of Mr. Lawrence's book, originally written in Tamil. The English text is actually an enlarged and revised version of the original book.

It is noteworthy that intellectual and political-social activists of the Up-Country Tamil community have responded to Sri Lanka's state reform debate very seriously and with a sense of great

responsibility. Readers of this book will note that among the Up-Country Tamil people the political reform discussion has acquired a great deal of depth. They have devised detailed proposals for governance, administration and power-sharing in areas inhabited by the Up-Country Tamil community. Their proposals are a plea for national unity by recognizing political aspirations of the community whose voice they represent.

We hope that ideas developed in this book will contribute to widening the terms and enriching the quality of the state reform debate in Sri Lanka.

We wish to gratefully acknowledge the support given to the SSA by the IDRC-Canada to assist this and similar publications on issues relating to democratic governance and political reform.

Jayadeva Uyangoda
Social Scientists' Association
August 2011

Introduction

This book is written with the intention of drawing attention to the social, economic, cultural, developmental and political rights of Sri Lanka's Malayaha(up - country) Tamil community.

For the past several decades, the dominant theme in the politics of Sri Lanka has been the 'national question.' Rights of the Tamil and Muslim nationalities were the main issue debated in relation to the national question. Although many issues relating to the Malayaha Tamil community, such as their citizenship and labour rights, welfare, development, housing, land and political representation, entered the country's political and policy debate, their grievances were not considered to be a part of the country's 'national question.'

This book seeks to refocus attention on the Malayaha Tamil community by pointing out that their problems are a legitimate aspect of Sri Lanka's national question. A sustainable solution to the country's national question as a whole requires addressing specific grievances as well as aspirations of the Malayaha Tamil community.

I initially developed this analysis and argument in a book in Tamil under the title *Malayagam-Samakale Arsial-Arsial Theeruvu* (Malayaham-Contemporary Politics- Political Solution). It was originally published in 2006. The present book is a revised and updated version of the English translation of the original book.

I thank the late Mr. M.P. Muthiah, formerly employed on the editorial staff of the *Daily News*, who translated the Tamil text to English. My thanks are also due to Mr. A.R. John of CSC and UPF, Miss S. Nagarani, Mrs. A. Chandrakala, Mrs. V. Suwarnalatha, and staffs for helping me in the initial typing of this book.

I also express my gratitude to Professor Jayadeva Uyangoda and the Social Scientists' Association for assisting the finalization and publication of this book.

I sincerely hope that the analysis and arguments developed in this book will help to widen the scope of present debate on solving the national question in Sri Lanka. My fervent wish is for the Malayaha Tamil community to achieve their political rights through peaceful means – through negotiation with all other communities within a framework of equality, justice and power-sharing.

I welcome readers' constructive comments and suggestions.

A. Lawrence
No. 21, Amaidhipuram
Kotagala
August, 2011

Chapter 1

Background

The Malayaha (up - countyr) Tamils were brought to Sri Lanka and settled in the central Hill Country during British colonial rule. The opening up of an international market for migrant labour, as a result of the establishment of plantation economies in the British colonies in the mid-19th century, facilitated the movement of South Indian labour to the commercial plantations set up by the British in colonial Ceylon. The first wave of labour migration began in the 1820s, in response to the growing demand for wage labour when the British rulers began to open a road network into the central part of the country. The setting up of coffee plantations in the 1830s accelerated the demand for the labour-intensive tasks of jungle clearing, planting and maintaining coffee in large estates. The further expansion of the plantation economy, with the introduction of tea, rubber and coconut cultivation on a large scale, required residential labour as well. This led to the transition of seasonal, migrant labour to a system of settled labour in the plantations. The first batch of 10,000 workers from South India arrived in the island in 1827. Their population increased to 50,000 in 1847 and to 146,000 in 1877. In 1891 the number was 457,765. By 1931 the figure had increased to 658,853.

A range of issues relating to the status of Tamil plantation labour continued to emerge throughout the colonial and post-colonial years. Their economic and social rights were the primary focus during most of the colonial years. The Indian government considered it a duty to be concerned with the welfare of these workers who had originally migrated from South India. In fact, until the Sirima-Shastri Pact of 1964, the problems of this community were considered as the responsibility of the governments of India and Sri Lanka. Thus, the political status of the Malayaha Tamils was for a considerable period a matter of interstate relations between the two countries. They perceived the problems of the Malayaha Tamils essentially in two perspectives: in terms of their status as indentured labour and in terms of their citizenship claims. That is why there have been many negotiations between the two governments on the question of citizenship status of the Malayaha Tamils. Meanwhile, because of the specific nature of the plantation labour that has been integral to the colonial plantation regimes and specific to the plantation labour process, many social scientists have also viewed the 'problem' of Malayaha Tamils as one created by the British colonial state. However, the contemporary problems of this community, and their political aspirations, are rooted not only in the colonial period, but also, and more importantly, in the political developments that occurred during the post-colonial years.

Citizenship Issue and Disenfranchisement

The story of how the first independent parliament of Sri Lanka denied nearly one million Malayaha Tamils of their right to citizenship and consequently franchise rights in 1948 and 1949, respectively, is quite well-known. The Sinhalese political leadership that inherited political power from the British in 1948 wanted to define the citizenship status of all inhabitants in the island, as a mark of a new beginning for the newly

independent country. The Citizenship Act of 1948 indeed redefined independent Sri Lanka's citizenship, but it affected the citizenship status of nearly one million people who were of 'recent Indian origin.' The franchise legislation passed by parliament in the following year made those who lost citizenship ineligible for voting rights as well. This is how the problem of political rights of the Malayaha Tamils came to be framed in the wake of Sri Lanka's political independence.

This led to another significant issue, namely, the question of political representation for the Malayaha Tamils. In the parliament of 1947, there were eight MPs representing the Malayaha Tamils. The disenfranchisement of 1949 erased all that. In subsequent elections up to 1977, no Malayaha Tamil candidate could win a parliamentary seat, because in all the electorates in the plantation districts they had been reduced to the status of an electoral minority, despite the fact that significant numbers of their people had inhabited these districts.

Meanwhile, the overemphasis on citizenship rights of the Malayaha Tamils during most of the post-independence years led to the neglect of their ethnic group rights as a minority. Until the citizenship issue was finally resolved in 2003, the focus of the struggle was on citizenship rights along with labour rights of plantation workers. Even the citizenship issue was not approached from the perspective of ethnic group rights.

The context in which the Sinhalese political leadership settled the citizenship issue of Malayaha Tamils indicates that it was resolved because of political-electoral considerations. The mainstream political parties realized the value of the Tamil vote bank in the plantation districts. The inclusion of the Malayaha Tamil people's citizenship by Tamil militant groups as a demand during the Thimpu talks in 1984

added a new political dimension to this issue. "Recognition of the right to full citizenship" of all Tamils who "looked upon the Island as their country" was one of the four 'Thimpu Principles' put forward by the coalition of Tamil nationalist groups at the negotiations with the Sri Lankan government. It is clear that the Sinhalese political leadership did not want the Tamil militant groups in the North, or in India, to take up the citizenship question of Malayaha Tamils. Meanwhile, the J.R. Jayewardene regime that came into power in 1977 had formed a coalition partnership with the Ceylon Workers' Congress (CWC), the main trade union of the Tamil plantation workers. President Jayewardene viewed his government's flexible attitude to the citizenship issue as a concession to the CWC. In retrospect, it is possible to say that the resolution of the citizenship question of the Malayaha Tamil people benefitted the two main Sinhalese political parties, the UNP and SLFP. It removed a major issue that could have been used by Tamil militants to mobilize the Up-Country Tamil youth in their campaign for secession.

Chapter 2

Malayaha Tamils and Their Problems in Contemporary Politics

Although the citizenship issue of the Malayaha Tamil people has been legally resolved, they still live as a community without most of the necessary entitlements to full citizenship. This chapter discusses how they are deprived of full citizenship status in the political and social spheres, despite the fact that they have gained formal citizenship.

The deprivation of full citizenship entitlements of the Malayaha Tamil community can be readily seen in their continuing status of marginalization from the national mainstream. They are not adequately integrated into the national political life. Their political marginalization and exclusion from the mainstream political process began with their disenfranchisement in 1949. That immediately led to a serious loss of their political representation in the national legislature. Only in 1977 could Mr. Thondaman get himself elected to parliament as the third Member of Parliament for Nuwara Eliya. Such a lack of parliamentary representation for almost 40 years, despite the fact that the population of the Malayaha Tamils exceeded one million, meant that there was no national forum for them to canvass for their grievances and needs. Strike action for wage and other economic demands was the main space available to them to articulate their grievances. In the absence of parliamentary representation, there were no regular and adequate

financial allocations from the national budget for the Malayaha Tamil areas.

The continuing existence of barriers to adequate political representation in provincial and local bodies of governance is the other aspect of the problem of democratic representation experienced by the Malayaha Tamil people. The demarcation of Pradeshiya Sabhas, the lowest unit in the local government structure, has been such that it is impossible for them to win majorities in any local government body, despite the fact that they are heavily concentrated in certain areas.

The same picture of political marginalization is reflected at the administrative level as well. The Divisional Secretariat units are created with no sensitivity to providing the Malayaha Tamil people any local government areas with a majority. The Malayaha Tamil people live mainly in three provinces – Central, Uva and Sabaragamuwa – and four districts – Nuwara Eliya, Badulla, Ratnapura and Kandy. They are also spread over 15 Divisional Secretariat units. However, there is not a single district administrative unit where the working language is Tamil. In the Nuwara Eliya District, which has the second highest concentration of Tamil population next to Jaffna, Sinhalese is still the language of administration. There has not been a single District Secretariat or Divisional Secretariat representing the Tamils in the Up-Country areas. Even in Tamil majority Grama Seva divisions, the lowest administrative units that are much closer to the people, the vast majority of the Grama Seva Niladharis (GN) is not from the Malayaha Tamil community.

TABLE I

The Structural Pattern of District, Divisional and GN Divisions if Demarcated on the Basis of Ethnic Ratio of Population

<i>Ethnic Community</i>	<i>Ethnic Ratio</i>	<i>District Secretariat Divisions</i>	<i>Divisional Secretariat Divisions</i>	<i>GN Divisions</i>
Sinhalese	74.00	18	223	10,292
Sri Lankan Tamils	12.06	3	38	1,753
Malayaha Tamils	5.05	1	17	765
Muslims	7.10	2	21	987
Others	0.80	0	2	113
Total	100.00	25	301	13,913

Source: *Population and Census 1981*, Department of Census and Statistics.

The status of education among the Up-Country Tamil people continues to remain backward. It has not yet reached even the average levels of literacy and education among the Sinhalese, Muslim and North-East Tamil communities. The literacy rate among the Malayaha Tamil people is 60 percent, whereas the national average is 91 percent. The average teacher-student ratio for the country is 21 students for one teacher. In the Up-Country Tamil schools, the ratio is 40 students for one teacher. There are only a very few 1 AB schools in the plantation areas (schools with science, arts, commerce streams). A slight improvement has occurred in educational conditions after the plantations were taken over by the government. A recent tendency in the government policy on education in the Up-Country areas is for the government to play a reduced role. Thus, the government has been encouraging international NGO involvement in providing funds to the educational sector in the estates. SIDA and GTZ, Swedish and German NGOs, are active in the educational sector in the Up-Country. The backwardness in education

is definitely a barrier to Malayaha Tamil people's political rights as well.

The health sector in the Up-Country too is underdeveloped and not integrated with the national health system. About 90 percent of health care in the estates is run by Estate Medical Assistants and Estate Welfare Officers who are employed by the estate management. There are no Public Health Officers, Family Health Officers and other minor employees as in the national health sector.

The underdeveloped status of the infrastructure in the estate sector hardly needs emphasis. The road network remains in the primitive condition it was during the plantation raj. No significant public or private investment has been made to improve social infrastructure. Not even 25 percent of the areas inhabited by the Malayaha Tamil people is provided with electricity.

The land and housing question is one of the foremost social problems of the Malayaha Tamil people. This community is landless in its entirety. Thus, landlessness is a defining feature of the Up-Country Tamil community. They are workers who can sell and live by only their labour power. Eighty percent of them live in estate line rooms in appallingly poor and unhealthy conditions. Although alternative housing schemes, with slightly better facilities, have been introduced in recent years, they have not yet reached even 25 percent of the people in the estates. Even where the new houses are built, the occupants have no right to the land which consists of just seven perches.

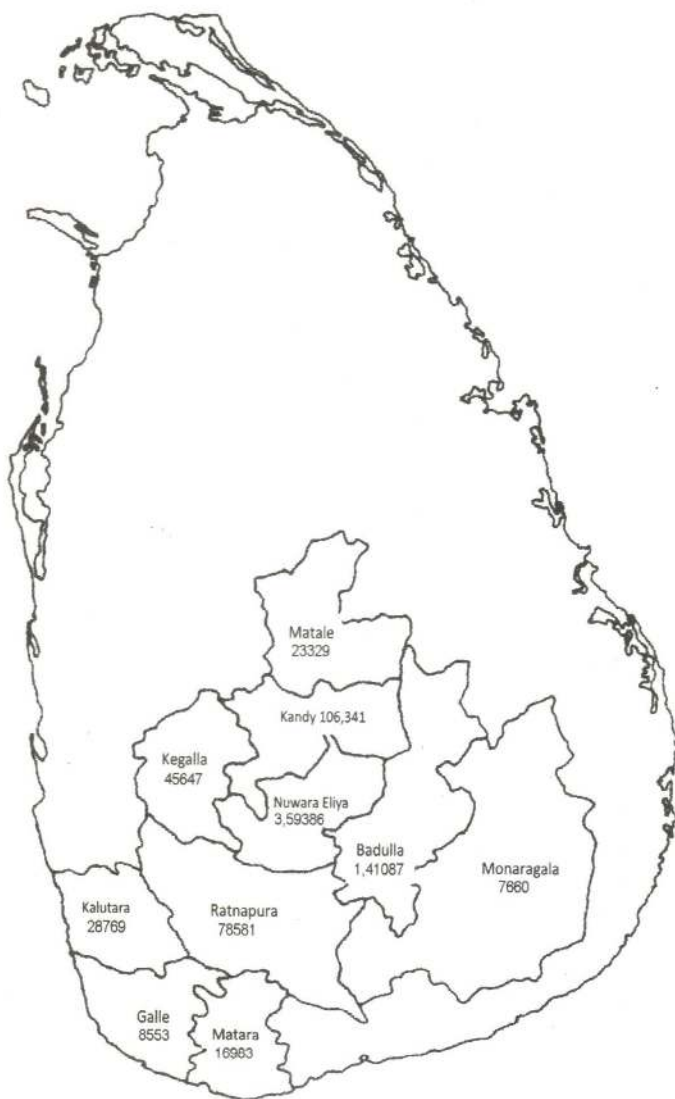
Chapter 3

Identity and Historical Consciousness of Malayaha Tamils

The Malayaha Tamils are a separate nationality in Sri Lanka. The term Malayaha refers to a geographical region, the Up-Country area situated 2,000 feet above sea level. They are a community with historical and social specificities. One third of Sri Lanka's entire working class consists of Malayaha Tamils. Their presence in Sri Lanka is a historical outcome of the creation of the colonial economy in this country.

In Sri Lanka a majority of the Tamil population (600,000) lives in the Jaffna District. The next highest Tamil concentration is in the Nuwara Eliya District, where almost 400,000 Tamils live. Malayaha Tamils also live in other districts. Badulla, Vavuniya, Kilinochchi, Mullaitivu, Mannar, Jaffna, Batticaloa, Trincomalee, Galle.

Districts with Concentrations of Malayaha Tamils



Source : Population and Census 2001, Department of Census and Statistics.

