

EMERGENCY

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INTERNATIONAL ALERT

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International Alert was founded in 1985 to focus attention on problems of group conflict which violate human rights, inhibit development, and result in mass killings and even genocide.

International Alert works with other organizations, institutions and universities to identify present and potential conflicts where international public opinion and approaches to governments can be effective in bringing about peaceful settlements.

International Alert is establishing research, membership and support groups to concentrate on individual countries about which they have specialised knowledge and experience. 'Alert' groups are responsible, concerned volunteers.

International Alert has a research section which will work with a network of researchers. A liaison bulletin is published from the International Peace Research Institute in Oslo in collaboration with the UNU Colegio de Mexico and the Netherlands Institute of Human Rights (SIM) in Utrecht.

International Alert has created an International Emergency Committee on Sri Lanka and a Uganda Watch Committee. A project is in preparation regarding the conflict in Chad and other projects in Western and Eastern Europe, Asia and the Americas are being studied. Groups exist in London, Los Angeles and Cambridge, Mass with others already in formation in France and Australia.

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Preface

by the Right Honourable Dame Judith Hart, DBE, PC, MP

Events during the past few years have brought Sri Lanka to the centre of international concern. It is a tragedy that a country which has made such progress since independence in its economic and social development – with its tremendous achievements in literacy and health – should now be so deeply torn by strife.

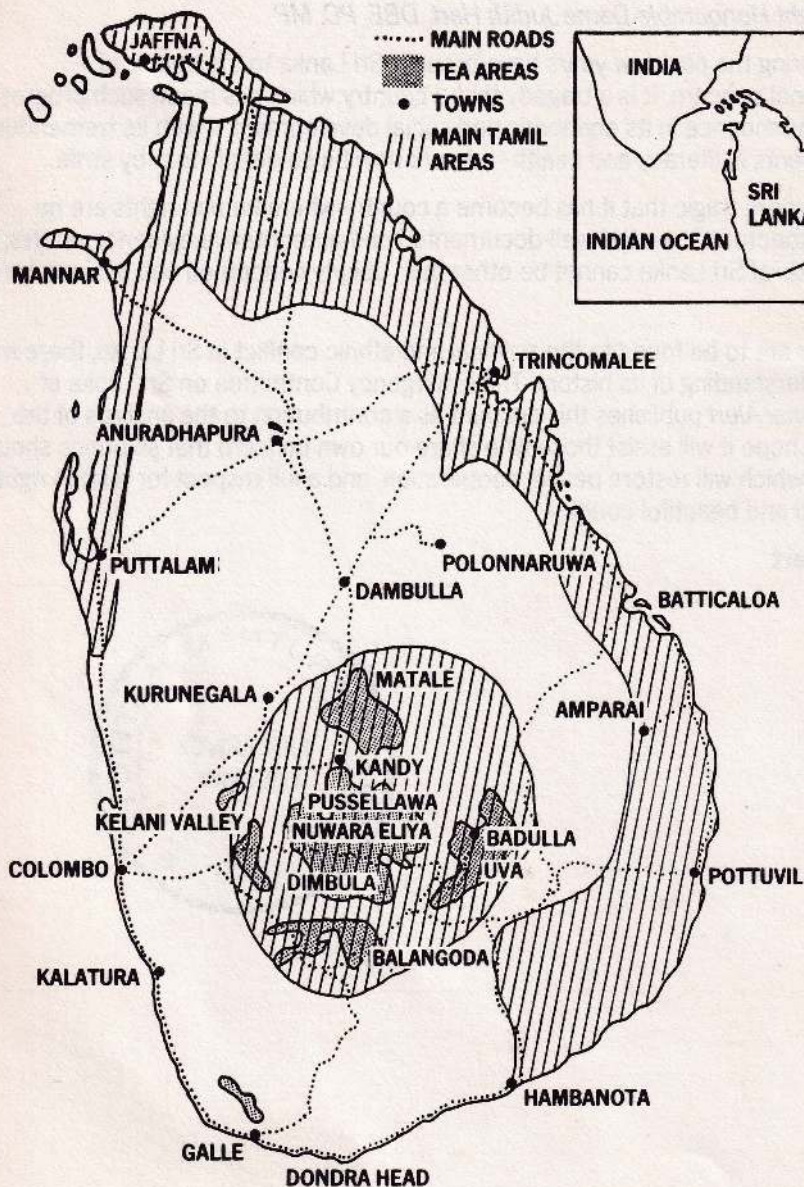
It is even more tragic that it has become a country where human rights are no longer respected. Given the well-documented and authoritative evidence on this, the best friends of Sri Lanka cannot be other than deeply concerned and anxious for its future.

If answers are to be found to the political and ethnic conflict in Sri Lanka, there must be an understanding of its history. The Emergency Committee on Sri Lanka of *International Alert* publishes this account as a contribution to the analysis of the crisis. We hope it will assist those who share our own concern that solutions should be found which will restore peace, cooperation, and a full respect for human rights to this sad and beautiful country.

Judith Hart



SRI LANKA

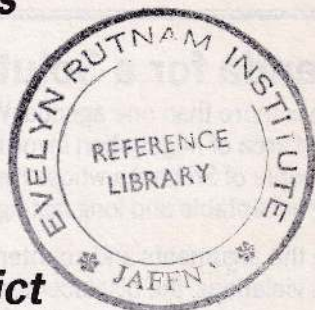


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Sri Lanka

An Island in Crisis

Agenda for a Solution

There is more than one agenda. What is needed, if peace is to be achieved, is an agreed area of negotiation involving not only the parties in the discussions, but also the people of Sri Lanka whose lives and livelihoods will depend on any settlement being acceptable and long lasting.

While the arguments and counter arguments continue, so do the killings, the human rights violations, the displacement of people, and the disruption of education, economy and public tranquility. Development programmes are suspended. Scarce financial resources are spent on arms. A continuation of this situation is unacceptable to the Sinhalese, the Tamils, the country as a whole.

The overwhelming majority of the Sinhalese are totally against the division of the country. India, which has evinced much sympathy for the plight of the Tamil people and has offered its good offices in seeking a resolution of the conflict, is unlikely to favour a separatist Tamil state of Eelam.