Matara, Kegalla and Ratnapura are the other districts in which Tamils who identify themselves as Malayaha Tamils live. The table below shows the areas where they live. In Badulla their population is 141,087. The next highest concentration is in the Kandy District with a population of 106,341. They are spread out in Ratnapura (78,581), Matale (23,329), Kegalla (45,647), Kalutara (28,769), Matara (16,983) and Monaragala (7,660) districts.

TABLE I

Malayaha Tamil Population Distribution by District – 2001

No.	District	Sinhalese	Ceylon Tamil	Malayaha Tamil	Muslim	Other	Total
1	Nuwara Eliya	280,236	41,445	359,386	17,557	1,459	700,083
2	Kandy	942,038	49,205	106,341	169,029	5,850	1,272,463
3	Matale	354,985	23,982	23,329	38,867	1,264	442,427
4	Badulla	558,218	32,230	141,087	40,455	2,571	774,555
5	Ratnapura	873,265	34,355	78,581	20,871	1,112	1,008,164
6	Kegalla	6,756	14,163	45,647	51,699	729	779,774
7	Kalutara	923,893	13,527	28,769	92,775	1,836	1,060,800
8	Monaragala	374,555	5,579	7,660	8,047		396,173
9	Matara	716,780	4,791	16,983	22,378		761,236
	Total	5,691,506	219,277	807,783	461,678	10,224	7,195,675

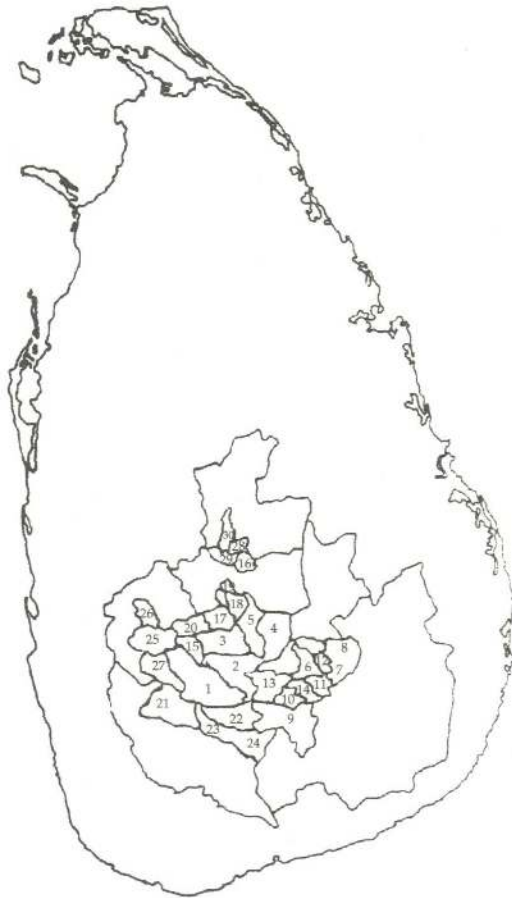
Source: *Population and Census 2001*, Department of Census and Statistics.

At the level of Divisional Secretariat, too, there is a significant concentration of the Malayaha Tamil people. More than 200,000 live in the Nuwara Eliya and Ambegamuwa Divisional Secretariat divisions. In the Divisional Secretariat divisions of Kotmale and Walapane in the Nuwara Eliya District, Udapalatha and Pasbage Korale in the Kandy District, and Hali Ela in the Badulla District, the concentration of

Malayaha Tamils is over 30,000. Three Divisional Secretariat divisions in Badulla District – Haputale, Passara and Haldummulla – and Udapalatha and Pasbage Korale in the Kandy District, have more than 20,000 Malayaha Tamils each. Thus, there are more than 200,000 Malayaha Tamils in two Divisional Secretariat divisions, more than 30,000 in five and more than 20,000 in 11. In 18 Divisional Secretariat divisions, their population concentration is more than 15,000. Five of them are in the Nuwara Eliya District, five are in Badulla, four in Kandy, and one in Ratnapura.

Divisional Secretariat Divisions with Concentrations of Malayaha Tamils

No.	D.S. Division	M.Tamils
Nuwara Eliya		
1.	Ambagamuva	1,41066
2.	Nuwaraeliya	1,34554
3.	Kotmale	36891
4.	Walapane	35267
5.	Hanguragetta	11608
Badulla		
6.	Haliela	31435
7.	Passara	17372
8.	Lunugala	17321
9.	Haldummulla	15486
10.	Haputale	14902
11.	Ella	11261
12.	Badulla	10921
13.	Welimada	9274
14.	Bandarawella	8250
Kandy		
15.	Pasbage Korala	20210
16.	Panwila	15353
17.	Udawalpala	13523
18.	Deltota	7592
19.	Gangawatta Korala	9129
20.	Gangaighala Korala	6723
Ratnapura		
21.	Ratnapura	11347
22.	Godakkawela	8718
23.	Balangoda	7500
24.	Imbulpe	7113
Kegale		
25.	Yatiyantota	10357
26.	Dehiyovita	9930
27.	Deraniyagala	9990
Matale		
28.	Rattota	6581
29.	Ukkuvela	6522
30.	Matale	3975



Source: 2001 Population and Census – Department of Census and statistics

Is the Term Indian Tamils Official?

The Malayaha Tamils are identified by the term 'Indian Tamil.' Some argue that this term officially refers to our nationality. However, the

term 'Indian Tamil' was used officially only after the census of 1911. This was done without the consent of the Malayaha Tamils. As the British had no concern for our people, they did not consult them in deciding how they should be officially called. Besides, they considered that the workers brought from India to work should eventually return to India. Therefore, the British colonial rulers continued the practice of calling them 'Indian Tamil.'

Malayaham – The Background

It was in the 1960s that the term *Malayaham* began to be used in public. During this period, there were Tamil publications with the names *Malaimurasu*, *Malayagam* and *Malaipori*. During these years youth and mass movements emerged calling on the Up-Country Tamil people to call themselves Malayaha Tamils. Several organizations used names connected to *Malayaham*: the *Malayaha Ilaigarnar Munnani* (Up-country Youth Front) led by R.R. Sivalingam, *Malayaha Ilaigarnar Peravai* (Up-country Youth Forum) led by V.L. Pereira, *Sakthi Balaiah*, *Malayaha Makkal Iyakkam* (Up-country People's Movement) led by L. Santhikumar, the *Malayaha Vegu Jana Iyakkam* (Up-country Mass Movement) led by B.A. Cader, V.T. Dharmalingam, A. Lawrence and S. Devasigamoney, and *Malayaha Iyakkaiya Ilaigarnar Munnani* (Up-country United Youth Front) led by former Education Minister of the Central Province and MP V. Puthirasigamoney, Thivayarajan and Nehruji. The important point is that the term Malayaha Tamil as an identity concept emerged from within the Up-Country Tamil society. It is integral to their historical consciousness and self-understanding as a community.

It needs to be noted that the appellation 'Indian' has not been a part of the identity vocabulary of the Up-Country Tamils. Although the political organization Ceylon Indian Congress was formed in the 1940s, no popular political institution with the term 'Indian' was created after disenfranchisement in 1949. No other organization has used

the qualification 'Indian,' except the Indian Community Association (*India Samudhaya Peravai*) that was formed recently by the Indian business community living in Colombo. Although it was said that Thondaman was the leader of this Association, there are no plantation workers among its members. The Ceylon Worker's Congress, National Union of Workers, several other Up-Country trade unions and NGOs banded together to form a political organization called the *Ilangai India Vamzavali Perani* (IIVP – Alliance of Sri Lankans of Indian Origin) a few years ago. This organization was formed as a part of an electoral agenda. It disappeared no sooner than it was formed.

It is also important to note that those who self-consciously identify themselves as being of 'Indian origin' do not include the Up-Country plantation workers within the meaning of that term. The people who consider themselves to possess authentic Indian origins are the community of the Sindhis, Marwadis ????, Naatukottai Chettiars, Bharathas, and Indian Bhais (money lenders). Even the Indian Community Association does not refer to the majority of the plantation-working population who live in Nuwara Eliya, Badulla, Ratnapura, Kandy and Matale districts as members of the 'Indian' community.

The Malayaha Tamils have aspirations as a distinct community. They want to protect their nationality, uniqueness, identity and culture. It is also important to protect the uniqueness of the areas where they live. Only then can their rights and geographical areas be protected. Therefore, the name, Malayaha Tamil, which is associated with the soil, is a catalyst as well as a symbol of awakening. The term Malayaha Tamil is also more logical and realistic than the term Tamils of Indian Origin. Some argue that since the name is linked to India, the protection of such a regional power would be available to these people. There are some who believe that Indian interests should be protected through trade links. Such people only wish to protect their personal economic interests by using the 'Indian Origin' part of the identity.

Chapter 4

Issues in Malayaha Tamil Nationalism

Sri Lanka's ethnic conflict has brought to national and international attention the political problems and aspirations of the North-East Tamil community. It has also highlighted the grievances of the Muslim community. Meanwhile, the demand for self-determination rights by the North-East Tamils has given rise to the concept of devolution of power. In the present debate on power-sharing, only the positions and demands of Sinhalese, North-East Tamil and North-East Muslim communities are being considered. The issue of political rights of the Malayaha Tamil people has no place in these discussions and debates. If the matters relating to their political status in a polity based on power-sharing are ignored, this can lead to political discontent among the Malayaha Tamil people. Ethnic discontent, as Sri Lanka's own experience tells us, can be the forerunner of ethnic conflict.

In the management of ethnic conflict, conflict prevention is a prudent policy approach. The challenge for Sri Lanka at present involves both managing the existing conflicts while taking constructive steps to prevent future ones. Therefore, addressing the political and social aspirations of the Malayaha Tamil community, who constitute 1.5 million people, should be viewed from the perspective of conflict prevention. This is integral to successful conflict management in Sri Lanka today.

The Malayaha Tamil people as a community have some unique demographic characteristics. First, they are a nationality, 80 percent of whom are wage workers. Second, their work in the plantations leads to the earning of about 50 percent of the country's foreign exchange. Third, all of them are landless, and therefore their landlessness is an acute socio-economic problem. Fourth, many of them, nearly 80 percent, have problems related to citizenship rights.

One proposal is to recognize the Malayaha Tamil people as a regionally concentrated national minority entitled to political power in a devolved form. Their autonomy rights need to be granted through devolution of power. The devolved unit of the Malayaha Tamil people can be created by integrating areas where they are largely concentrated. It will be a noncontiguous unit of devolution. Through such devolution, the Malayaha Tamil people can be granted some measure of regional autonomy. That will enable them to address their unique socio-economic and political problems while being full citizens of Sri Lanka.

Malayaha Tamil Nationality

Sri Lanka is a plural society in which more than one nationality lives. The recognition of the nationality status of North-East Tamils and Muslims is a recent development, occurring against a backdrop of decades of struggle. However, there is still reluctance to recognize the Malayaha Tamils as a nationality. Their distinct identity is, however, recognized in the official census reports where they are counted as Indian Tamil.

The arrival of Malayaha Tamils in Sri Lanka began in the 19th century. Although their ancestors and relatives lived in South India, those who came to Sri Lanka to work on plantations gradually settled in the Up-Country. The subsequent generations were born in Sri Lanka. According to the Donoughmore Commission Report, 40 to 50 percent of estate workers lived in Sri Lanka permanently. As stated in the Jackson Report

of 1938, the figure was 60 percent. The Soulbury Commission Report of 1946 stated that 80 percent of estate workers were permanent residents in the plantation areas. Thus, for almost two centuries, Sri Lanka's Up-Country has been the birthplace and home for an increasing number of Malayaha Tamils. The following table provides a picture of how the population of this community increased over the years, because of the fact that they were not migrant workers, but permanent settlers.

TABLE I

The Increase of Malayaha Tamils 1827-1981

Year	Number
1827	10,000
1847	50,000
1877	146,000
1891	457,765
1921	493,844
1931	692,540
1946	658,853
1961	949,684
1971	987,785
1981	825,233

Source: *The Educational Structure of Estate Schools and Its Problems*, Sornavalli Pathmanaha Iyer, 1981.

There is an argument among Sinhalese politicians and intellectuals that the Tamil plantation workers from South India robbed the land of the Up-Country Sinhalese peasants. They also make the point that

the misery of Up-Country Sinhalese peasants was partly caused by the Tamil estate workers. This is not correct. The Tamil workers who were brought from South India were predominantly settled in areas which were 2,000 feet or more above sea level. There were hardly any peasant settlements or villages in these areas, which were not conducive to paddy or chena cultivation in precolonial times. A more accurate picture perhaps is that some Kandyan peasant communities lost their land to coffee and tea plantations, but it is wrong to attribute the responsibility for this to workers who were employed in the plantations.

Chapter 5

Malayaha Tamils and Their Political Representation

Political representation in national, provincial and local institutions of governance is a crucial area of concern for the Malayaha Tamil community. One of the key deficiencies in the democratic system in post-independence Sri Lanka is the absence of a political and institutional framework to ensure this community adequate representation in national parliament, provincial councils or local government bodies, despite their concentration, as pointed out in the previous chapter, at provincial, district and Divisional Secretariat levels.

The Citizenship Act of 1948, which deprived a large section of Malayaha Tamils their citizenship in Sri Lanka and eventually their franchise rights, has been the basis for this discrimination in representation at all levels of governance. It was the 1947 parliament, members for which were elected before the Citizenship Act of 1948, that had highest proportion of Malayaha Tamil representatives. In the House of Representatives with 101 members, the Malayaha Tamils had eight MPs, 8 percent of the total representation. In the 2004 parliament, the number of Malayaha Tamil MPs was 11, a low percentage in the 225-member House. In the recently concluded parliamentary election of April 2010, only seven

members were elected, including the two National List members. This is only 3.6 percent of MPs.

Table I gives details on the eight MPs elected in 1947.

TABLE I

Malayaha Parliamentary Representation in 1947

<i>Member of Parliament</i>	<i>Electorate</i>	<i>District</i>
1. K. Kumaravelu	Kotagala	Nuwara Eliya
2. G.R. Motha	Maskeliya	Nuwara Eliya
3. S. Thondaman	Nuwara Eliya	Nuwara Eliya
4. C.V. Veluppillai	Talawakele	Nuwara Eliya
5. K.V. Nadaraj	Bandarawela	Badulla
6. S.M.V. Subbiah	Badulla	Badulla
7. K. Rajalingam	Nawalapitiya	Kandy
8. D. Ramanuujam	Aluthnuwara	Kandy

The Citizenship Act of 1948 and subsequent franchise legislation were detrimental to the parliamentary representation of the Malayaha Tamils. At the 1952 parliamentary election, which was conducted after the citizenship and franchise laws came into effect, the parliamentary representation of Malayaha Tamils was reduced to zero, although there were two appointed MPs from the Up-Country Tamil community.

The discrimination through disenfranchisement was further carried out through the re-demarcation of electoral boundaries. The creation of Hanguranketa electorate, integrating some parts of Kandy in which Sinhalese lived, is a case in point. Similarly, the areas in which Malayaha Tamils lived have been merged with the Monaragala District in order to reduce their concentration in a subtle manner.

The data on registered voters in 2002 and the election results of 2004 are analyzed in Table II.