The Sinhalese majority does not always seem to be aware of the nature of the problem and recent government statements make it apparent that a military solution is seen by the leadership as a first priority. "I shall have a military solution to what I believe is a military problem. After doing so I shall tackle the political side" – President Jayawardene, London *Times*, 27 January 1986.

The talks initiated by the Indian Prime Minister resulted in the statement by both the Sri Lanka Government and the Tamil negotiators of their own agendas for a solution.

It is apparently agreed by all that constitutional changes are needed which will ensure the cultural identity and protection of all minorities. However, there is dispute as to how this is to be achieved.

The Tamil negotiators, including those representing the militant groups, have advanced four guiding principles for negotiation:

- the Tamils should be recognised as a distinct "nation";
- the northern and eastern provinces should be recognised as Tamil homelands;
- the Tamil peoples' right to self-determination must be recognised; and
- citizenship rights should be granted to all Tamils living in Sri Lanka.

The government has since responded by making proposals for a:

- limited devolution of power by the setting up of Provincial and District Councils and vesting them with legislative executive powers over specified matters;

■ yet retaining a strong presidential control over appointments of the Chief Executives, the dissolution of the Councils, the appointment of the Head of Police in the provincial/district council areas, and the central training of police.

Both parties have rejected each other's proposals as unacceptable – the government rejecting the Tamil proposals as too much and the Tamils rejecting the government proposals as too little.

The TULF (Tamil United Liberation Front) has since submitted to the governments of both India and Sri Lanka outline proposals for peace negotiations based on a union of states linguistically identified.

What the Government and the Sinhalese people must realise is that proposals for regional autonomy should be sufficiently attractive to persuade the Tamil representatives and people to drop their demands for a separate state. Tamil spokesmen often concede that the concept of "nationhood" could be recognised within a Sri Lanka whose constitution provided for real devolution of decision making in Tamil areas, or effective regional Tamil government. Examples are cited of the constitutions of India, Yugoslavia and even the United Kingdom where Scotland has certain devolved powers in legislation which could be in future extended. What the Tamils must realise is that no Government is likely to preside over the division of the country into two separate states.

The main problem areas to be tackled would appear to be Language; Land Settlement; Extent and Geographical Scale of Devolution; and Citizenship Rights.

Language:

The Tamils have always nurtured a grievance that Sinhala was made the sole official language throughout the country. However, subsequent legislative provision and the 1978 Constitution declared Tamil as a national language and decreed its use in the administration of the northern and eastern provinces. There is also legislative provision granting the Tamils the right to communicate or transact business with and receive replies from government officials in their own tongue. These provisions are not currently implemented but their very existence provides one area of agreement. The special provisions for Tamil language and usage in the Northern and Eastern provinces further strengthens this area of negotiation.

Language is the most important culture marker of the identity of both the Sinhalese and Tamil communities. A solution to this question is bound to reduce ethnic tension and assist in the resolution of other problems.

Provision of facilities in all schools for Tamil pupils to learn the Sinhala language and Sinhala pupils to learn the Tamil language may result in creating better understanding and communication between children of both communities at a very early stage in their development.

Land Settlement:

Every Sri Lankan must have freedom of movement and residence anywhere within the country. On this basis a reasonable policy on land settlement which does not endanger the ethnic or demographic composition of any area is required. "A mutually acceptable compromise on the "homelands" question could be to acknowledge both the present political need of the Tamils to preserve their numerical preponderance in the Northern and Eastern provinces, and the existence of land hunger in other parts of the country."*

Devolution

Any measure of devolution should be sufficiently real in terms of regional or provincial autonomy to justify the Tamil leadership in setting aside their claims for a separate Tamil state. The terms should have built in reasonable and enforceable safeguards for the security of all Sri Lankans, including the minorities in the North and East, the Plantation Tamils, the Sinhalese residents in the provinces of Tamil devolution, and the Tamil residents in the predominantly Sinhalese areas of the south.

The exact powers to be devolved to provincial level are of course crucial but should, with good will, be capable of a rational solution.

The question of the actual unit of devolution is full of pitfalls. The Tamil claim is for a merger of the northern and eastern provinces into a single unit. The government is adamant in its opposition to such a merger. If agreement could be reached on other issues, the Tamil leadership might be more disposed to accept the province as the unit of autonomy, particularly if a proviso can be added that after a specified period a referendum be held in the two provinces on whether or not a merger should take place, the government to agree to abide by the results of the referendum. Another compromise might be for a province to be the core unit of devolution, with the option left to the elected bodies of each province to set up coordinating structures at the inter-provincial level.

Citizenship Rights:

The government has already announced plans to grant citizenship to 95,000 "stateless" plantation Tamils and their natural increases. There are however pronounced problems in the plantation areas which require cautious and detailed discussions.

The involvement of the people of Sri Lanka in the endorsement of any settlement and the ways in which that endorsement can be secured is crucial. In a situation of majority versus minority, where voting broadly follows ethnic lines, the majority wins. There is, therefore, a risk that even if agreement is substantial, any "agreed" proposal could nevertheless be rejected by popular vote unless an intensive

* "Traditional Homelands: Myths and Realities" by Jehan Perera.

programme of information and education is conducted by all parties and there is agreement that no one seek political advantage from a national tragedy.

This programme of education must include efforts to remove Sinhalese fears that regional autonomy would some day lead to secession and that such fears are not based upon the experience of other countries.

The fears of the Sinhalese people that regional autonomy or devolution would impair the sovereignty or territorial integrity of the country must be allayed. Their equally strong fears of a massive influx of Tamil immigrants across the Palk Straits must also be recognised and reflected in the ultimate settlement.

Finally, there is need, once a settlement has been reached, for the international community to offer and provide whatever aid is required to ensure the economic and social recovery of Sri Lanka after the prolonged internal conflicts which have dramatically affected new development and existing programmes for economic progress.

Just as there is fear within the majority community that a Tamil settlement will encourage further demands for a separate state, so too many Tamils have a profound fear that agreements and constitutional settlements arrived at will be sacrificed to majority conflicts and competition between political parties at the expense of the minorities.

Similarly the neighbouring and associated countries of Asia, the Commonwealth and the United Nations have reason to be interested in the reaching of a secure settlement which will facilitate long term development programmes and the full participation of Sri Lanka in the programmes of the international community.