Table II

Registered Voters in 2002 and General Election Results in 2004

Electoral District	Number of Electorates	Number of Registered Voters	Number of Parliament Members	Average Number of Voters in District	Average Number of Voters on National Basis	More than 100,000 Voters	100,000 to 75,000 Voters	75,000 to 50,000 Voters	Fewer than 50,000
Colombo	15	1,467,751	20	73,387	57,329	7	2	5	1
Giampaha	13	1,327,145	17	78,067	57,329	3	10	-	-
Kalutara	8	746,138	10	74,613	57,329	-	7	1	-
Kandy	13	880,631	12	73,385	57,329	1	2	7	3
Matale	4	312,556	5	62,511	57,329	1	1	1	1
Nuwara Eliya	4	436,236	7	62,319	57,329	1	-	3	-
Galle	10	716,709	10	71,670	57,329	-	4	5	1
Matara	7	550,506	7	78,643	57,329	-	1	6	-
Hambantota	4	384,361	7	54,908	57,329	1	2	1	-
Jaffna	11	644,279	9	71,586	57,329	-	-	9	2
Vavuniya	3	226,604	6	37,757	57,329	-	-	2	1
Batticaloa	3	303,928	5	60,785	57,329	1	-	2	-
Digamadulla	4	379,044	7	54,149	57,329	2	-	2	-
Trincomalee	3	224,307	4	56,076	57,329	-	-	3	-
Kurunegala	14	1,059,482	16	66,716	57,329	-	9	5	-
Puttalam	5	450,057	8	56,757	57,329	-	5	-	-
Anuradhapura	7	514,149	8	65,768	57,329	-	1	5	1
Polonnaruwa	3	254,062	5	50,812	57,329	-	1	2	-
Badulla	9	511,115	8	63,889	57,329	-	-	4	5
Monaragala	3	262,742	5	52,452	57,329	-	1	2	-
Ratnapura	8	647,035	10	64,703	57,329	1	5	1	1
Kegalla	9	570,299	9	63,366	57,329	-	2	6	1
Total	160	12,899,136	225 (196+29=225)	12,899,136÷ 196=65,811	57,329	18	53	72	17

Source: Department of Elections.

Table II points to the following observations:

- i. 17 electorates have fewer than 50,000 voters.
- ii. 72 electorates have 50,000 to 75,000 voters.
- iii. 53 electorates have 75,000 to 100,000 voters.
- iv. Only 17 electorates have more than 100,000 voters.

According to this table, 89 electorates have fewer than 75,000 voters, although Nuwara Eliya electorate alone has 239,372. This stands in sharp contrast to the national average for an electorate, which is 57,329. The degree of discrimination suffered by the Malayaha Tamils in Nuwara Eliya in relation to parliamentary representation is further illustrated by the fact that one third of Malayaha Tamil voters in the country live in this electorate. Nuwara Eliya-Maskeliya is the electorate that has the largest number of voters in Sri Lanka. If we divide the number of voters in Nuwara Eliya-Maskeliya by the average number of voters for an electorate, Nuwara Eliya could easily be divided into four electorates. In such a division, the average number of voters in the four electorates should be around 62,000. This is a clear illustration of the discrimination in representation suffered by the Malayaha Tamil community.

At present there are 225 Members of Parliament representing the Sinhalese, Tamils of the North-East, Muslims and Malayaha Tamils. According to the proportion of population of each ethnic group, there should be at least 16 Members of Parliament for the Malayaha Tamil community who constitute 7 percent of the country's total population. On that basis, the Nuwara Eliya District should have seven Members of Parliament, four Tamils and three Sinhalese.

The way to increase the parliamentary representation of Malayaha Tamil people is to bring about minor changes in the demarcation of boundaries of electorates and districts. Table III illustrates this possibility.

Table III

Proposed Parliamentary Representation that could be offered to the Malayaha Tamils on the Basis of Province and District

(1) Central Province	No. of Members
Nuwara Eliya District	6
Kandy District	3
Matale District	1
Subtotal	<u>10</u>
(2) Uva Province	
Badulla District	4
Subtotal	<u>4</u>
(3) Western Province	
Colombo District	1
Gampaha District	1
Kalutara District	1
Subtotal	<u>3</u>
(4) Southern Province	
Galle-Matara districts	1
Subtotal	<u>1</u>
(5) Sabaragamuwa Province	
Ratnapura District	1
Kegalla District	1
Subtotal	<u>2</u>
Grand Total	<u>20</u>

Province- or Region-wise Political Representation

Since its introduction in 1988 the provincial council system has enabled Malayaha Tamils to obtain province-level representation. At the first provincial council election held in 1988, out of 56 provincial councilors, 8 were Malayaha Tamils in the central Province. In the Uva Provincial Council, out of a total of 19, there were three Malayaha Tamil councilors elected. There were two Malayaha Tamil representatives elected to the Western Provincial Council and one to the Sabaragamuwa Provincial Council. This trend continued in the provincial councils elected in 2008 in the Central Uva, and Western Province council, where 9, 2 and 2 Malayaha Tamil representatives won respectively. However, they have no members in the Sabaragamuwa provincial council. In all these provincial councils, the CWC has been the leading political entity including UPF to represent the Malayaha Tamils. Other national and regional parties have also been able to win seats, although their numbers are smaller. Table IV gives data on the Malayaha Tamil representation in provincial councils since 2008.

Table IV
Malayala Tamil Political Representation in Provincial Councils

Year	1988		1993		1999		2004		2008	
Province & Districts	Total Representation	Malayaha Representation	Total Representation	Malayaha Representation	Total Representation	Malayaha Representation	Total Representation	Malayaha Representation	Total Representation	Malayaha Representation
NUWARAELIYA	17	(UNP) 05 CWC 01 CP 01 NUW 01	17	(UNP) 07 CWC 01 UNP 01 UPE 01 NUW 01	16	(UNP) 04 CWC 01 UNP 02 UPE 01	17	(UNP) 06 CWC 01 UNP 02 UPE 01	17	(UNP) 01 CWC 01 NUW 01 DUA 02 CWC 04 08
KANDY	28	(UNP) 01 CWC 01	28	(UNP) 03 CWC 01	28	(UNP) 01 CWC 01	28	(UNP) 02 CWC 01	28	(UNP) 01
MATALE	11	—	11	(UNP) 01	11	(UNP) 01	11	—	11	—
CENTRAL	56	08	56	CWC 03 UNP 01	14	09	56	UPEA 01 CWC 02 UNP 01 UPE 01	56	CWC 01 UPE 01
BADULLA	19	(UNP) 02 CWC 01 UNP 01	19	04	19	02	19	05	19	02
UVA	19	03	19	04	19	02	19	05	19	02
RAHINAPURA	23	(UNP) 01 CWC 01	23	(UNP) 01 CWC 01	23	—	23	—	23	—
SAPPRAGAMUWA	23	01	23	01	23	01	23	01	23	01
COLOMBO	43	(UNP) 02 CWC 02	43	(UNP) 03 CWC 03	43	01	43	(UNP) 01 CWC 01 UPE 01	43	(UNP) 01 CWC 01 DPE 01
WESTERN	43	02	43	03	43	01	43	03	43	02
	141	14	141	22	141	13	141	19	141	13

Source: Department of Elections

While acknowledging the new opportunity opened up by the provincial council system to ensure representation to ethnic minorities at the provincial level, it needs to be noted that representation alone is not sufficient to make political outcomes of representation meaningful and effective. The argument by the minorities is to enhance the powers of provincial councils through greater devolution and regional autonomy.

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Offering regional autonomy to minority ethnic communities by devolving powers to areas where they are in heavy concentration is a democratic principle which Sri Lanka has accepted. The existing Provincial Council system is based on this principle. Though this system does not provide maximum benefits for the minority communities, it should be considered as the beginning of a process of positive change. There is also the recognition that more powers need to be granted to the Provincial Councils, especially when the country is exploring a solution to the ethnic conflict.

When such a solution is prepared, the problems of Malayaha Tamils should be included in the settlement framework and power-sharing practices. A plan could be drawn to integrate areas in Nuwara Eliya, Kandy, Matale, Badulla, Ratnapura and Kegalla districts, where nearly one million Malayaha Tamils are concentrated, in order to create a system of region- or province-based representation.

Problems of Local Government Institutions

Although there are 1.5 million Malayaha Tamils in Sri Lanka, there are no Pradeshiya Sabhas or local government institutions, except in Nuwara Eliya and Ambegamuwa, under their leadership. Only a handful of Malayaha Tamil representatives are found in Municipal Councils, Urban Councils and Pradeshiya Sabhas. According to Table V below, there are 258 Pradeshiya Sabhas, 37 Urban and 14 Municipal Councils in the country. Out of these 309 local government institutions, only Ambegamuwa and Nuwara Eliya Pradeshiya Sabhas in the Nuwara Eliya District are under the leadership of Malayaha Tamil representatives. They were won under a symbol of a national political party, the United People's Freedom Alliance, but not under the registered political organization of Malayaha Tamils.

Table V

Distribution of 309 Local Government Institutions across Provinces and Districts

Province	Districts	Registered Voters 2002	Municipal Councils	Urban Councils	Pradeshiya Sabhas	Total
Western	Colombo	1,467,751	4	2	6	12
	Gampaha	1,327,145	1	6	12	19
	Kalutara	746,138	-	4	10	16
Southern	Galle	716,709	1	1	15	17
	Matara	550,506	-	2	12	14
	Hambantota	384,361	-	2	9	11
North Western	Kurunegala	1,089,482	1	1	17	19
	Puttalam	450,059	-	2	10	12
Central	Kandy	880,631	1	4	17	22
	Nuwara Eliya	436,236	1	2	5	8
	Matale	312,556	1	-	11	12
	Ratnapura	647,035	1	1	13	15
Sabaragamuwa	Kegalla	570,099	-	1	10	11
North Central	Polonnaruwa	254,062	-	-	6	6
	Anuradhapura	514,419	-	1	18	19
Uva	Badulla	511,115	1	2	14	17
	Monaragala	262,742	-	-	10	10
Eastern	Trincomalee	224,307	-	1	10	11
	Batticaloa	303,928	1	-	11	12
	Amparai	379,044	-	1	15	16
	Jaffna	644,279	1	3	12	16
Northern	Kilinochehi	-	-	-	3	3
	Mullaitivu	-	-	-	4	4
	Vavuniya	226,604	-	1	4	5
	Mannar	-	-	-	4	4
Total	25	12,899,136	14	37	258	309

Source: Report of the Commission of Inquiry of Local Government Reforms, Department of Government Publication, 1999; Department of Elections, 2002.

Out of the 14 Municipal Councils in the country, not a single one is under the mayoral leadership of the Malayaha Tamils. There are only two Malayaha Tamil representatives as chairman of the 37 Urban Councils, one in Talawakele and the other in Hatton. Out of 258 Pradeshiya Sabhas, only Ambegamuwa and Nuwara Eliya have Malayaha Tamil chairmen. They function as chairmen on behalf of the United People's Freedom Alliance, heading multigroup coalitions. The pattern according to which the local government bodies have been established is so discriminatory that it has enabled the Malayaha Tamil voters in Nuwara Eliya District, numbering over two hundred thousand, to control only two Pradeshiya Sabhas in the entire district. The above clearly shows the disproportionality in the distribution of local government bodies between Nuwara Eliya District on the one hand and Hambantota, Matale, Monaragala, Trincomalee, Amparai and Batticaloa districts on the other. With 436,236 voters in 2002, the entire Nuwara Eliya District has only 8 local government bodies, 1 of which is a Municipal Council, 2 are Urban Councils and 5 are Pradeshiya Sabhas. In contrast, Monaragala District with only 262,742 voters has 10 Pradeshiya Sabhas. Amparai District with 379,044 voters has a higher number of local bodies: 1 Urban Council and 15 Pradeshiya Sabhas.

The delimitation of boundaries of each Pradeshiya Sabha is determined by the laws governing the local government institutions according to the Divisional Secretariat divisions. Therefore, only if Divisional Secretariat divisions are created for Malayaha Tamils could new Pradeshiya Sabhas be formed for their interests. The areas coming under these Pradeshiya Sabhas are vast and differ from each other. During the local government elections held in 2002 the following results were observed outside the Northern Province.

TABLE VI

Categorization of Pradeshiya Sabhas on the Basis of the Number of Voters – Local Government Election, 2002

More than 100,000 voters	07
100,000 - 90,000 voters	05
700,000 - 80,000 voters	08
800,000 - 70,000 voters	11
70,000 - 60,000 voters	19
60,000 - 50,000 voters	17
50,000 - 40,000 voters	24
40,000 - 30,000 voters	28
30,000 - 20,000 voters	48
Fewer than 15,000 voters	20

Source: Department of Elections, 2002.

As this table shows, there is a glaring disparity in the way in which the Pradeshiya Sabha areas have been decided. While 07 Pradeshiya Sabha areas have over 100,000 voters, 10 have less than 10,000 voters. Therefore, it is not unfair to demand more Pradeshiya Sabhas for the areas with Malayaha Tamil concentration. The table also shows that that at least eight Pradeshiya Sabhas could be created in the Nuwara Eliya District. There should be more Pradeshiya Sabhas created in the Sinhalese-majority areas too, since many Sabha areas are as large as parliamentary electoral divisions. It needs to be pointed out that there are some Pradeshiya Sabhas with relatively small numbers of voters. Lahugala is a case in point. Its voter strength is only 4,780, as Table VII indicates. The objective of creating such a Pradeshiya Sabha with a very small voter base is obviously to ensure representational rights of the Sinhalese peasant settlers in the area.

The basis for the demarcation of boundaries of local government institutions is not clearly laid down. In contrast, the parliamentary constituencies are demarcated on a clear principle, that is on the basis of 90,000 electors or 1,000 square miles. Provincial Council representation is determined on the basis 40,000 electors or 1,000 square miles.

The areas of Malayaha Tamil concentration represent a very different picture. There, Pradeshiya Sabhas have been created with vast geographical areas and large bodies of voters. This has led to the belief among the Malayaha Tamils that this is a part of a policy of ethnic discrimination. Creating new Pradeshiya Sabhas to extend local governance and representation to Sinhalese settler peasant communities in the Eastern Province is a very welcome democratic policy measure. Our proposal is to extend the same democratic right to the ethnic minorities and Malayaha Tamils as well.

TABLE VII

The Small Pradeshiya Sabhas – Local Government Election, 2002

<i>Pradeshiya Sabha</i>	<i>District</i>	<i>Total Number of Voters</i>
Central Province		
Panwila	Kandy	14,441
Ambagahakorale	Kandy	10,806
Laggala - Pallegama	Matale	7,128
Eastern Province		
Maha Oya	Amparai	10,543
Namaloya	Amparai	14,181
Lahugala	Amparai	4,750 (1991 election)
Gomarankadawela	Amparai	4,026
Morawewa	Trincomalee	5,777 (1991 election)
Padaviya-Siripura	Amparai	7,128 (1991 election)
Padiyathalawa	Amparai	7,128
North Western Province		
Karuwalahasweva	Puttalam	13,723
Nawagaththegama	Puttalam	9,196
North Central Province		
Keppetigollewa	Anuradhapura	13,593
Padaviya	Anuradhapura	14,600
Uva		
Soranathota	Badulla	14,729
Meegahakivula	Badulla	11,593
Kendaketiya	Badulla	14,860
Kataragama	Monaragala	8,688
Northern Province		
Delft	Jaffna	4,209 (1998 election)
Pacilaipalli	Jaffna	7,462 (1998 election)

Source: Department of Election, 1991, 1998 and 2002.

The representation of minorities in local government is restricted on the one hand by widening the geographical size of the Pradeshiya Sabhas in an arbitrary manner, and on the other by reducing the geographical areas of the Municipal Council and Urban Councils. Talawakele, Haputale and Bandarawela Urban Councils are examples where small Council areas have relatively small Malayaha Tamil voter bases. Therefore, to address these disparities, the boundaries of local government bodies should be redetermined in such a way as to allow minorities fair and adequate representation. This will guarantee that minorities have mechanisms to safeguard their identity and interests in the democratic process itself.