A peaceful and stable settlement of the Sri Lankan conflict is in the interests of all Sri Lankan citizens and of the people and governments of the United Nations.

Sri Lanka, The Ethnic Conflict

Introduction

Regardless of who first settled in Sri Lanka, it is incontrovertible that Sinhalese, Tamils and Muslims have inhabited the island for several centuries and made it their home. All the peoples campaigned for independence from British colonial rule. And most importantly all the peoples have contributed to what Sri Lanka is today.

Despite differences which existed or which surfaced between the leaders of the various ethnic and religious groups in the period preceding independence, there emerged a basic consensus around a Constitution which sought to allay the apprehensions of the minorities. This was achieved by an "entrenched" provision in the Constitution which prohibited enactment of laws which were discriminatory as between the various ethnic and religious communities.*

A country which gained independence without bloodshed and with a substantial degree of understanding and harmony among the various communities today finds itself torn apart by ethnic conflict and rocked by armed violence, death and destruction.

Many commentators tend to view the present conflict as a continuation of the so-called historic rivalry between the Sinhalese and Tamils. The fact that Sri Lanka was separated by a narrow stretch of water, the Palk Straits, from the Indian mainland did not prevent it becoming embroiled in the struggle for political supremacy in South India. While its separate existence as an island enabled the development of a unique and exceptional heritage of its own, including the preservation of Buddhism and the evolution of the Sinhala language, Sri Lanka could not and did not remain uninfluenced by events in South India.

The three powerful South Indian kingdoms of Chera, Chola and Pandiya were interlocked in political, territorial, cultural, and matrimonial alliances with the Sinhalese kings of Sri Lanka, so that Sri Lanka played a not insignificant role in the balance of power in the southern Indian context of the time.

Sri Lanka is a multi-ethnic and multi-religious country and as such requires responsible and sensitive handling of issues affecting fundamental relationships between communities. Due recognition of the legitimate rights of each could have averted the present crisis. Unprincipled and cynical abuse of issues impinging on ethnic relations has driven an almost unbridgeable gulf between the two major communities. While the Tamil minority has cried "discrimination" and "oppression",

* Article 29 of the Constitution of Sri Lanka, 1948.

those wielding power and influence have tended to look upon Sinhala sectional interest as synonymous with the national interest. This identification of Sinhala majority interest with the national interest has been characterised and perceived by the Tamil minority as an exercise in the assertion of Sinhala hegemony. Attempts made to resolve the conflict have met with violent opposition built up among the majority Sinhalese population, raising atavistic nightmares of their total annihilation and extinction by an all-enveloping Tamil majority from South India.

Thirty five years after independence, the ethnic conflict confronting Sri Lanka is more acute today than at any time in the past. This unresolved conflict has resulted in the loss of thousands of lives, destruction of property on a vast scale, left the country's economy in a shambles, created refugees inside and outside the country, set in motion a process of militarisation alien to normal civilian life, and threatens democracy as it has hitherto been known in Sri Lanka.

Seeds of the Conflict

Sinhalese constitute the island's dominant ethnic group comprising 74 per cent of the population. The two major minority groups, the Tamils and the Muslims, constitute 18.2 per cent and 7.4 per cent respectively.* Sinhalese speak the Sinhala language, and the Tamils and over 90 per cent of the Muslims speak the Tamil language. By religious persuasion, the Sinhalese are Buddhists, the Tamils are Hindus, and the Muslims follow Islam. People of the Christian faith constitute a significant minority within the Sinhala and Tamil communities.

Sinhala perceptions and fears

Sri Lanka is the traditional homeland of all Sri Lankans. The population consists of Malays, Moors, Burghers, Sinhalese, Tamils and Tamils of Indian origin. Some groups of the population have lived for long periods in certain areas. But this does not mean in modern Sri Lanka that such groupings can claim exclusive or special rights to their parts of the country. In spite of the pluralistic character of the Sri Lankan population, there is a deep rooted faith among the Sinhalese that the island is a Sinhala-Buddhist country. This faith is further reinforced by the long-held popularised belief that Lord Buddha chose the Sinhalese to preserve Buddhism in Sri Lanka. While Buddhism is practised throughout the world and is particularly strong in Asian countries, Sinhalese Buddhists have always felt that they have a special role in the preservation of true Buddhism. Such perceptions have resulted in expressions of intolerance towards the island's minorities and their role in Sri Lanka.

Such attitudes are reflected by oft repeated fears that: "Sinhalese have only Sri Lanka: they have no other place to go to". This fear is further exacerbated by the presence of nearly 50 million Tamils in neighbouring South India. Although the Sinhalese constitute an overall majority in the country, the existence of such a large number of Tamils in close proximity has helped to create a sense of minority and a

* 1981 Census – Department of Census & Statistics, Colombo
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feeling of collective fear and grievance. This sense of fear is heightened by the support given to Tamil extremism and the nationalist groups in Southern India.

Despite the fact that leaders of the majority Sinhala community have held a dominant grip on the political and economic activity in the country since independence in 1948, it is still the case that many Sinhalese people feel that they are the aggrieved partly as against the minorities. When, for example, the All Party Conference was convened in January 1984 to discuss the grievances of the Tamil minority with a view to reaching a political solution, the representatives of the Buddhist clergy included the "grievances of the Sinhalese" as an item for discussion.

Such grievances result from the conviction that the Tamils received preferential treatment during the colonial period. The English introduced a new education system in the 19th century to provide a supply of people to run the machinery of government. Most of the schools were built in Colombo or Jaffna. This gave the Tamil community a disproportionate share of places and virtually denied all access to the rural Sinhalese population. Not surprisingly, by the end of the British period of rule, the civil service and the professions became dominated by the Tamils.

The cumulative effect of colonialism was to add social and economic cleavages to the religious and cultural differences which already existed between Sinhalese and Tamils. The post colonial history of Sri Lanka has been one of Sinhalese dominated governments (of diverse political persuasions), divesting Tamils of their past social and economic privileges. Despite this period of Sinhalese power, the existence of Tamil privileges remains an important perception within the ethnic majority and is supported by statistics indicating that even in 1985 "over 25% of the university entrants are Tamils – a disproportionate ratio – and that the average figure for Tamil professionals in Sri Lanka is over 30% for engineers, doctors, medical technicians, accountants, surveyors, etc."*

A further resentment is expressed amongst the Sinhalese community that, while the Tamil claim is for an independent nation in the north and east – often referred to as the "homelands" or "Eelam" – a "majority of Tamils" in fact live in the south. Without debating the accuracy of the actual statistics, there is a widespread feeling that the Tamil minority wishes to have a protected role in the north and east and to play a full part in the governance of the rest of the country. This perception is supported by government politicians who point out that there are Tamil members of the Cabinet of President Jayawardene.