I also propose that the representation of the Malayaha Tamils should be ensured on the basis of ethnic proportionality. This is not a new principle; it was contained in the Soulbury Constitution of 1947. Article 41 (4) of the 1947 Constitution points to the fact that if any religious or ethnic community is concentrated in any of the provinces without being the majority, the Electoral Delimitation Committee should delimit the electorates to protect the representational rights of that community. However, this principle was abolished in the 1978 Constitution. As the Local Government acts stipulate, they apply to villages and urban areas; plantation areas have been excluded. According to the Article 33 of local government ordinance.

Therefore, the shortcomings found in the parliamentary, provincial and local government election systems should be rectified. The following are some proposals for consideration. These proposals have already been submitted to the All Party Representative Committee by the Up-Country People's Front.

1. Parliamentary or National-Level Electoral Recommendations:

- 1.1 Elections should be held on the basis of a mixed electoral system, as in Germany, which combines the existing PR system with the first-past-the-post system. Under such a new electoral scheme, 50 percent of representatives could be elected on the basis of electorates and the other 50 percent on the proportional representation system.
- 1.2 Electorates in Sri Lanka should be delimited on the basis of the country's population and geographical factors. Thus, electorates should be determined on the basis of 40,000-50,000 voters per electorate, or a population of 75,000, or the territorial size of 250 square miles.

In order to enhance parliamentary representation for the Malayaha Tamil community, arrangements should be made for electing 16 MPs from that community to the 225-member parliament. Ethnic proportionality in representation is its basis.

- 1.3 The preferential voting system should be abolished since it has led to corruption and undemocratic electoral practices. Parliamentary representatives should be elected on the basis of electoral divisions and according to party lists.
- 1.4 By-elections should be held to fill vacant seats. When a representative elected on the party list vacates the seat, the vacancy should be filled from the party list.

There should be a Second Chamber at the national level in which adequate minority representation is guaranteed. A Minorities Commission should be established as a new public institution to protect the rights of the minorities.

2. Recommendations for Provincial Councils/'Regional Councils':

- 2.1 Ethnic problems have often been solved through power-sharing. In areas where minorities are heavily concentrated, autonomous units should be formed to ensure their power-sharing rights. Their political representation should be guaranteed through arrangements of representation that reflect their regional concentration, language, culture, socio-economic factors and historical background.

As far as the Malayaha people are concerned, power-sharing units should be created in areas where they are the local majority, such as Nuwara Eliya, Badulla, Kandy, Ratnapura and Matale districts. If this is not possible, an option to be considered is the combination of nonterritorial representation with nonterritorial representation. Creating a noncontiguous unit of devolution, as found in the Pondichcheri model in India, is another alternative.

- 2.2 Elections to Provincial or Regional Councils can be based on a system similar to the German mixed system.
- 2.3 There should be redemarcation of electoral divisions on the basis of population, the number of voters and the size of the area.

3. Recommendations for Local Government Institutions:

- 3.1 Local Government elections should be held under a system that combines proportional and ward systems.
- 3.2 Casting three votes for a single candidate should be abolished since it has led to electoral corruption.
- 3.3 If there is a vacancy at the ward level, a by-election should be held. If the vacancy is in the list, it should be filled by the next eligible member in the Party List.

- 3.4 New and more Pradeshiya Sabhas should be formed in the Malayaha areas. At least 20 Pradeshiya Sabhas should be formed in areas where there is a significant concentration of Malayaha people.
- 3.5 A Municipal Council should be formed integrating Hatton, Dickoya and Kotagala areas where Malayaha Tamils are concentrated as the local ethnic majority.
- 3.6 The following towns in the Up-Country areas could be declared Urban Councils: Maskeliya, Bogawantalawa, Agarapatana, Nanu Oya, Pundaluoya, Pussellawa, Ragala, Udapussellawa, Passara and Hali Ela.

CHAPTER 6

Administrative Discrimination against Malayaha Tamils

Administrative districts and units are usually formed to facilitate better public management while providing people the access to institutions of governance. Such administrative units are normally created considering the size of population, geographical location, the ethnic composition of the population in the country, as well other social, cultural and political factors. When changes occur in these factors over time, it is not unusual for countries to redemarcate the administrative units. Often, the number of administrative units is increased to accommodate population growth, alterations in the ethnic and cultural composition of the populace, urbanization and rapid economic transformation.

The administrative structure in Sri Lanka is divided into Provinces, Districts, Divisional Secretariat divisions, as well as Grama Niladhari divisions. Accordingly, there are 9 provinces, 25 districts, 301 Divisional Secretariat divisions and 13,913 Grama Niladhari divisions in the country. While these units are divided on the basis of geographical boundaries, population and ethnic communities, they also reflect recent changes in the approach to decentralization in the context of the ethnic conflict. That explains why, at present, the decentralization

of administration is integrated with the devolution of power. The devolution of administration is viewed as a mechanism to implement the devolution of power.

Significance of Administrative Divisions

In Sri Lanka, there is a tradition and practice of creating new administrative units in response to new needs arising from social, economic and political change. For example, there were initially only two districts in the Northern Province, Jaffna and Vanni. Later, Mullaitivu, Kilinochchi and Mannar districts were added. With a view to provide prompt public service to the people at the local level, the number of Grama Niladhari divisions in the country has been significantly increased. In 1990 there were only 4,000 Grama Niladhari divisions. In 2007 that number was 13,913.

The following table shows the Provinces, districts, Divisional Secretariats and Grama Niladhari divisions in the country at present.

Table I

Administrative Structure in Sri Lanka

Province	Population (thousands) 2001	District Secretariat Division	Population (thousands)	Divisional Secretariat Divisions	Grama Niladhari Divisions	
Western	5,361	Colombo	2,234	10	558	
		Gampaha	2,066	13	1,177	
		Kalutara	1,061	11	762	
Southern	2,277	Galle	991	16	896	
		Matara	761	14	650	
		Hambantota	525	11	576	
North Western	2,157	Kurunegala	1,452	16	1,610	
		Puttalam	705	21	548	
Central	2,415	Kandy	1,273	18	1,188	
		Nuwara Eliya	700	5	427	
		Matale	442	11	545	
Sabaragamuwa	1,778	Ratnapura	1,008	10	575	
		Kegalla	780	10	573	
North Central	1,143	Polonnaruwa	396	14	690	
		Anuradhapura	747	6	694	
Uva	1,171	Badulla	775	10	532	
		Monaragala	396	16	319	
Eastern	1,415	Trincomalee	340	27	230	
		Batticaloa	486	17	334	
		Amparai	589	11	811	
Northern	1,042	Jaffna	491	14	441	
		Vavuniya	150	12	127	
		Kilinochchi	127	4	95	
		Mannar	152	5	153	
		Mullaitivu	122	4	102	
Total	9	18,769	25	18,769	301	13,913

Source: Report of the Commission of Inquiry of Local Government Reforms, 1999; Population and Census 2001.

Malayaha Tamils and Issues Relating to Administrative Divisions

One key shortcoming of the existing framework of administrative divisions in Sri Lanka is that they have not taken into account the needs of the Malayaha Tamil people in areas where they have been living in varying degrees of concentration. The Malayaha Tamil population of 1.5 million lives mainly in three provinces – Central, Uva and Sabaragamuwa, and in five administrative districts – Nuwara Eliya, Badulla, Ratnapura, Kandy and Matale. They also live in 15 Divisional Secretariat divisions. However, there is no District Secretariat division or Divisional Secretariat division in these areas to function in the language of the Malayaha Tamil people.

Although Nuwara Eliya represents the second highest concentration of Tamil-speaking people in Sri Lanka, next to Jaffna, all administrative functions in the district are conducted in Sinhalese, the language of the country's majority community. There has not been a single Tamil District Secretary in Nuwara Eliya. None of the Divisional Secretariat units in any district in the country represent this community. There has not been a single Divisional Secretary recruited from the Malayaha Tamil community either. Out of the 13,913 Grama Niladharis in the country, the Malayaha Tamil officers number fewer than two hundred. According to the table below, a number of new administrative units should have been created to enable the Malayaha Tamil community to have direct access to institutions of administration that function in their language. However, at present the appointment of Divisional Secretaries and Grama Niladharis is not made to reflect the ethnic or linguistic proportionality in the Up-Country areas. The table below can be considered as the basis for a proposal to redemarcate the District and Divisional Secretariat divisions to reflect ethnic composition of the population.

TABLE II

Proposed Scheme for Redemarcating District and Divisional Secretariats in Accordance with Ethnic Proportions of the Population

<i>Ethnicity</i>	<i>Ethnic Proportion</i>	<i>District Secretariat Divisions</i>	<i>Divisional Secretariat Divisions</i>	<i>GN Divisions</i>
Sinhalese	81.9	19	223	10,295
North-East Tamils	4.3	3	38	1,753
Malayaha Tamils	5.1	1	17	765
Muslims	8.0	2	21	987
Others	0.4	0	02	113
Total	100.0	25	301	13,913

Source: The ethnic composition is based on the estimates of the Department of Census and Statistics in 2001. Other details are obtained from *Sri Lanka's Grama Niladhari Sevaka Divisions*.

As the above table suggests, there should be one District Secretariat division and 17 Divisional Secretariat divisions for the Malayaha Tamil people, in proportion to their population ratio, which is 5.1 percent. The creation of separate and new administrative units for the Malayaha Tamil people should be seen as a positive step towards integrating them with the national mainstream of administration. Because of the existing administrative marginalization, they feel excluded from the national mainstream. It is that feeling of exclusion which contributes to weak national integration. Administrative integration should be seen as essential for national political integration and nation-building. Creation of new administrative units for the Malayaha Tamil people will bring the public institutions of governance closer to them, by establishing better and closer state-Malayaha Tamil relations. It will also create new employment opportunities as well as avenues for upward social mobility among the educated youth from this community.

Our proposal is that District and Divisional Secretariat divisions should be created for the Malayaha Tamils in accordance with their ethnic proportion. In this regard, the following observations can be made:

- i. There is, in fact, a case for creating two districts for the Malayaha Tamils who are living in the Central, Uva and Sabaragamuwa provinces on the basis of one administrative district for each 300,000 residents. These two districts should be designated as Malayaha Tamil majority districts so that District Secretaries and other key officials can be Tamil-speaking public servants. In these districts, the official language policy should be properly implemented and the staff composition of the offices should reflect the requirements of the provisions of the official language legislation.
- ii. In terms of the population, there are more than 50 percent of 301 Divisional Secretariat divisions with a population of fewer than 35,000 for each division. On this basis there is a case for creating 26 new Divisional Secretariat divisions for the Malayaha Tamils, with their population within each unit being between 25,000 and 30,000. These 26 Divisional Secretariat divisions could be distributed district-wise as follows:

Proposed DSD fo Malayaha Tamils

<i>District</i>	<i>Existing DSDs</i>	<i>Proposed New DSDs</i>	<i>Total</i>
Nuwara Eliya	5	9	14
Kandy	22	3	25
Matale	12	1	13
Badulla	17	3	20
Ratnapura	15	4	19
Kegalla	11	2	13
Colombo	12	2	16
Kalutara	14	2	16
Total	108	26	136

- iii. If there are no suitable SLAS officers among Malayaha Tamils for the appointment of District Secretaries and Divisional Secretaries, recruitment should be made through non-SLAS staff. Arrangements should be made to intake these candidates into the administrative service only for a limited period of time.
- iv. When recruitments are made to the posts of District and Divisional Secretaries and other staff under the proposed scheme, officers should be selected from among the Malayaha Tamils.

Malayaha Tamils and Discrimination in their Appointment as Grama Niladharis

The appointment of Malayaha Tamils as Grama Niladharis has been a demand since 1977. It became a reality only in August 1999 when a total of 101 Grama Niladharis, 32 to Badulla and 69 to Nuwara Eliya districts, were appointed. It took two decades of agitation to win this demand.

The United National Party, which was in power for 17 years from 1977 to 1994 in alliance with the Ceylon Worker's Congress, was not particularly responsive to the demand for Malayaha Tamil Grama Niladharis. Under the UNP government of 1977-1994, not even six Grama Sevakas were appointed to represent the 1.5 million Malayaha Tamils. Under the UNP regime, one Rural Development Officer and another Special Service Officer (SSO) were appointed as Grama Niladharis. In 1994 the People's Alliance Government came to power with the support of one Upcountry People's Front (UPF) parliamentarian. The UPF put forward six demands including the appointment of Malayaha Tamil Grama Sevaka Niladharis and the creation of Divisional Secretariats for the plantation sector. The PA government accepted these demands

in principle. It was in this backdrop that Malayaha Tamil Grama Niladharis were appointed in 1999.

In Sri Lanka, Grama Niladharis are appointed on the basis of one officer for an average of 1,750 persons or 350 families. If we apply this principle to the plantation sector, more than a thousand GNs need be appointed to serve the 1.5 million Malayaha Tamils. However, for the Central, Uva and Sabaragamuwa provinces, as well as Nuwara Eliya, Badulla, Ratnapura, Kandy and other Up-Country districts, only 101 GNs have been appointed on behalf of the Malayaha Tamils.

On ethnic proportionality, too, the Malayaha Tamils have a good reason to demand the creation of new Grama Niladhari divisions in areas of their concentration. The following table indicates how the GN divisions/positions could be distributed on the basis of ethnic proportionality.

TABLE IV

The Distribution of GN Divisions on the Basis of Ethnic Proportionality

<i>Ethnicity</i>	<i>Ethnic Composition in 2001</i>	<i>Grama Niladhari Divisions</i>
Sinhalese	81.9	10,295
North-East Tamils	4.6	1,753
Malayaha Tamils	5.1	765
Muslims	8.0	987
Others	0.4	113
Total	100.0	13,913

Source: Ethnic composition is based on *Population and Census 2001*; and the Finance and Planning Ministry publication on GN divisions.

Significance of the Office of Grama Niladharis

In Sri Lanka, the Grama Niladhari system has existed since colonial times under different names. During British rule, there was the office of the Village Headman as the representative of the state at the village level. This system continued with reform after independence. The office of the Grama Niladhari replaced the Village Headman in the early 1960s with the intention of making village-level administration more responsive to people's needs. But none of these changes occurred in the plantation areas, because the Malayaha Tamil people in the plantations had been excluded from the national system of administration. There were no Village Headmen or Grama Niladharis appointed for the plantations. The estate superintendent acted as Grama Niladhari, thereby representing all government institutions within the estates.

In this context, it is important to recall that the Grama Niladharis play an important role in the administrative system. They have the powers of a police officer in relation to maintaining law and order, and are the representative of the state at the community level. In discharging their administrative responsibilities with regard to the village, they liaise with the Divisional Secretary and the District Secretary. They perform important national administrative functions in the village. These functions include assisting the surveys carried out by the Census and Statistics Department, collecting information on behalf of the central government on the economy, revenue and land issues at the village level, issuing national identity cards, compiling electoral lists, issuing certificates for people to obtain employment, and dealing with minor crimes. There is no rationale whatsoever not to extend this vital system of community-level administration to the Malayaha Tamil people living in the plantations. By excluding them from the Grama Niladhari system, successive governments have only continued the colonial policy of denying them integration with the national administrative system.

Nuwara Eliya District and GN Appointments

The injustice and discrimination that the Malayaha Tamil people have been subjected to in terms of denying them the right to be included in the Grama Niladhari system can be seen with glaring clarity in the situation in the Nuwara Eliya District.

The Census and Statistics of 2001 show that the total population of Nuwara Eliya District was 700,083. Of them, 280,236 were Sinhalese. The Malayaha and Sri Lankan Tamil population in the district was 391,853. Until August 1999 there were six Tamil GNs serving in the Nuwara Eliya District. At present there are 75 GNs, including the above-mentioned six. Table V shows the census and statistics of the Nuwara Eliya District taken on the basis of the DS divisions. This table, while showing the number of GNs at present, also points to the approximate number of GNs who should actually be appointed on behalf of the Malayaha Tamils.