Sri Lankans of all racial groups in the South have been quite happy for generations to have hundreds of thousands of Sri Lanka Tamils living and earning their livelihood in what could be seen as "traditional Sinhalese homelands".

* Statement to International Alert by the UNP President, UK and Europe, 19 November 1985.

Tamil perceptions and fears

The Tamils can be categorised into two groups, the Sri Lanka Tamils and the Plantation Tamils. The Sri Lanka Tamils have traditionally lived in the northern and eastern provinces and represent 12.6 per cent of the population. During the last century many of the Sri Lanka Tamils had moved out of the north and east to live and work in the predominantly Sinhala south. Repeated outbreaks of communal violence, particularly since 1956, have resulted, particularly since July 1983 in many Tamils who had lived in the south returning to the North and East in search of security.

The plantation Tamils, also sometimes referred to as Tamils of recent Indian origin, constitute 5.6 per cent of the population, and are the descendants of the people brought from India by the British about 150 years ago. They mainly live in the central highlands where the tea plantations are located.

With the grant of universal franchise in 1931 and throughout the run up to independence in 1948, the Tamils feared institutionalised discrimination by the Sinhala majority community.

The State Council elected in 1931 was divided into seven Executive Committees, each headed by a Chairman. The Chairman of these Committees constituted the Cabinet. Between 1931 and 1936, Sinhalese, Tamils and Muslims were represented in this Cabinet. However, in 1936 the majority of the Sinhalese members of the State Council saw to it that each of the Committees had a Sinhalese majority which ensured that all the Chairmen were Sinhalese. The result was the creation of what was then described as a "Pan-Sinhalese Cabinet". From 1936 until the general election in 1947, the Cabinet was composed of Sinhalese only except for one Tamil appointed in 1942.

The response of the Tamil Congress to the exclusion of minorities was to demand balanced representation to consist of fifty per cent Sinhalese, and fifty per cent of all minorities. The Independence Constitution, however, provided guarantees for the minorities, and the leader of the Tamil Congress joined the Cabinet of the first independent government.

Since independence the Tamil representatives have consistently identified a number of grievances and discriminatory measures:

■ **Removal of Citizenship and Franchise:** The Plantation Tamils who constituted nearly a million people at independence were deprived of their citizenship and nationality in 1948 and in the following year they were deprived of their voting rights. (This topic is dealt with in detail later. See page 13.)

■ **Marginalisation of the Tamils:** The Tamil representation which was about 25 per cent in the Parliament at independence, was reduced by almost 50 per cent as a result of the deprivation of voting rights to the Plantation Tamils. The majority Sinhalese community with 74 per cent of the population is seen as having 84 per

cent representation and an inbuilt permanent ethnic majority in Parliament. The Tamils feel marginalised within the political framework.

■ **Linguistic Rights:** It was agreed policy among leaders of all communities and political parties that the Sinhala and Tamil languages would replace English as the official languages of the country. Yet, in 1954 the Sri Lanka Freedom Party (SLFP) and the ruling United National Party (UNP), abandoned this two language policy and adopted the policy of Sinhala as the only official language in 1954. Tamil members belonging to these parties resigned in protest.

In June 1956, the Official Language Act declaring Sinhala as the only official language was enacted. The language issue is, therefore, central to the Tamil perception of their grievances as is the question of language teaching in schools.

The Tamils further claim that the provisions of the Constitution, including Article 22(2) which enabled a person to "receive communications from, and to communicate and transact business with any official in his official capacity in either of the national languages", namely Sinhala and Tamil, are not operated in practice.

■ **Employment:** For Tamils the entry into state and private sector employment was seen as the only avenue for economic survival and social advancement, so accounting in part for the large number of Tamils holding administrative and clerical jobs at the time of independence.

"The Tamils were never large landowners or estate owners like the Sinhala upper classes. Only a handful were affected by land reform. The most lucrative export sector of tea, coconut and rubber, even before nationalisation, was never dominated by Tamils. It has been observed in many societies that those who do not hold land tend to go into professions or businesses."

For a community which had relied heavily on employment as a means of economic survival, the perception of being deprived of this avenue by governmental discrimination has resulted in frustration and alienation.

Of approximately 500,000 vacancies filled in the state and corporation sectors after 1977, those belonging to the Tamil community were less than 2%. Since the 1970s there has been a virtual moratorium on Tamils being selected for the armed services and recruitment of Tamils for the police force has been drastically reduced. Tamils constitute less than 2% in the armed services and less than 5% in the police service.*** According to the Department of Census and Statistics, between the years 1977 and 1981, of 9,965 persons recruited into the clerical service, 9,326 (or 93.6 per cent) were Sinhalese and 492 (or 4.9 per cent) were Tamils.****The unemployment

* The Sri Lanka Constitution of 1978, Article 22.

** Selected Documents of the Committee for Rational Development, Sri Lanka: "The Ethnic Conflict, Myths, Realities and Perspectives", page 16, 1984.

*** Mervyn de Silva, Far Eastern Economic Review, 30 October 1984.

**** "Non-Discrimination and Self-Determination" by Dr. Nihal Jayawickrama, Lanka Guardian, Vol. 8, No. 1, May 1, 1985.

rate among young Tamil males who have passed the G.C.E. A/L Examination is 41 per cent. The Sinhalese suffer an unemployed rate of 29 per cent.*

■ **Education** The perception is well summarised in the following quotation: "Analysts of the ethnic conflict in Sri Lanka would appear to be convinced that one of the principal causes of the rise in militancy among the educated Tamil youth has been the subject of admission to higher education. The Government should re-examine its policies on university admissions with a view to basing admissions on merit rather than on racial grounds. Tamil and Sinhalese young people alike will then have equal rights to university education on the basis of capacity rather than on race. One of the major points of tension among many Tamil youths has been the implicit racial quota under present university admission policies which has barred many competent youths from pursuing higher education."***

Plantation Workers

Unlike the 'Sri Lankan Tamils' who predominantly live in the northern and eastern provinces, the plantation Tamils (who are also often referred to as 'Tamils of Indian origin') are largely concentrated in the tea plantations located in the central highlands of the island. The plantation Tamils of today are the descendants of people who were brought from India by the British, beginning in the 1820s, first to work in the coffee and later in the tea plantations.