Table V

Nuwara Eliya District Population and Grama Niladhari Division
According to Ethnic Ratio

<i>Divisional Secretariat Division</i>	<i>Total Population</i>	<i>Sinhalese</i>	<i>Tamils</i>	<i>Muslims</i>	<i>Others</i>	<i>Existing GN Division</i>	<i>Proposed GN Division</i>	<i>Total</i>
Nuwara Eliya	206,944	43,497	156,820	5,850	777	72	122	169
Ambegamuwa	202,442	44,600	152,826	4,524	482	67	113	185
Kotmale	96,280	49,488	40,457	6,216	119	96	39	135
Walapane	106,850	68,107	37,870	823	50	125	28	153
Hanguranketa	87,577	75,544	12,858	144	31	131	10	141
Total	700,083	280,236	400,831	17,557	1,459	491	312	803

Source: *Population and Census 2001*, Department of Census and Statistics; and *A Guide to the Divisional Secretariats 1993*, Ministry of Plan Implementation.

It is clear from this table that the number of GN divisions allocated to the areas of Malayaha Tamils is grossly inadequate. Approximately 300,000 Malayaha Tamils live in the Nuwara Eliya and Ambegamuwa Divisional Secretariat divisions. Before 1 August 1999, 46 and 48 GN divisions have been provided, respectively, for these two divisions. Except for the six Malayaha Tamil GNs mentioned above, all others are Sinhalese GNs. In contrast, the Hanguranketa DS division, which has the lowest population in the district, has 128 GN divisions. Nuwara Eliya DS division with a population of 203,807 has been given 72 GNs, and Ambegamuwa with a population of 197,143 only 67. Likewise, the Divisional Secretariat divisions of Walapane and Kotmale, which are less populated than the Nuwara Eliya and Ambegamuwa DS divisions, are given more GN appointments. It is the duty of the Malayaha Tamil leadership to highlight this discrimination and agitate to correct the injustice.

The Malayaha political parties, trade unions, public organizations and NGOs should include in their programmes of action the following demands:

- (i) When GN appointments are made, the population strength of the Malayaha Tamils and their geographical concentration should be considered, particularly in the Nuwara Eliya, Badulla, Ratnapura, Matale and Kandy districts. The Malayaha Tamil GNs should not be appointed as assistants to Sinhalese GNs. They should be appointed with full authority as GNs.
- (ii) Malayaha Tamil GN appointments should be made on the basis of education and merit, through a competitive examination without political interference.
- (iii) One member from the Malayaha Tamil community should be appointed to the committee formed by the Ministry of Public Administration and Home Affairs to establish new DS divisions and restructuring of GN divisions. Leaders of Malayaha Tamils should

stress this need to the government without delay. There are members representing the Sinhalese, North-East Tamils as well as Muslims in this committee, but there is no Malayaha Tamil representative.

(iv) The management and staff of the estates should not carry out the duties and functions of GNs.

(v) When the GNs are appointed from the Malayaha Tamils to serve their public needs, they should function in the Tamil language. Neither the Divisional Secretaries nor the district-level government institutions should demand reports in Sinhala from the GNs. Tamil officers should be appointed to the Divisional Secretariats and other state institutions.

Chapter 7

Housing and Land Rights Problems of Malayaha Tamils

The denial of land and housing rights continues to be a major form of discrimination suffered by the Malayaha Tamil community. Their status of being landless workers with no right to shelter has been a part of the historical legacy of the colonial plantation economy and its specific labour process. This status of dispossession of Malayaha Tamils goes back to the early days of their history. The forefathers of the present Malayaha Tamils were brought to Ceylon from the 1820s. When they were employed in coffee, tea and rubber plantations initially as contract labour, line rooms were provided by the plantation owners. There were single and double barrack line rooms. For nearly two centuries, the same system of housing, with single and double barrack line rooms, was continued. Not even the nationalization of plantations in the early 1970s changed the subhuman condition of housing among the Malayaha Tamil people.

The landlessness of the Malayaha Tamils is also rooted in the specific history of the colonial plantation economy. The plantation labour was both immigrant and indentured. Being people brought from outside, they did not have hereditary land in Ceylon. As indentured and resident labour, they did not have the right to possess land. Being extremely low paid, they did not have the resources to buy land either.

The denial of shelter to a community is a violation of human rights. Article 25 of the Universal Declaration of Human Rights stresses that: "Everyone has the right to a standard of living adequate for the health and well being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control." Although the government of Sri Lanka has accepted to abide by the UN Declaration that emphasizes the right of a person for shelter, it has not implemented it in relation to the Malayaha community.

The nationalization of estates, land reform programme, planned settlement schemes and the ethnic conflict have had negative consequences for the rights to land and housing of the Malayaha Tamils

Evictions

Sri Lanka's post-independence governments have been reluctant to recognize the problem of landlessness among the Malayaha Tamils. This is partly due to the wrong belief that the Malayaha Tamils occupied land that earlier belonged to the Kandyan Sinhalese peasantry. There is no evidence to substantiate the claim that the traditional land of the Sinhalese had been seriously affected by the opening of plantations. However, it is the Malayaha Tamil people who have experienced eviction. Although they lived in those areas for several generations, governments have evicted them gradually in a well-planned manner. For example, in 1948, 400 families who lived in the line rooms at Bulathkohupitiya Estate were evicted by the D.S. Senanayake government. A case filed against this eviction went up to the Privy Council with no success. This Bulathkohupitiya eviction can be viewed as the beginning of a process of planned eviction of Malayaha Tamils from the areas of their habitation.

In 1972 Hector Kobbekaduwe, Minister of Lands in the United Front government, inaugurated a land reform programme. This was followed by the nationalization of estates belonging to Sterling and Rupee companies. The nationalization of plantations paved the way for a new phase of evicting Malayaha Tamils from the areas where they were living.

Under the guise of promoting alternative crop cultivation and setting up planned settlements under Usawasama, Janawasama and the Janawasa Commission, thousands of worker families were evicted from the estates and line rooms in Kandy, Matale, Yatiyantota and Avissawella. During the years of UNP rule after 1977, similar schemes were implemented under the NADSA Plan, the Mahaweli Settlement Scheme and the Cluster System. These programmes continued the policy of evicting the Malayaha Tamils from their places of habitation. Thus, policies implemented in the name of land reform, decentralization and estate-village integration affected the Malayaha Tamil community in a particularly negative way. This process of planned eviction was further boosted by ethnic violence in 1977, 1981 and 1983 against Tamil workers living in the Up-Country. There was widespread violence in the Nuwara Eliya and Kandapola areas where shops, houses and assets belonging to Tamils were set on fire. In the violence that erupted in 1983 in Hawa-Eliya in the Nuwara Eliya District, 17 people were burnt alive in a single house. Line rooms in Delta and Sanquary estates were attacked and burnt. Sivanu Letchumanan was shot dead during the acquisition of land in Devon to set up a planned settlement scheme. Governments set up these settlement schemes despite protests by the Malayaha Tamil people, but sometimes with the connivance of Tamil politicians in the name of development.

Housing Problem Among Malayaha Tamils

In Sri Lanka, housing construction is divided into three categories, namely, rural housing, urban housing and estate housing. Estate housing has its unique features. As pointed out earlier, line rooms are the dominant form of estate housing. The line-room system has changed during the past two centuries of the plantation economy. They are small dwelling spaces. Every line room is 10' x 12' in size. Usually, the front portion is used as the verandah and the kitchen. Normally, more than eight persons would occupy a single line room.

The clusters of line rooms are usually located away from urban areas and the work places of the workers. Therefore, Malayaha Tamils have been living in relative isolation, without strong social links as communities and cut off from the mainstream social environment.

Similarly, there has not been an adequate expansion of estate housing in accordance with the growth of the Malayaha Tamil population. Therefore, worker families have built temporary sheds and huts with or without the permission of the estate management. It is estimated that there are 22,410 such units. The following table gives figures about the nature of the housing system in the plantation sector as it existed in the mid-1990s. The situation today is not significantly different.

TABLE I

Housing Systems in Practice

<i>Housing Systems</i>	<i>Total Units</i>
Double barrack line rooms	104,556
Single barrack line rooms	108,825
Twin cottages	22,410
Temporary sheds	35,100
Total housing units of those living in estates	301,491

Source: *Plantation Housing A New Approach*, Ministry of Housing Construction and Public Utilities, 1996.

According to this table, there were 301,491 housing units in the mid-1990s. This figure included double and single barrack line rooms, twin cottages, temporary cottages and sheds. There were 213,321 housing units with the old system of double barrack line rooms out of which 49.2 percent, or 104,556 units, were single barrack line rooms. Of single barrack line rooms, 51 percent or 108,825 units, are older than 70 years. Among these line rooms 85 percent are in a dilapidated condition. They cannot be repaired.

The Housing Schemes of Former President R. Premadasa also Sidelined Malayaha Tamils

There were minor changes in the line-room system after 1958. During this period construction of twin-houses commenced with the assistance of the World Bank (WB) and the Asian Development Bank (ADB) on the recommendation and pressure from the International Labour Organization. Between 1978 and the 1980s only 3,739 twin-housing units were constructed with World Bank and ADB assistance. Therefore, this scheme could not adequately or effectively address the housing problems of the plantation sector.

It needs to be noted that 'estate housing' has not been included in many of the national housing development programmes. The housing programme initiated by President Premadasa is a case in point. Mr. Premadasa considered building houses on a mass scale as a major policy plank, and he launched the Gramodaya housing project when he was still the prime minister. He was the Housing Construction and Local Government minister of the UNP government from 1977. He launched the Million Houses Project. He was instrumental in declaring 1987 as the Year of Shelter. However, none of his housing projects covered the plantation sector in any meaningful way. There were only insignificant symbolic gestures. For example, under the housing programme of 100 houses per electorate during the 1980s, 20 single houses were built at

Saumiyapuram in Kotagala and another 20 at Manikkawatta near Welis Oya. Those houses were built at the request of the late S. Thondaman, who was a minister in the UNP government. The following statistics will clearly show that President Premadasa initiated the estate housing programme, but he attached more importance to Sinhalese rural and urban areas and paid no attention to the line-room system in plantation areas.

TABLE II

Population Growth and the Development of Housing 1971-1981

<i>Sector</i>	<i>Total Population (millions) 1971- 1981</i>	<i>Growth Rate</i>	<i>Housing</i>	<i>Growth Rate</i>
Urban	2.8448 - 3.192	12.1	0.421 - 0.512	21.5
Rural	8.707 - 10.720	23.1	1.558 - 2.085	37.7
Estate	11.34 - 0.993	-17.7	0.238 - 0.217	8.6
All	12.687 - 14.847	17.0	2.217 - 2.813	26.9

Source: *Shelter in Sri Lanka: 1978-1991*, Ministry of Housing and Construction.

The question of granting ownership of line rooms to their occupants became a policy issue in the 1990s. The late S. Thondaman and the Ceylon Worker's Congress put forward the demand to the United National Party that the ownership of the line rooms and the adjacent lands should be given to the plantation workers. This was the CWC's main slogan at the Provincial Council elections held in 1993. At that time Ranil Wickremasinghe as the prime minister initiated the co-operative system of estate housing with the support of the CWC. However, the transfer of ownership of the line rooms to their occupants has not taken place as yet. Meanwhile, there is no consensus among the Malayaha Tamil leaders over the line-room issue. Therefore, the issue remains unresolved.

There was some progress in the construction of housing in the estate sector after the People's Alliance government assumed power in 1994. A separate section was created at the Ministry of Housing and

Construction after agreement on a policy that single housing units should be constructed. P. Chandrasekaran was appointed as the deputy minister in charge of estate housing construction. The PA government also initiated a programme of constructing separate houses on seven perches of land in the plantation sector. The National Housing Development Authority (NHDA) and the Human Development Foundation of Sri Lanka played a significant role in the initiation of this scheme. In fact, they became leading agencies for estate housing under the guidance of the Ministry of Housing and Construction.

These institutions together initiated a self-help housing programme. They planned to build around 20,000 units from 1995 and have completed 6,000 units on 600 acres. Another 11,923 housing units were partly completed on 1,192.3 acres of land. It seems that the work has been completed to construct 4,000 housing units on 401.4 acres. As these housing schemes are on the self-help basis, they are schemes with a guarantee from the Employees Provident Fund (EPF). Interest on these loans ranges from 10 to 15 percent.

The housing schemes that have been implemented in the plantation sector at present can be categorized as follows:

- i. Twin Cottage Housing Scheme or Co-unit Housing Scheme commenced from 1958 were funded with the assistance of the World Bank and Asian Development Bank. These houses were given to workers but were owned by estate management.
- ii. Single houses constructed on 5-7 perches of land with the guarantee of the EPF loaned by the Central Bank, Bank of Ceylon and the State Mortgage Bank on the basis of self-help housing.

The Self-help Housing Scheme was implemented by the (TRUST) on the guarantee provided by the EPF on 4-7 perch land units.

- iii. Single housing programme on 5-7 perches of land implemented by the TRUST and NHDA.

The scheme of single houses on 7-perch land units was a self-help housing programme implemented by the NHDA. There was no EPF guarantee in this scheme. Eventually, the workers would become owners of these houses.

- iv. The HABITAT Housing Scheme implemented by NGOs centred in urban areas, based on interest-free loans.
- v. The NHDA Housing Scheme to build flats.
- vi. The model housing scheme of the Kandy District TRUST. The estimated cost per unit is Rs. 160,000.

Both the NHDA and the (TRUST) Human Development Foundation of Sri Lanka contribute significantly to the development of estate housing. Their involvement needs to be more robust in order to address the housing question of the Malayaha people.

Flats or Single Houses?

A new debate has arisen on the issue of whether plantation-worker housing should be single houses or flats. While some advocate the flats system, there is opposition from estate workers. There are several reasons cited in favour of the construction of flats. According to the advocates of the flats system, the construction of single houses will result in uneconomical and wasteful use of land. Those who advocate the system of single houses argue that without land, shelter is incomplete. Providing land, however small the size, would create among the people a sense of attachment to the area and the country. It would also help create a sense of dignity and self-respect among these landless people.

Flats have been built in Wanarajah Estate, Carolina Estate, Henfold and Caledonia in the Hatton area by the National Housing Development

Authority. The PSDP has started a flat system in Sanquary Estate on an experimental basis.

Recommended Options

- i. A national policy should be drawn up on the land and housing rights of the Malayaha Tamils in order to eliminate the discrimination meted out against them.
- ii. Each family should be ensured at least 10-20 perches of land.
- iii. All the housing programmes that are implemented should be integrated into a single stream.
- iv. Introduction of a system of mutual guarantors of each worker, or Malayaha Tamils instead of EPF as the surety.
- v. As the majority of Malayaha Tamils are workers, housing loans should be provided with less than 5 percent interest.
- vi. The share of contribution to estate housing by companies, the TRUST and the NHDA should be 50 percent.
- vii. As the HABITAT is the only institution that is involved in housing construction in the plantations, the contribution of other NGOs should be enhanced.
- viii. In the production of tea, the share of small holdings is 53 percent, on an area less than twice that of the companies. Therefore, by granting land and housing rights to the plantation workers and by making the company-owned estates as small holdings, it may further be possible to grant loans and other facilities. Planned settlements should be avoided and the ethnic proportion should be maintained.
- xi. Priority should be given to build individual houses. The flat system should be considered only in places where it is necessary due to shortage of land.

Chapter 8

Malayaha Tamils and the Resolution of the National Question in Sri Lanka

One of the key features in the politics of the contemporary world has been the rise of ethnic conflict. Nation-states in Europe as well as in non-European societies have experienced ethnic political movements of minority communities. Some of these movements demand self-rule and regional autonomy. Others fight for independence. The experience of discrimination and the neglect of their grievances by the state have forced minority communities in multiethnic states to radicalize their movements. The experience of ethnic conflict in Sri Lanka and elsewhere suggests that constructive management of minority ethnic demands is easier if done before a movement gets radicalized.