Isolated geographically in the central highlands and virtually separated from the rest of the population, the plantation Tamils have constituted almost a captive labour force leading a life of extreme poverty and deprivation.

In the 1981 census, they numbered 825,233 or 5.6 per cent of the total Sri Lankan population of 14.85 million. From 1911 to 1963, the plantation Tamils averaged between 10 and 15 per cent, their numbers rising from 500,000 in the 1911 census to just over a million in 1963. In 1969-70, they accounted for 1,162,300 persons constituting 9.4 per cent of the total population.*** The reduction in their numbers in recent years must be attributed to the repatriation of a considerable number since 1964. Nevertheless, the plantation Tamils constitute one of the more significant minorities in the predominantly Sinhala-Buddhist population of Sri Lanka.

Although, by their labour, the plantation Tamils have contributed enormously to the country's national income, they have been largely

* Ministry of Plan Implementation and Department of Census and Statistics, p. 83.

** "Ethnic Conflict and Violence in Sri Lanka" by Professor Virginia A Leary, Report of the International Commission of Jurists, 1981, p80.

*** Report of the Socio Economic Survey of Ceylon, 1969-70, Department of Census and Statistics, Colombo.

excluded from participation in the political life of the country. "The bulk of them continue to work on the tea estates, and by their labour make a vast contribution to the national income. Yet they continue to be miserably paid, miserably housed and miserably deprived in the provision of food, health and education. For none of these deprivations do they have any remedy, since most of them cannot even now be represented in Parliament, or in local government; although virtually all of them today were born in Sri Lanka, the great majority do not now even have Sri Lankan citizenship."

At independence in 1948, all plantation Tamils, in common with all other Sri Lankans, were regarded as nationals and were entitled to vote. In fact, the Scheme for Independence submitted by the Sri Lankan Board of Ministers headed by Mr D S Senanayake (who later became the first Prime Minister) provided for a parliament of 95 elected members of whom 14 were to represent the plantation Tamils. In the elections held for the first independent Parliament in 1947, the plantation Tamils returned seven of their representatives as MPs and significantly influenced the outcome in some 15 other electorates.

The first independent government of Sri Lanka, within the first year of assuming office, deprived the plantation Tamils of their nationality and citizenship by the enactment of the Ceylon Citizenship Act, 18 of 1948, and in the following year deprived them of their franchise through the Ceylon (Parliamentary Elections) Amendment Act of 1949. The Plantation Tamils were thus rendered stateless and voteless.

Proof of citizenship was insisted upon by the authorities in the following matters:

- employment in the public and private sectors;
- the issue of passports or other travel documents;
- the issue of Certificates of Citizenship;
- the issue of rice ration books;
- the inclusion of names in the Electoral Register;
- the registration of transfer of property or shares;
- the registration as Ceylonese traders;
- other spheres reserved partly or fully for Ceylonese.

The enfranchising of the plantation Tamils was implemented with a simple but effective administrative act. In revising the Electoral Register for 1950 in the Central Administrative Districts of Sri Lanka, *all* Tamil names (including those of Sri Lankan Tamils) were just left out of the Register of

* "Sri Lanka: Mounting Tragedy of Errors" by Paul Sieghart, Report of the International Commission of Jurists, March 1984, p13.

Voters. Any person who wanted his name restored had to make a special application with proof of citizenship. The result was dramatic as illustrated by the following table:

Constituencies:	No of Voters at the General Election 1947	No. Voters after the Revision of 1950	No. of Tamil Voters after the Revision of 1950
1 Nuwara Eliya	24,295	9,279	
2 Talawakele	19,299	2,914	244
3 Kotagele	17,092	7,738	137
4 Nawalapitiya	22,580	9,935	675
5 Maskeliya	24,427	8,691	203
6 Haputale	11,123	7,049	322
7 Badulla	43,396	28,134	1,291

An agreement entered into between the Indian and Sri Lankan governments in 1964 provided for the repatriation of 525,000 plantation Tamils to India and approximately 300,000 to remain in Sri Lanka and granted citizenship on a gradual basis. The division was arrived at arbitrarily and without the consent of the plantation Tamils or their representatives. The agreement has been partially implemented and an estimated 350,000 have been 'deported' to India and approximately 150,000 have been granted citizenship. The agreement lapsed in October 1981.

In January 1986 the Sri Lankan Parliament passed an Act granting citizenship of Sri Lanka to 469,000 stateless persons of Indian origin.

Evolution of the Conflict

The Bandarnaike-Chelvanayakam Pact (BC Pact) entered into in July 1957 between the then Prime Minister, Mr S W R D Bandaranaike and the then leader of the Tamil Federal Party, Mr S J V Chelvanayakam, inter alia provided for a wide measure of autonomy through Regional Councils to be set up in the Tamil areas of the north and east. The Councils were to have powers over a wide range of subjects including agriculture, cooperatives, land and land development, colonisation, education, health, fisheries, housing, social services, electricity, water supplies and roads. It also provided for Tamil to be recognised as a language of the national Tamil minority of Sri Lanka and as the language of administration in the northern

and eastern provinces. It further recognised that "early consideration" should be given to the question of Sri Lanka citizenship for plantation Tamils. Had this pace been implemented, the country would have been spared much subsequent strife and violence.

An island-wide campaign was, however, mounted by the then opposition United National Party (UNP) and the Buddhist clergy denouncing the pact as a 'betrayal of the Sinhalese/Buddhist people.' On April 9, 1958, a large number of leading Buddhist monks went to the Prime Minister's residence and demanded that the BC Pact should be abrogated forthwith. "At 4.15pm, the BC Pact was torn into pathetic shreds by its principal author . . . the monks had won. But the monks insisted on getting this promise in writing. The Prime Minister went into the House, and the Health Minister, hardly able to suppress the look of relief on her face, brought the written pledge to the monks.*

The next effort was made between the then leader of the UNP, Mr Dudley Senanayake, and Mr S J V Chelvanayakam. The provisions of this agreement, dated 24 March 1965, were similar to but not as detailed as the BC Pact. In part fulfilment of the agreement, the government introduced regulations for the "reasonable use of the Tamil language." The SLFP, in alliance with the Buddhist clergy, in an exercise remarkably similar to the UNP/Buddhist operation in 1958, mounted a campaign characterising the regulations as a "sell-out to the Tamils". Although the regulations received parliamentary approval, they were never implemented. Upon the failure of the government to honour the provision of the agreement by enacting appropriate legislation, the Federal Party resigned from the government and went into opposition.