Sri Lanka has until recently been preoccupied with the challenge of minority separatism that has emerged in the Sri Lankan Tamil society in the Northern and Eastern provinces. In the process of this conflict and search for a solution, the question of the security of the Muslim community in these two provinces and its right to regional autonomy has also become a policy challenge. It appears that because of the excessive attention given to these two problems, the demands of the Malayaha Tamil community have not received much prominence. However, continuing neglect of their grievances would run the risk of

contributing to radicalizing politics in the plantation sector. Sri Lanka does not have to wait to recognize the gravity of the problems of the Malayaha Tamil people until their politics becomes radical, violent and unmanageable. A prudent way to handle ethnic grievances is to recognize the presence of the problems early, their potential to escalate and the need to seek early solutions. Early solutions to ethnic grievances will also be low-cost solutions. Such solutions can also be framed and implemented within the existing democratic framework.

Solutions to the National Question: Lessons from Other Countries

In many countries, in order to accommodate ethnic demands, solutions have been found in the form of regional autonomy, self-rule and internal autonomy. In working out such solutions, ethnicity-based political identities have been recognized, taking into account such factors as region, language, culture and history. Constitutions have also been either reformed or written anew to enable solutions to be given legal status. In India, for example, the constitution provides for a federal structure for states that are established on a linguistic basis.

Belgium is a federal state which has explicitly recognized both ethnicity and regions as organizing principles of the state. Article 1 of the Constitution declares that Belgium is a federal state comprising various communities and regions. Article 2 states that the country consists of Belgian, Flemish, French and German-speaking people. Article 3 says that the Belgium state consists of regions of Flemish, Walloons and Brussels. Article 4 further elaborates the regional composition of Belgium, stating that the country is comprised of (1) a French-speaking region, (2) a dual language region with Brussels as the capital, and (3) a region where German is spoken. The Constitution further says that these social, language and regional divisions could be altered by law according to the need.

The Belgium example suggests a possible constitutional model for Sri Lanka in which both community identity and region are considered as the basis for a federal power-sharing mechanism. In the Sri Lankan context, the Sinhalese, North-East Tamils, Muslims and the Malayaha Tamils are the main ethnic communities. They are also concentrated in clearly recognizable regions. Belgium is also divided into four language areas, the Dutch-language area, the French-language area, the bilingual area of Brussels, and the German-language area. In their power-sharing arrangements, the Belgian people have taken into account several factors such as the community, the language and the region.

As much as the North-East Tamil and Muslim nationalities deserve regional autonomy, Malayaha Tamils with a geographical concentration too deserve regional autonomy. The fact that the unitary and centralized state has discriminated against them and that the unitary state has not even recognized the need to address their grievances makes it necessary for them to highlight the need for regional autonomy. Meanwhile, the Malayaha Tamils are the smallest minority nationality in Sri Lanka after the Muslims, comprising 5.5 percent of the country's total population. The relative smallness of the community, in comparison with others, is no reason to deny its people the right of regional autonomy. Autonomy rights are not necessarily about numbers, but about the grievances and political aspirations of a community. There are examples in the world where regional autonomy is granted to much smaller communities. Some cantons in Switzerland have populations of less than one hundred thousand. In Italy, a separate region, Treol, has been given to a population of a mere 25,000 under the federal system. A separate region is in existence in Belgium for the people who speak German. These are models that can be considered in devising an appropriate scheme for power-sharing for Sri Lanka's Malayaha Tamils. The relevance of the Belgian model to Sri Lanka is discussed in detail in the book, *Rights and Power Sharing Mechanisms for Non Territorial Minority Communities in Sri Lanka*, edited by P.P. Devaraj.

Relevance of the Pondichcheri Model

The agenda for regional autonomy has emerged in Sri Lanka in response to the demand for separation by the North-East Tamil community. However, the existence of a separatist struggle is not always a prerequisite for granting autonomy rights to ethnic minorities. India is the best case in this regard. Recently, three new states, Varnanjal and Chhattisgarh, were created along with Uttaranchal. Similarly, areas of autonomy have been established under the direct control of the centre for nonterritorial populations. Pondichcheri was a French colony since 1674 and brought under Indian rule in 1963. Pondichcheri, with a population of almost 900,000 in 492 square kilometres, is a separate state, but the land areas that come under it are not interconnected. Pondichcheri consists of four districts, namely, Pondichcheri, Karaikal, Yanam and Mahe. Karaikal is 150 kilometres south of Pondichcheri.

In Sri Lanka the Malayaha Tamils are heavily concentrated in Nuwara Eliya District, where their population is almost 400,000, and there are another 400,000 in Ratnapura, Kandy, Matale and Badulla districts. In the central hills, that is in the Central, Uva and Sabaragamuwa provinces, their total number is nearly 1,000,000. Therefore, a noncontiguous devolutionary unit could be created for the Malayaha Tamils with Nuwara Eliya as the centre.

Malayaha Tamil Demands and the Struggle of the North-East Tamils

The Tamils of the North and East have been involved in a struggle for national rights for many decades. Many militant groups, including the LTTE and moderate parties, have contributed to this struggle in various ways. During this struggle, there was a view that demands for national rights of the Malayaha Tamils and Muslims would weaken the cause of the North and East Tamils. Some years ago, militant Tamil groups in the

North-East thought that the political demands of the Malayaha Tamils could be linked to the struggle of the North-East Tamils. Although they made attempts to establish such a link, it has not succeeded. The Malayaha Tamils see their struggle as separate from the struggle of the North-East Tamils. Similarly, Malayaha Tamils are not committed to an armed struggle against the Sri Lankan state. They see the aspirations of the two nationalities as separate.

Geographical and social separation of the Malayaha Tamil community from the North-East Tamils is one major reason for this situation. Almost one million Malayaha Tamils live in the central hills, outside the North and East. About 500,000 others live in Colombo, Galle, Matara, Kalutara, Kegalle, Vavuniya, Kilinochchi, Mannar and Batticaloa districts. Therefore, these people cannot be merged with administrations in the North and East. As much as the North-East Tamil and North-East Muslim nationalities deserve power-sharing units in the areas of their concentration, Malayaha Tamils living in areas outside the North and East are also entitled to their own units of devolution. A devolution unit in Malayaham is essential for those who live outside of the North and East.

Nationality Problem and Possible Solutions

There is no consensus among the Malayaha political parties, mass organizations and NGOs on solutions to the problems faced by the Malayaha Tamils. There is much competition and rivalry between the two leading political parties, the Ceylon Worker's Congress and the Upcountry People's Front. The situation was different among the militant groups and the Tamil United Liberation Front in the 1970s and early 1980s. They all accepted that the North-East Tamils were a nationality, and they envisioned solutions based on that shared understanding. They all recognized the idea of Tamil Eelam, which was understood to be autonomy or a separate state. Their differences emerged later in the course of the armed struggle. They tried to resolve

their differences through violence. The struggle of the Malayaha Tamils is a peaceful one, conducted within the limits of electoral, parliamentary and coalition politics. In this backdrop, it is important that the Malayaha political parties, while maintaining their individuality, should reach a consensus on the solutions to the problems of their people.

A consensus should be arrived at on how to name and politically characterize this community. There are two key issues involved here. The first is the need to name this community in terms of the geographical and social area of their habitation for over 200 years. Therefore, my proposal is to call the community Malayaha Tamils. I call upon all the Malayaha political parties, social organizations and NGOs to accept this term in naming the community. The second is their political status. My proposal is to acknowledge the Malayaha Tamil community as a distinct 'nationality.' It is through this political status that their group rights, such as political representation, land, housing and social infrastructure, education, language, etc., can be effectively addressed on an equal basis with other nationalities. This conclusion was reached by a group of researchers as far back as 1982 in a book entitled *Engengum Uneeyamanavarhal* (The Isolated), published in Tamil in Tamil Nadu.

The Malayaha Tamils have in the past been named as Tamils of Indian origin in Sri Lanka. This implied that eventually they would return to their homeland in India. But the people do not call themselves Indian Tamils. They call themselves Malayaha Tamils – Tamils living and having their origins in the hill country. Thus, the name Malayaha Tamils refers not only to the workers engaged in the plantation industry, but also to a community consisting of urban workers, smallholders, traders, public servants and the intelligentsia as well, who had their social origins in the hill country.

From the standpoint of the above discussion, some of the possible solutions to the problems of the Malayaha Tamil community are given below:

- i. As the Malayaha Tamils are a separate nationality, a region should be created with the merger of Central, Uva and Sabaragamuwa areas where they form the majority. Demarcation of District and Divisional Secretariat divisions should be done in areas where the Malayaha Tamils are in a majority. Two District Secretariats, 18 Divisional Secretariat divisions and about 1,000 GN divisions should be established for Malayaha Tamils by merging Central, Uva and Sabaragamuwa provinces. These administrative units should be based on the population as well as geographical factors.
- ii. Electoral districts, Pradeshiya Sabhas, Municipal and Urban Council areas should be demarcated so as to form parliamentary, provincial and local government representations where Malayaha Tamils are heavily concentrated. Electorates, provincial councils and local government institutions should be established to facilitate this change.
- iii. The Tamil language should be implemented in accordance with the official languages law in areas where Malayaha Tamils are concentrated.
- iv. The functions of courts in these areas should be in Tamil with Tamil-speaking officials.

If there are complexities in the demarcation of districts in the Central, Uva and Sabaragamuwa provinces, a non-interconnected or noncontiguous regional unit can be established by merging the districts of Nuwara Eliya, Badulla, Kandy, Ratnapura and other areas of Malayaha Tamil concentration, under the control of the central government, as in Pondichcheri.

In brief, the problems of the Malayaha Tamils should be approached by considering them as a community and solved on a regional basis as a part of the national question.

Chapter 9

Nonterritorial Autonomy System and Power-Sharing

In the vast majority of the countries in the world today, there are problems relating to national unity. However, in many countries, people with different cultural, religious, linguistic, regional and other identities have learned to live in co-existence. That is why the Irish Nobel Laureate John Hume said in his Nobel Prize acceptance speech that world communities have learned to live with more than one culture and heritage. He emphasized that differences and particularities have been an essential feature of humanity. Therefore, differences are a strength, not a weakness, for any human society. He also emphasized that federalism as a system of government accommodates both the strengths and weaknesses of human diversity in the form of political pluralism. The theory of unity in diversity, associated with federalism, reflects this point.

The reason that federalism exists in more than half of the countries in the world today is the clear acknowledgement of this principle. The most effective way to solve ethnic conflict in countries with ethnic, cultural, linguistic and regional diversity is to devolve power as a mechanism for unity. Power-sharing through federalism or devolution is a way

to achieve political unity by recognizing ethnic diversity. The federal system introduced in the US in 1789 has achieved national unity. The necessity of power-sharing, not only with the nationalities that are territorially concentrated, but also with those who are territorially dispersed, is now recognized as an advanced method of politically organizing multiethnic societies.

In Sri Lanka, Sinhalese and North-East Tamils live in clearly defined regions where they are the majority. But they are also regional minorities outside those regions. For example, the Sinhalese are a minority in the Northern Province. North-East Tamils are a dispersed minority in the Western Province. Malayaha Tamils and Muslims also have territorial concentration as well as territorial dispersion. They live in a majority in Nuwara Eliya and Amparai districts, respectively, and are spread out in other areas. Therefore, when a solution is found to the nationalities question in the future, the problems of these territorial and nonterritorial populations, whether they are Sinhalese, Muslim, North-East Tamil or Malayaha Tamil, must be taken into account. Thus, power-sharing solutions should have both territorial and nonterritorial forms.

It would be educative to examine the Belgian and Indian experiences in designing solutions to autonomy demands of nonterritorial communities. While Belgium is small and India is vast, both countries have granted autonomy to territorial and nonterritorial communities, considering religious, language and regional identity dimensions.

The Belgium constitution provides devolution of power on the basis of regions where communities live, as well as on language. In addition to the existing regions, the Constitution also has the provision for creating new regions. The Constitution of India also provides for establishing new states, demarcation of boundaries, alteration of names of states and union territories, and the inclusion of new areas. Therefore, the devolution method of these two countries could serve as an example in

working out mechanisms for the devolution of power to the Malayaha Tamils and Muslim communities.

India is a vast, developing country with various cultures and more than 18 major languages. The Pondichcheri Union Territory was French, and Dadra and Nagar Haveli was a Portuguese colony. Considering this background, India has granted autonomy and powers to states and union territories. In India, there are 28 states, 6 union territories and a national metropolitan area (New Delhi). There are states based on language and most of them are Hindi speaking. Therefore, the domination of Hindi is unavoidable.

India's system of government is a combination of parliamentary and federal methods. This is similar to the system of government found in Canada and Australia, where the Westminster parliamentary system is integrated with federalism. When compared, the federal system of India is more powerful than the one in existence in Canada. An important aspect of the Indian model is that although the Constitution is based on federalism, there is not a word in the Constitution to mention that the country is federal. That is why India is considered as quasi-federal.

There are two lessons to be learned from the Indian system of federalism with regard to the solution of ethnic conflict in Sri Lanka. They are: (a) asymmetrical power-sharing, and (b) nonterritorial power-sharing. For example, Lakshadweep, with a population of only 50,000, which is a union territory, and Uttar Pradesh with 140 million, are considered as states. This stands in contrast to the Sri Lankan situation where the government is reluctant to establish District, Divisional and GN divisions and Pradeshia Sabhas in areas where Malayaha Tamils are heavily concentrated. Recently, new states were created in India through parliamentary legislation in Uttaranchal, Chhattisgarh and Vananjal. There are now new demands for statehood in Bodoland in Assam, Bundelkhand in Uttar Pradesh and Madhya Pradesh,

Kodagu in Karnataka, Telangana in Andhra Pradesh, Gorkhaland in West Bengal, Hirith Pradesh in Uttar Pradesh, Vindhya Pradesh in Madhya Pradesh, and Vidarbha in Maharashtra, among others. There has been ethnic agitation for separate states in Bodo, Telangana and Gorkhaland for a long time. The difference with Sri Lanka is that the Indians are not afraid to create new states or redemarcate the internal boundaries of regional states. When demands for new statehood come from various communities, Indian political leaders evaluate the validity and justification of such demands. Ultimately, the parliament through legislation has the authority to create new states. Often these demands are made on the basis of ethnic and cultural identity, regional identity, and the need of self-rule. Facilitating such demands through the constitutional process is a strong aspect of Indian democracy and pluralistic governance.

In India, all states do not have same degree of power. Some have more power and others less. That is why Indian federalism has given rise to the principle of asymmetrical power-sharing. The status of states offers more powers to units than to union territories and metropolitan areas. Jammu and Kashmir enjoys special status in being allowed to have a constitution. No other state in India has this power. The president of India has no right to dismiss or dissolve a state government in Jammu and Kashmir. Powers have been devolved asymmetrically on the basis of each state's ethnic, religious, socio-economic and historical factors.

The other significant aspect of the Indian federal system is that land areas of the union territories are not interconnected. In other words, they are territorially noncontiguous regions. The territories are located in many states hundreds of kilometres apart. Some of these noncontiguous units were under colonial rule. Pondichcheri and Dadra and Nagar Haveli are examples. Pondichcheri, in fact, provides a model for noncontiguous autonomy arrangements for Muslim and Malayaha Tamil communities in Sri Lanka.

Pondichcheri consists of four areas. Karaikal is 136 kilometres from Pondichcheri and in Tamil Nadu; Yanam is 864 kilometres from Pondichcheri and in Andhra Pradesh; and Mahe is 800 kilometres away and in Kerala. Pondichcheri Union Territory has been formed by merging areas that are hundreds of kilometres apart, which are not interconnected geographically.

Federalism accepts and accommodates the multilingual character of communities. This principle has been well accommodated in Belgium. Brussels is a bilingual city. This is an example for Sri Lanka. In Up-Country areas, Nuwara Eliya, Kandy, Badulla and Ratnapura municipal areas could be declared as bilingual cities. Likewise, the Colombo Municipal Council area also could be declared as a bilingual region. These are obviously new and challenging approaches available to address ethnic demands for equality and group rights.

Chapter 10

Historical Background of Pondichcheri Union Territory and Power-Sharing

Pondichcheri, located in South India and adjacent to the Indian state of Tamil Nadu, was a French colony for more than 300 years. It is now a union territory. In the Indian constitutional system, a union territory is not a state. It is a regional entity, enjoying some degree of autonomy, but with less power than a state government. Because of its special historical and political status within the Indian federation, Pondichcheri is considered as a model for a system of nonterritorial power-sharing. Pudichcheri or Pandichcheri were original names in Tamil. The French began to call it Pondichcheri. In November 2006 the Pondichcheri Union Government officially renamed the territory as Puduchcheri.

The layout, roads and buildings in the French section of the city of Pondichcheri resemble French townships, architecture and urban life. Even though the housing structure and roads are renovated, it has been accomplished without changing the traditional form of French and Indian architecture. Even today, French is also used as an official language of Pondichcheri along with other the official languages of Tamil, Telugu, Malayalam and English. The properties owned by the French government are safeguarded by the government of India

according to the Treaty of Cession signed by the two governments on 21 October 1954.

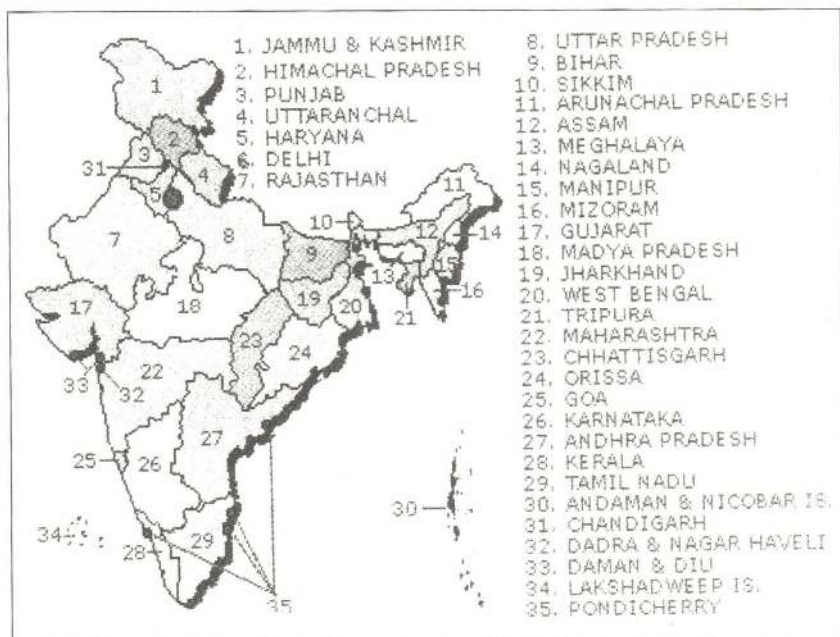
Pondichcheri consists of four noncontiguous territories: Pondichcheri, Karaikal, Mahe and Yanam. The major districts of Pondichcheri and Karaikal are predominantly Tamil. They are geographically situated in the state of Tamil Nadu. The city of Pondichcheri is the capital city. The district of Karaikal is situated 136 kilometres north of Pondichcheri. The territory of Yanam is situated in the state of Andra Pradesh and is 864 kilometres from Pondichcheri. Mahe is situated in the state of Kerala. It is 800 kilometres from Pondichcheri. Thus, the special feature of the Pondichcheri Union Territory is that it is not a cohesive geographical unit. Its noncontiguous components lie in different geographical areas in three Indian states – Tamil Nadu, Andra Pradesh and Kerala. The unifying factor of these geographically separate components is their history – the fact of their being French colonies before the Indian government brought them into the union.

Table I

Districts, Areas, Population, Capital and Official Languages of Pondichcheri Union Territory

<i>District</i>	<i>Area (sq kms)</i>	<i>Population (thousands)</i>	<i>Capital</i>	<i>Official Language</i>
Pondichcheri	290	735,004	Pondichcheri	Tamil
Karaikal	161	170,640	Karaikal	Tamil
Mahe	20	31,362	Mahe	Malayalam
Yanam	9	36,823	Yanam	Telungu

Indian States – Territories and Union Territories



Nearly 45 percent of the population of the union territory is engaged in agriculture. Paddy cultivation is the major crop; coconut, areca nut and other crops are also cultivated. Eighty percent of the land is irrigatable. According to the census of 2001, 6,607 industries are registered and functioning in the territory. These industries include textiles, computers, UPS, other electronic products, leather goods, earth-moving equipment, roofing sheets and pharmaceuticals. As compared to other states and territories of India, the economic growth of Pondichcheri Union Territory is relatively high.

Emergence of Pondichcheri Union Territory and Historical Background

The history of Pondichcheri has been traced back to the 2nd century. The place name of Aricamedu, which is about two miles from modern Pondichcheri, is mentioned in early Tamil literature as Podighai. This Podighai was a well-known port city during the first half of the 1st century. It had trading links with the Roman Empire.

During the 17th century, the Dutch, Danes, British and French competed for favours from Muslim and Hindu kings and chieftains. Their objective was to bring trade and territories under their control. In the 17th century, when the British established the British East India Company in various parts of India, the French government was involved in trading activities. The French established the French East India Company at Surat. Subsequently, the French shifted their trading capital to Masulipattinam. Due to harassment by the Dutch company in Masulipattinam, the French decided in 1673 to shift their headquarters to Pondichcheri. French rule in Pondichcheri continued until 1962. On 16 August 1962, the administration of Pondichcheri was transferred to India.

Fransiscois Martin was the representative of the French East India Company in Pondichcheri. He was actually the founder of the city of Pondichcheri and responsible for the emergence of the present city. Martin developed the small village into a township by constructing a fort. He also made the city the capital of the French territory. Once Pondichcheri became a colony, the French government appointed governors to run the colonial administration. Dumas and Duplex were two prominent governors. They introduced a system of local government administration. It was continued until 1946 with the support of local leaders, such as Maniyakarar and Palayakarar.

Gradually, the French introduced a 39-member representative assembly, which was responsible for the administration of Pondichcheri and approved by the French parliament, and called French Decret. A six-member council was elected by the representative assembly. Out of these six members, three were elected by the representative assembly and three were nominated by the government. The chief councilor was the presiding officer of the council. This administrative setup functioned until 1954, when a *de facto* agreement was signed by the Indian and French governments.

The Treaty of Cession was signed between the first Prime Minister and Minister of External Affairs Pandit Jawaharlal Nehru and French Ambassador Mr. S. Ostrug on 28 August 1956. Although the Treaty of Cession was signed in 1956, the transfer of power to India took place only in 1962 when the Indian Parliament passed the Pondichcheri Administration Act. Thus, from 1673 to 1962, Pondichcheri remained a French colony. It became a union territory in 1963.

There was a freedom movement in Pondichcheri, Karaikal, Mahe and Yanam areas against French rule. This intensified after independence in August 1947. In the forefront of the freedom movement were Edouard Goubert, who later became the first chief minister of Pondichcheri, Kevel Singh, Loganathan Iyer and V. Suppaiah, who was a journalist. They stressed that the Pondichcheri Union Territory should be given a status similar to Jammu and Kashmir, Maharashtra and Gujarat states.

The Treaty of Cession was the basis for the special administrative status of Pondichcheri. The articles included in the Indian Constitution relating to the special administrative status of Pondichcheri were also based on this agreement.

The 14th Amendment of 1962, the Pondichcheri Administrative Act and the Union Territories Bill of 1963 further strengthened the contents of

the Treaty of Cession. Article 2 of the Treaty of Cession laid down that if any changes were to be made in the special administrative status of Pondichcheri, it could be done only after a referendum was held to obtain the consent of the people of the territory.

Pondichcheri is a multilingual territory. It has five official languages: Tamil, Deluhu, Malayalam, French and English. French is used by fewer than 10,000 people. However, the status of French as an official language is safeguarded in Article 28 of the Treaty of Cession of 1956, which reads as follows: "The French language shall remain the official language of the establishments so long as the elected representatives of the people shall not decide otherwise." The continuing use of the French language indicates the special status given to Pondichcheri.

The five properties left in India by the French government are one of the reasons for the special status of Pondichcheri. These properties were mentioned in the Treaty of Cession and in Article 8 of the annexed protocol.

Pondichcheri Union Territory and Its Status and Powers

India consists of 29 states and territories and 6 union territories under the direct control of the central government. New Delhi, which was a union territory, gained its statehood very recently. Article 1 of the Constitution of India states very clearly that: "India, that is Bharat, shall be a union of States." Section 1 (2) states that the territories shall be as specified in the first schedule. Further, Article 1 (3) says the territory of India shall comprise:

- (a) the territories of the states,
- (b) the union territories specified in the first schedule, and
- (c) such other territories as may be acquired.

Article 3 of the Constitution of India empowers Parliament to:

- (a) form a new state by separation of a territory from any state or by uniting any territory to a part of any state,
- (b) increase the territorial area of any state,
- (c) diminish the territorial area of any state, and
- (d) alter the name of any state.

The power and the status of Pondichcheri Union Territory is very clearly defined in the Indian Constitution.

Although the administration of Pondichcheri changed from the French to the Indian governments, France continued to own five properties as French monuments. The legal status to this effect is recognized in the treaty. The five properties are:

- 1) property used for the installation of the French consulate,
- 2) properties located on the rue Victor Simonal, which are occupied by the college Farancais de Pondichcheri,
- 3) the war memorial,
- 4) property No. 13 located at Karaikal, the "Maison lazare" (for a branch of the French consulate), and
- 5) property located on the rue Saint Louis (for the institute).

Compared with other states and union territories, the power and status given to Pondichcheri Union Territory is small in scope and extent. However, due to the Treaty of Cession signed in 1956, this union territory has gained a special administrative status that is unique. It differs from other states and union territories.

In 1963, when the Union Territories Bill of Pondichcheri was in the draft stage, a delegation led by the then Chief Minister of Pondichcheri, Edouard Goubert, met Prime Minister Pandit Jawaharlal Nehru.

They stressed that fully fledged statehood and necessary powers should be given to Pondichcheri, and that the special administrative status given to the union territory should be continued. At that time Prime Minister Nehru assured Chief Minister Goubert that although the lieutenant governor was appointed by the president, the elected representatives would enjoy full powers and that the special status given to Pondichcheri would not be affected. He further promised that this territory would always be kept as a "window of French culture," and the existing administrative setup would not be changed without the wishes of the people. The trust of the local people, assured Prime Minister Nehru, would be "protected forever."

There are about 700,000 Tamils in Pondichcheri and Karaikal alone. The total population of Pondichcheri, including Mahe and Yanam, was 1.1 million in 2001. Pondichcheri and Karaikal districts are situated adjoining Tamil Nadu. Tamil Nadu has 60 million Tamils in 27 districts. Despite the cultural similarity of Tamil Nadu and Pondichcheri, and Tamil Nadu being bigger and a powerful state, and although people of Pondichcheri live contiguously with Tamil Nadu, the Pondichcheri people wish to be governed as a separate union territory. Although the Pondichcheri Tamil people have a common cultural identity and shared religious and linguistic heritage with the people of Tamil Nadu, they maintain their separate political identity. It was India's second Prime Minister, Lal Bahadur Sasthri, and V.J. Patel, who recommended that Pondichcheri be made a union territory along with its noncontiguous areas and the grant of the special administrative status.

India is a federal state. With regard to the sharing of power between the central government and the federal units, there are three lists which elaborate the scheme of power-sharing. They are:

- i. central government powers in the Union List,
- ii. state government powers in the State List, and
- iii. powers jointly exercised by the central government and state governments in the Concurrent List.

The central government makes laws in subject areas outlined in the Union List. The state governments make laws in subject areas as given in the State List. The Concurrent List contains the powers jointly exercised by the central and state governments.

The administration of the Pondichcheri Union Territory is headed by a lieutenant governor appointed by the president of India. He is the chief executive of the territory. The lieutenant governor derives his powers directly from the Constitution. There is also a Council of Ministers headed by the chief minister. The Council of Ministers derives its power to make laws from Parliament. These powers emanate from the Union Territories Acts of 1963. This calls for maintaining a balance of power between the lieutenant governor and the Council of Ministers. The lieutenant governor has more power in financial matters

The power-sharing nature of India is asymmetric or uneven. Territories and union territories have less power than the states. Therefore, there has been a demand in Pondichcheri for more powers to the union territory. Some people even talk about eventual statehood. However, there is also an argument to continue the special status of Pondichcheri.

Pondichcheri Union System and Malayaha Tamil People

In the Sri Lankan debate on a possible political solution to the ethnic conflict, one idea that has gained considerable status is the devolution of power to the provinces. The provincial council system established under the 13th Amendment sought to institutionalize such a framework of devolution. During the past few years, particularly after the All Party

Representative Committee (APRC) was set up, there was an argument made that the Indian model of power-sharing would be suitable for Sri Lanka. There was also considerable attention to India's Panchayathi Raj system. Panchayaths are the lowest units of governance in India. They are elected bodies. They have powers and authority regarding development on the village level. Some APRC delegates even visited India to study this system.

Meanwhile, the Up-Country People's Front (UPF) in its submissions to the APRC drew attention to another aspect of the Indian model of power-sharing. This was the Pondichcheri experience of a noncontiguous unit of power-sharing. The UPF, as far back as 1994, proposed to the Parliamentary Select Committee on Constitutional Reform the relevance of the Pondichcheri model to Sri Lanka, in order to accommodate the political aspirations of the Malayaha Tamil people.

The UPF is of the view that a solution to the national question of Sri Lanka requires a system that should grant power-sharing rights not only to the North and East Tamil and Muslim communities, but also to the Malayaha Tamil community. In terms of identity, the Malayaha Tamils are a separate ethnic group with a specific history, a distinct set of problems and aspirations of their own. Their separate political identity has also been recognized in Sri Lanka's democratic process. That is why they have electoral representation through their own political parties. The position of the UPF is that in arriving at a solution to the ethnic question, the grievances and aspirations of the Malayaha Tamil people should be fully addressed. It is in this context that the relevance of the Pondichcheri model has been discussed.

The first point of relevance is that to qualify for a power-sharing unit in a framework of devolution or federalism, the relative size of the nationality group is not a barrier. In Pondichcheri the population is 1.5 million, which is a considerably small population compared with

India's other states. Malayaha Tamils in Sri Lanka have a population of similar size. What matters, as the Pondichcheri example shows, is the historically evolved identity of the community, with distinct claims to self-governance.

The second point of relevance is the noncontiguous nature of the unit of power-sharing. It is usually assumed that the unit of power-sharing should be territorially cohesive. Pondichcheri goes against this conventional principle and in fact offers the innovative model of a noncontiguous unit. For a power-sharing unit for the Malayaha Tamils, areas where the Malayaha Tamils constitute the majority of the population can be included, considering both geographical contiguity as well as noncontiguity. For example, Nuwara Eliya is a contiguous district, whereas in Badulla, Kandy and Ratnapura districts there is no such continuous contiguity. Meanwhile, in Kegalla and Matale districts, the Malayaha Tamil people live in pockets. Therefore, the best model for a power-sharing unit for Malayaha Tamils is, following the Pondichcheri example, a noncontiguous unit.