The 1972 Constitution

The United Front Government under the SLFP which gained an absolute majority in the 1970 general elections did not, however, make any effective moves to settle the ethnic conflict. Indeed, the introduction of "standardisation" for university admissions, imposition of further restrictions on the employment prospects of Tamils and the promulgation of the 1972 Republican Constitution contributed to a further widening of the differences between Tamil and Sinhalese.

In Tamil eyes, the 1972 Constitution removed the vestiges of the theoretical protection accorded to the minorities in the Independence Constitution of 1948. Article 29 of the 1948 Constitution provided as follows:

S.19 (1) Subject to the provisions of this Order, Parliament shall have power to make laws for the peace, order and good government of the island.

* "Emergency 1958" by Tarzie Vittachi.

- (2) No such law shall –
 - (a) prohibit or restrict the free exercise of any religion: or
 - (b) make persons of any community or religion liable to disabilities or restrictions to which persons of other communities or religions are not made liable: or
 - (c) confer on persons of any community or religion any privilege or advantage which is not conferred on persons of other communities or religions; or
 - (d) alter the constitution of any religious body except with the consent of the governing authority of that body.
- (3) Any law made in contravention of subsection (2) of this section shall, to the extent of such contravention, be void.

Not only was this Article dropped without any similar provision being substituted, the 1972 Constitution, inter alia, granted constitutional status to Sinhala as the sole Official Language. It also allocated to Buddhism the status of a state religion by giving it a “foremost place” and enjoining the state to afford protection to Buddhism.

Although the Tamil Federal Party had, since its formation in 1949, adopted the position that Sri Lanka was comprised of two distinct nations, a Sinhala nation and a Tamil nation, and advocated a federal system of government as the most suitable constitutional structure for a country with two peoples speaking two different languages, it had, nevertheless, remained unreservedly opposed to a division or separation of the country. The 1970 election of the Federal party made a categorical appeal to the Tamil people “not to lend their support to any political movement that advocates a bifurcation of the country”.

The situation radically changed following the 1972 constitution. May 1972 witnessed a renewed sense of unity among the Tamils with the formation of the Tamil United Front (later the Tamil United Liberation Front), an umbrella organisation of the main Tamil political parties. The TUF organised protest demonstrations and campaigns in the Tamil areas against the new constitution. Tamil youth campaigned strongly against the new constitution. “Standardisation” for admissions to universities had seemingly produced predictable resentment among the Tamil youth. The government responded with strong counter measures. “Hundreds of Tamil youth were arrested and sent to gaol without being charged and convicted in accordance with the law. Allegations of torture were widespread. Sections of the Tamil youth reacted violently. For the first time in Tamil politics, the use of violence in pursuit of political purposes began to emerge as a new phenomenon giving a new and alarming twist to the heightening ethnic conflict.

In May 1976, the TULF adopted a resolution which stated, inter alia, that the Tamils constituted a nation and that they had a right to self-determination. It committed itself to the "restoration and reconstitution of the Free, Sovereign, Secular, Socialist State of Tamil Eelam based on the right of self-determination inherent to every nation" and declared that such a state "has become inevitable in order to safeguard the very existence of the Tamil nation in this country".*

The TULF resolution also called upon the "Tamil youth in particular to come forward to throw themselves fully in the sacred fight for freedom and flinch not till the goal of a sovereign socialist state of Tamil Eelam is reached". Although the Secretary General of the TULF declared "Ours is a non-violent, civil disobedience movement. According to the tenets of Gandhi ji's teachings, we shall suffer whatever stern action you propose to take. History has also shown such sacrifices triumph in the end."** violence has resulted, involving both government and Tamil separatist groups. Violence, as always, has led to excesses on all sides and peaceful influences have been forced into the background.

The United National Party (UNP) won an unprecedented electoral victory in the elections held in July 1977 winning 141 of the 168 seats in Parliament. The TULF became the largest opposition party.

A reorganised UNP under the leadership of J R Jayawardene, the present President, had recognised before the elections that "the lack of a solution to their problems has made the Tamil speaking people support even a movement for the creation of a separate state". The UNP manifesto upon which it secured its massive victory, inter alia, stated:

"The United National Party accepts the position that there are numerous problems confronting the Tamil speaking people. The lack of a solution to their problems has made the Tamil speaking people support even a movement for the creation of a separate state. In the interest of a national integration and unity so necessary for the economic development of the whole country, the Party feels such problems should be solved without loss of time. The party, when it comes to power will take all possible steps to remedy their grievances in such fields as

- (1) Education
- (2) Colonization
- (3) Use of Tamil Language
- (4) Employment in the Public and Semi-Public Corporations.

We shall summon an All-Party conference as stated earlier and implement its decisions."

* From the resolution adopted by the TULF at its Vaddukoddai Convention on 14 May 1976.

** From the letter dated 25 May 1976 by Mr M Sivasithamparam, Secretary General of the TULF to the Prime Minister, Mrs S Bandaranaike.

"The decisions of an All-Party Conference, which will be summoned to consider the problems of non-Sinhala speaking people will be included in the Constitution."

It is generally accepted that, except where the TULF candidates contested, the UNP received the largest number of Tamil votes. The Ceylon Workers Congress representing the bulk of the plantation Tamils also supported the UNP, and its leader, Mr S Thondaman, subsequently became a cabinet minister. The TULF, although having a mandate on its separatist platform, was also amenable to a less ambitious solution. "While lip service was paid to separatism, the door was not banged against cooperation to achieve an agreed solution acceptable to both North and the South within the ambit of a Unitary State."

A unique opportunity had thus been created in which a fair and permanent solution to the Tamil problem could have been achieved through the means of a round table conference as promised by the UNP.

The government, however, did not summon its round table conference. It pushed through the 1978 Republican Constitution within a matter of weeks when the country was still under a State of Emergency. The TULF urged that provision be made in the proposed constitution for a measure of autonomy for the Tamil regions of the north and east. When this was rejected, the TULF MPs took no further part in the making of the Constitution. Thus, as in the case of the 1972 Constitution, the 1978 Constitution was also promulgated without the participation of the elected representatives of the Tamil people.

The pre-eminent and dominant constitutional position given to the Sinhala language and Buddhism was ensured by making provision for Sinhala to be the sole official language and to "be the language of administration throughout Sri Lanka". It also enjoined that the State "shall give Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster the Buddha Sasana". It also declared Sri Lanka to be a "Unitary State", thereby apparently precluding any chance for a solution of the ethnic conflict along federal lines.

Language Problems

Sinhala and Tamil were declared "national languages"^{*}, but the term 'national language' and its status were left undefined. However, it was provided that the Tamil language may be used in addition to Sinhala as the language of administration in the northern and eastern provinces, and that any person was entitled to "receive communication from, and to communicate and transact business with, any official in his official capacity in either of the national languages." Candidates at any public examination were also entitled to be examined in either Sinhala or Tamil, provided

* "Critical Analysis of the New Constitution of 1978" by N M Perera, PhD, DSc (London), Former Leader of LSSP and Minister of Finance.

** Article 19 of the 1978 Constitution.

that such candidates may be "required to acquire sufficient knowledge of the official language within a reasonable time after admission" to the public services.*

While the provisions in the 1978 Constitution relating to the use of the Tamil language, read together with the provisions relating to fundamental rights, represented an advance from those of the 1972 Constitution, "Sinhala is still frequently used as the language of communication by government departments even when entirely inappropriate, for instance in replies to letters written in Tamil by Tamil people".**

Settling of Sinhalese in Tamil Areas

During the latter part of 1984, the government announced its plan to settle Sinhalese people in the predominantly Tamil north and east to reflect the nationwide population ratio of 75% Sinhalese to 25% other minorities.

The Minister of National Security, Mr Lalith Athulathmudali, explained that this operation is linked to the overall ethnic problem. "I believe this is the successful method of combatting terrorism in a non-violent way . . . This could mean that somewhere in the future there could be more Sinhalese in the north than the Tamils."***

President Jayawardene's view on the matter was contained in a PTI report of 22 January 1985: "... that his government would carry forward the programme of settling Sinhalese in the north and east in accordance with the principle of distributing state land on the basis of ethnic proportion."

The government also commenced training and arming the Sinhalese settlers in these areas. Weapons were distributed among the settlers for "self-protection". Advanced training was to be given to new settlers: "All able bodied persons going to the north to settle down will be trained in the use of arms and on defence tactics. Each family would have a three and a half acre piece of land to cultivate. The government would construct houses for them."****

President Jayawardene's view on the matter was contained in a PTI report of 22 January 1985: "... that his government would carry forward the programme of

* Article 22 of the 1978 Constitution.

** "Democracy in Peril – Sri Lanka: A Country in Crisis", by Patricia Hyndman, Report of the Lawasia Human Rights Standing Committee, p.19.

*** Mr. Sarachandra Ratnakara, Cabinet Minister *Sun* (Colombo) 20 January 1985.

**** *Sun* (Colombo) 19 January 1985.

settling Sinhalese in the north and east in accordance with the principle of distributing state land on the basis of ethnic proportion."

The effect of arming the Sinhalese in Tamil areas was to transform what was hitherto a conflict between the Tamil guerrillas and the security forces into an armed conflict between the civilian people of the two communities. "What was up to some time ago action by the security forces against the groups which had chosen to take up arms against the state can now become generalised fighting between two armed ethnic groups."

The tragic consequences of this move were seen during the latter half of 1985 particularly in the eastern province when armed Sinhalese settlers joined with the security forces in "anti-guerrilla" operations.

All Party Conference 1984

Following the violent events of July 1983 and the resulting flight of nearly 80,000 Tamils to the neighbouring South Indian State of Tamil Nadu, India took an active role in peace efforts to bring about a resolution of the ethnic conflict. The then Indian Prime Minister's special envoy, Mr I. G. Parthasarathy, visited Sri Lanka a number of times and had discussions with the government, major political parties and the Buddhist clergy.

After several rounds of discussion between Mr. Parthasarathy, Sri Lankan government leaders and the TULF, a document which came to be known as 'Annexure C' was drawn up and finally agreed with President Jayawardene when he visited New Delhi for the Commonwealth Leaders' Conference in November 1983. The contents of Annexure C were to be the basis for negotiations at an All Party Conference (APC) to be convened by President Jayawardene.

Annexure C, inter alia, provided for the following:

- (a) District Councils were to be the basic unit of devolution. However, District Councils within a province may combine into one or more Regional Councils if the districts so desired and approved at a Referendum;
- (b) in the case of the northern and eastern provinces, the union of the District Councils within each province be accepted;
- (c) each Regional Council was to have a Committee of Ministers drawn from among the elected members and headed by a Chief Minister;
- (d) the Regional Councils were to have legislative and executive powers over specified areas including internal law and order, justice, social and economic development, cultural matters and land policy. They would also have power to levy

* Report of the Civil Rights Movement of Sri Lanka, 25 January 1985.

taxes and mobilise resources through loans in addition to receiving block grants from central government;

(e) membership of the armed forces should reflect the ethnic ratio and the police force in the north and east should reflect the ethnic ratio in those provinces;

(f) Subject to a national policy on land settlement to be worked out later, all settlement schemes should be based on ethnic proportion so as not to alter the demographic balance; agreement to be reached upon settlement schemes for major projects.

(g) The Constitution and other laws dealing with the official language Sinhala and the national language Tamil, the National Anthem and the National Flag to be accepted.

Nine political parties were originally invited to participate in the APC which commenced on 10 January 1984. Later participation was widened to include the Buddhist, Christian, Muslim and Hindu clergies together with other interest groups. A Conference of political parties summoned to arrive at a political solution to the ethnic conflict was soon transformed into one of groups representing a multitude of conflicting vested interest groups.