Such a unit requires redemarcation of areas where the Malayaha Tamils constitute the majority or where they are concentrated. The core of this unit could be created by linking Nuwara Eliya District with land areas of adjoining districts where Malayaha Tamils are concentrated. Kandy, Badulla and Ratnapura districts have such areas. The Malayaha Tamils are also dispersed in other areas of these districts. Those areas can also be brought under this unit on the basis of noncontiguity. For example, in the Badulla District, plantation areas in Bandarawela, Haldummulla and Haputale Divisional Secretariat divisions can be formed into a small territorial unit. Similarly, the plantation areas in the Badulla, Passara and Lunugala Divisional Secretariat divisions can be brought together as one small territorial unit. Similarly, in Ratnapura District, plantation areas in the Balangoda, Pelmadulla and Ratnapura District Secretariat divisions can constitute another small territorial unit.

To create a noncontiguous power-sharing system, as suggested above, some redemarcation of existing administrative boundaries is necessary.

Use of Official Languages in Each District of Pondichcheri

The official language policy of Pondichcheri can be an example for a solution to our language problem in Sri Lanka. In the Pondichcheri Union Territory, official language status is given to 10,000 people who speak French. Meanwhile, in the districts Pondichcheri and Karaikal, where 80 percent of the population speaks Tamil, Tamil is the official language. In Yanam, which is located in Andhra Pradesh, Telugu is the official language, because a majority of people speak Telugu. In Mahe, located in the state of Kerala, Malayalam is the official language. The Telugu-speaking population there is just 30,000. The principle is the right of the community, despite its small population.

This stands in some contrast to the experience of Malayaha Tamils in Sri Lanka. In Nuwara Eliya, Badulla, Kandy, and Ratnapura, although the Malayaha Tamil population is more than 800,000, government administrative functions are not carried out in the Tamil language. Even in some predominantly Tamil areas, the courts do not function in Tamil.

Conclusion

The publication of this book, *Malayaha Tamils and Power-Sharing and Local Democracy in Sri Lanka*, comes at a crucial time in the history of our country. The armed struggle waged by the LTTE on behalf of the North-East Tamils has been defeated. However, the causes of the emergence of armed struggle as well as of the LTTE and democratic movements for Tamil national rights are yet to be addressed. Michael Roberts, in his article entitled "Some Pillars for Sri Lanka's Future," stressed the point that "one can win the war, but still lose the peace." This statement draws our attention to an important political reality. Although the war has come to an end, a political solution to the national question of Sri Lanka is yet to be fully implemented.

Amidst the intensification of the conflict during the past few years, the country's political climate changed, eroding the support for a negotiated political solution to the conflict. Hard-line nationalist elements on both sides gained the upper hand. The ending of the war has not altered this situation. However, the military defeat of the LTTE does not mean that a political solution based on power-sharing and regional autonomy is no longer relevant to Sri Lanka.

This book has two central arguments. Firstly, it says that the grievances of the North and East Tamil people call for a political solution based on regional autonomy. Secondly, when a solution is reached to the ethnic question, the problems of Malayaha Tamils, too, need to be addressed. The national question of Sri Lanka is not confined to the grievances and aspirations of the North-East Tamils and Muslims alone. The problems of the 1.5 million Malayaha Tamils are also a part of Sri Lanka's unresolved national question.

This book also stresses the point that the Malayaha Tamils are a separate nationality in Sri Lanka with their own specific identity. I discussed how they emerged historically and geographically as a separate nationality, in the central part of the country, with a territory-based identity of "Malayaham." I also described how they converted themselves, from the identity of being "Indian Tamils" during British colonial rule, to the identity of Malayaha Tamils.

The Malayaha Tamils initially secured their political representation through their political party, the Ceylon Indian Congress. This was prior to independence in 1948. After the 1960s, their political identity came to be directly associated with the territory in which they lived and worked. That is how they came to be known as the Malayaha Tamil community, as a distinct nationality group in Sri Lanka. The factors which contributed to mould their identity as a separate nationality group were the plantation economy, colonial rule and the national oppression they had faced as a community for last fifteen decades. The process of this identity transformation of Malayaha Tamils has been discussed in detail in two chapters of this book.

To safeguard the national identity and nationality rights of the Malayaha Tamils community, a strong political leadership as well as representation is needed. The deprivation of citizenship rights in 1948 to a large number of Malayaha Tamils was a direct blow to their

representational rights. The changes introduced in the Citizenship Act of 1948 and the franchise law of 1949 reduced their parliamentary representation to zero. This book has argued that their right of political representation should be restored in parliament, provincial council and local government bodies. The chapter "Malayaha Tamils and Political Representation" has recommended measures to safeguard their political representation in three tiers, national, provincial and local. When electoral reforms are considered, the political leadership of Malayaha Tamils should demand political representation along these lines.

With regard to electoral representation, this book makes the point that the Malayaha Tamils should seek representation to reflect their ethnic population ratio. After being deprived of their citizenship rights and voting rights in 1948 and 1949, not a single member from this community was elected to parliament from 1948 to 1977. Until the recently concluded parliamentary election of April 2010, the ratio of political representation of the Malayaha Tamils was less than 5 percent, although the population ratio was 8 percent. In April 2010, in addition to the two national list members, seven members were elected from this community to parliament. Although this is a significant improvement in parliamentary representation, it still falls short of the population ratio of the community, a mere 3.6 percent of the number of MPs in parliament. My suggestion is that in future electoral reforms, whether it is the first-past-the-post system or proportional representation, the representational rights of the Malayaha Tamils should be guaranteed in Parliament, provincial councils and in local government bodies, on the basis of the ethnic ratio. The mechanisms necessary for such guaranteed representation should be worked out through consultation among political parties.

Parallel to the importance of parliamentary, provincial and local government representation, the presence of the Malayaha Tamils in

the administrative structures of District Secretariat division, Divisional Secretariat division and Grama Niladhari division is also important for them as a minority ethnic community to gain access to the institutions of state and development. The Malayaha Tamil community has not yet been absorbed into the common administrative system of the country. All administrative functions and development activities are implemented through the District Secretariat, Divisional Secretariat and Grama Niladhari divisions, and through ministries and government departments to which mainly Sinhalese, North-East Tamil and Muslim officers are recruited. There are no members of the Malayaha Tamil community appointed as district secretaries or divisional secretaries. It is only recently that about 200 Grama Niladharis of Malayaha Tamil origin have been appointed to carry out administrative functions on the village and estate level.

This book also shows that due to the shortage of Tamil officers working in the above institutions, the implementation of the Tamil language has become restricted in areas where there is a significant concentration of Malayaha Tamils. The only way to remedy this situation is by appointing Tamil officers in the District Secretariat, Divisional Secretariat and Grama Niladhari divisions according to the ethnic ratio of the population. Redemarcation of these administrative units according to the ethnic ratio is also necessary to address community-specific needs.

Self-government rights of the Malayaha Tamil community is a key theme developed in this book. The Malayaha Tamil community lives mostly in geographically demarcated areas in the Central, Uva and Sabaragamuwa provinces and in the Nuwara Eliya, Kandy, Badulla and Ratnapura districts. The majority of the plantation workers from the Malayaha Tamil community is engaged in the plantation economy in these territorial areas. Historically, their political representation has been based on these geographic and economic realities. This provides

the basis for the Malayaha Tamil community to qualify for territorial-based power-sharing in the existing provincial council system. The areas in the Central, Uva and Sabaragamuwa provinces where the Malayaha Tamils are concentrated as the majority can be demarcated as a separate power-sharing unit. Such a system of power-sharing will address many of their present problems about political representation, access to state institutions and public administration, language rights and development problems linked to land and housing issues.

We also need to explore territorial as well as non-territorial forms of power-sharing. The constitutional scheme for territorial and nonterritorial federalism in Belgium provides a useful model for consideration. There, power-sharing is based on language, community and the region. This book has discussed the Belgium case in detail.

India's Pondichcheri Union Territory provides another useful model for nonterritorial power-sharing. The final chapter of the book elaborates on the Pondichcheri experience. It also describes the historical context in which the people of Pondichcheri were granted the special status of union territory after the departure of the French. The chapter shows how the noncontiguous model of a power-sharing unit can work successfully. Sri Lanka's national political leaders as well as the Malayaha Tamils can learn useful and positive lessons from the Pondichcheri experience.

BIBLIOGRAPHY

I. Reports and Documents

A Guide to the Divisional Secretariats, Ministry of Plan Implementation, 1993.

Commissioner of Elections, 2002, *Administration Report of the Commissioner of Elections for the Year 2002*, Colombo: Department of Elections.

Dept. of Census and Statistics, 2001, *Census of Population and Housing, Preliminary Release*, Colombo: Department of Censes and Statistics.

Central Bank, 2001, *Central Bank Report, 2001*, Colombo: Central Bank of Sri Lanka.

Constitution of India.

Constitution of Belgium.

De-facto Agreement (Pondichcheri).

Department of Censes and Statistics, 1996, *Grama Niladhari Divisions of Sri Lanka*, Colombo: Dept. of Statistics.

Mannorama Year Book 2001, Chennai.

Department of Government Publications, 1999, *Report of Commission of Inquiry of Local Government Reforms*, Colombo: Department of Government Publications.

Treaty of Cession, 1956 (Pondichcheri).

II. Journal and Magazine Articles

Muthulingam, P, 1996-1997, "Fundamental Rights and Indian Origin Tamils" (Tamil) in *Malayaha Tamil Research Conference 1996-1997*, Special Issue.

Roberts, Michael, 2009, "Some Pillars for Sri Lanka's Future," *Frontline*, 19 May, 2009.

Sivalingam, R. R. 1987, "Politics of Eelam and Malayaha Tamil.," *People's Rehabilitation*, Special Issue, 1987.

Sivarajah, A. Ambalavannar Sivarajah, 1996-1997, "Some Historical Notes on the History of Malayaha Tamils in the Early Stages" (Tamil), in *Malayaha Tamil Research Conference 1996-1997*, Special Issue.

Tamilmaran, V. T, 1996-1997, "The Upward Social Mobility and Up-Country Tamils" (Tamil), in *Malayaha Tamil Research Conference 1996-1997*, Special Issue.

III. Books

Chandrasekeran, S. 2001, *History of Indian Origin Tamils in Ceylon* (Tamil), Colombo: Kumaran Book House.

De Fontgalland, Fr. S, Guy. 1995, *The Malayaha Tamils and Politics* (Tamil), Leo Marga Asharam.

Devaraj, P.P, 2008, *Constitution, Electoral Reform Proposals and Indian Origin Tamils* (Tamil), Colombo: Foundation for Community Transformation.

- Devaraj, P.P. 2009, *The Dimensions of Federalisms and Minorities* (Tamil). Colombo; Foundation for Community Transformation..
- Devaraj, P.P. 2006, *Rights and Power Sharing Issues in Sri Lanka with Special Focus on Indian Origin Tamil Community*, Colombo: Foundation for Community Transformation. .
- Ghai, Yash. 2000, *Autonomy and Ethnicity Negotiating Competing Claims in Multi-Ethnic States*, Cambridge: Cambridge University Press.
- Goodhand, Jonathan, Bart Kelm, Dilrukshi Fonsaka, S.I. Keetaponcalan and Shonali Sardesai, 2005, *Aid Conflict and Peace Building in Sri Lanka*. Colombo: Asia Foundation.
- Iyer, Sornavalli Pathmanaba, *The Educational Structure of Estate Schools and Problems*
- Jayawardena, Kumari, 1986, *Ethnic and Class Conflicts In Sri Lanka*, Colombo; Center for Social Analysis.
- Jothilgam, A. 2003, *Nationality Questions and Political Solution* (Tamil), Colombo: Kumran Book House.
- Kader, B.A., 2003, *Lessons from the National Liberation Movement in the World* (Tamil), Appal Tamil Publications.
- Kader, B.A, 1984, *Modern Slavery in 20th Century* (Tamil), Middlesex: Eelam Research Publications.
- Ministry of Housing and Construction. *Shelters in Sri Lanka 1971-1991*. Colombo. Publication 1992.
- Human Rights in the Plantation Sector (Tamil), Colombo: MIRJE Publication - 1992
- Nadan, Saral, 2003, *History of Malayaha Tamils* (Tamil), Kandy: Ministry of Tamil Education and Hindu Cultural Affairs Central Province.

Narayanasamy, Puduvai Y. 1998, *French India and Liberation of Karikal*, Pondichcheri: Vijaya Publications.

Narayanasamy, Puduvai Y. 1998, *My Life in Steel Frame*, Pondichcheri: Vijaya Publications..

SARAC, 1982, *The Isolated Everywhere* (Engengum uneeyamanavarhal) (Tamil), Tamil Nadu.

Uyangoda, Jayadeva, 2006, *Conflict, Negotiation, Mediation and Peace*, Colombo: Social Scientists' Association.

Vijayanathan, L. 2007, *Development Dilemmas of Indian Origin Tamils in Sri Lanka*. Colombo: Foundation for Conflict Transformation.

A. Lawrence, hailing from Thalawakelle, graduated from the University of Colombo in the late 1970s in Development Studies. A political, trade union and social activist, he functioned for three years as the Coordinating Secretary to P. Radhakrishnan, former Deputy Minister of Vocational and Technical Training. Presently he is the Secretary of Up-Country Peoples' Front.

His political activism began in the early 1970s during his school days. He was first an activist of the Ceylon Communist Party, led by N. Sahnmugathasan. Later he joined the radical underground movement Paradiga Sulanga ("Eastern Wind"), led by Gamini Yapa. He was arrested in 1974 because of his political activism and detained for one year.



During and after his undergraduate years, the author also had worked closely with progressive academics and research organizations. Among activist academics he worked with in providing research assistance were Kumari Jayawardena, N. Shanmugaratnam, P.P. Devaraj and the late Nihal Perera. He was also an active member of the Social Scientists' Association. In the 1980s, he assisted in the publication of the feminist journal Kantha Handa and its English and Tamil versions, Voice of Women and Pennin Kural. Later, he joined the National Youth Services Council and worked as a District Youth Services Officer for nearly 15 years. In 1989, Lawrence joined with P. Chandrasekaran, B. A. Kader and V. T. Dharmalingam to form the Up-Country Peoples' Front, a new political party for the Up-country Tamil community. He was one of its Vice Presidents. Later, he was promoted to its Secretary.

As a political activist, Lawrence has made a contribution to Sri Lanka's current discourse on minority rights and devolution by emphasizing the possibilities for non-territorial and non-contiguous models for power-sharing.

For the past several decades, the dominant theme in the politics of Sri Lanka has been the 'national question.' Rights of the Tamil and Muslim nationalities were the main issue debated in relation to the national question. Although many issues relating to the Malayaha Tamil community, such as their citizenship and labour rights, welfare, development, housing, land and political representation, entered the country's political and policy debate, their grievances were not considered to be a part of the country's 'national question.' This book seeks to refocus attention on the Malayaha Tamil community by pointing out that their problems are a legitimate aspect of Sri Lanka's national question. A sustainable solution to the country's national question as a whole requires addressing specific grievances as well as aspirations of the Malayaha Tamil community.

"It is noteworthy that intellectual and political-social activists of the Up-Country Tamil community have responded to Sri Lanka's state reform debate very seriously and with a sense of great responsibility. Readers of this book will note that among the Up-Country Tamil people the political reform discussion has acquired a great deal of depth. They have devised detailed proposals for governance, administration and power-sharing in areas inhabited by the Up-Country Tamil community. Their proposals are a plea for national unity by recognizing political aspirations of the community whose voice they represent. We hope that ideas developed in this book will contribute to widening the terms and enriching the quality of the state reform debate in Sri Lanka".

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