Annexure C, which was agreed to by the President as the basis for negotiation, was abandoned after objection to it was raised by Buddhist organisations. The APC lasted throughout 1984 with postponements and long delays between meetings. The absence of the second largest Sinhalese political party, the Sri Lanka Freedom Party (SLFP) which boycotted the APC due to the fact that its leader, Mrs. Bandaranaike, remained deprived of her political rights, seriously undermined any chances of solution based on consensus. (This situation has now changed but there is no suggestion of reconvening the APC.)

In the absence of an agreement between the participants, President Jayawardene submitted proposals in the form of two draft Bills, describing them as the considered views emerging from the Conference. The proposals included provision for 3,000 village level local authorities, a further two tiers of District and Provincial Councils and also for the setting up of a second chamber of parliament to be called the Council of State, with 75 members, 50 of whom were to be nominated by the 25 District Councils and the balance by the President.

A Cabinet Minister, Mr Cyril Mathew, opposed the proposals and exhorted the Buddhist clergy to do likewise. The SLFP also rejected the proposals, characterising them as a "legislative give away" to the Tamils with nothing in return. The TULF considered the proposals inadequate and stated that they "did not embody any scheme of autonomy which could be accepted by the Tamil people"; but it did not rule out any further negotiations on the proposals.

On 26 December 1984, President Jayawardene announced that his government had decided not to go ahead with the proposals.

Another opportunity for a peaceful resolution of the conflict was thus lost.

Communal Violence

The developing crisis has provoked very considerable violence. Considered below are the various components which have contributed to the situation. Communal violence mainly directed at the members and property of the Tamil community, including the predominantly Sinhala areas of the south of Sri Lanka, has been a recurring feature of ethnic relations since 1956. Since 1977, "The intervals between these episodes have become shorter; their extent over the Islands has become wider; and the violence has become more intense. All these are characteristics of a situation that is getting worse rather than better. Communal riots in which Tamils are killed, maimed, robbed and rendered homeless are no longer isolated episodes; they are beginning to become a pernicious habit."*

The first outbreak of communal violence began on 5 June 1956 following the introduction of the 'Sinhala Only' bill in parliament. On that day, MPs belonging to the Tamil Federal Party and about 200 of their supporters performed a Satyagraha (a Gandhian style non-violent sit-down protest) at the Galle Face Green opposite the Parliament in Colombo. They were attacked by a mob of Sinhalese unhindered and unobstructed by the police or the army. "In Colombo, on that occasion, the police looked on or looked the other way, when Tamils were beaten up on the street hardly a hundred yards away from the House of Parliament. They did not move a finger when hoodlums stripped a Federalist politician and chased him all the way across the Galle Face Green to the Galle Face Hotel. Police explained that they had been ordered not to interfere."**

The violence spread to other parts of Colombo and its suburbs in the course of which innocent Tamils were set upon and attacked. It also spread to other parts of the country. "The most seriously affected was the Gal Oya Valley – the newly opened colony for the reclaiming and settlement of the land on the eastern side of Ceylon. Over 1,150 people were killed during that brief spell of open race hate."***

The next bout of communal violence occurred in May 1958 following an island-wide campaign against the Bandaranaike-Chelvanayakam Pact in the course of which the Sinhala people were called upon to join in a 'holy war'. The violence engulfed the whole country. People were killed and their properties put to the torch. "The estimated death toll in the riots of 1958 was in the order of 1,000."**** Over 20,000 Tamils became refugees and were despatched to safety in northern Jaffna by ship.

Tarzie Vittachi concluded his book** with the following question: "What are we left with? A nation in ruins, some grim lessons which we cannot afford to forget and a momentous question: Have the Sinhalese and Tamils reached the parting of the ways?"****

* "Sri Lanka, A Mounting Tragedy of Errors", by Paul Sieghart, p.15, Report of the International Commission of Jurists, March 1984.

** "Emergency 1958" by Tarzie Vittachi, p104.

*** Ibid, p20.

**** Ibid.

The August 1977 communal violence was described as ten times worse than the 1958 disturbances, and the role of the police in instigating this violence was officially recognized in the report of the Santoni Commission set up to investigate the violence, its origins and handling.

In two weeks of sustained violence against the Tamils living in the south, many thousands were rendered homeless, the worst affected being the most vulnerable, the plantation Tamils, who were attacked in their plantations, their homes and in the streets. Many hid themselves in the jungle and others trekked to the Tamil areas of the north and east seeking physical security.

The security forces failed to prevent the violence and, in many instances, there was evidence of active collaboration between the forces of 'law and order' and the law breakers, including the police whose role and absence of intervention was strongly criticised in the Santoni Commission report.

The Annual Report of the Inspector General of Police for the year 1977, only released in May 1983, recorded a tragic catalogue of murder, arson, rape and looting during the anti-Tamil violence which occurred between 15 August and 13 September of that year. The Report stated that during the period of the communal riots, 3,327 complaints were recorded of which there were 13 cases of murder, 74 cases of rape, 1,141 cases of arson and 1,209 of looting. The Report also noted that the number of cases of grave crime for the year 1977 was 83,082 as compared with the 1976 figure of 55,195. "This unprecedented increase of 26,887 (48%) was mainly due to the breakdown in law and order during the period of racial riots of the same year."*

In August 1981 communal violence started in the eastern province, in and around areas recently colonised by Sinhalese, and soon spread across the whole island. By and large, the attacks were carried out by organised gangs disclosing signs of pre-planning. A statement signed and issued on that occasion by opposition parties, trade unions, civil rights organizations and some religious dignitaries accused "persons in powerful positions" of inciting and organising the violence. Condemning the "arson, looting, killing and other forms of violence directed particularly against the Tamil speaking people in various parts of the island", the statement added: "We are convinced from the available evidence that this violence is not a spontaneous explosion of racial feeling . . . On the other hand, it is clear that the violence has been the work of organised gangs of thugs who have been used for sinister political purposes to stage these incidents. There is good reason to suspect that persons in powerful positions have been behind the instigation, organisation and planning of this campaign of violence."

There were many reports of the involvement of leading members of the ruling party in the violence. "It is clear that subsequent violence in July and August, which was directed against Sri Lanka Tamils in the east and south of the country, and Indian

* *Saturday Review* (Sri Lanka), May 7, 1983.

Tamil tea estate workers in the central region, was not random. It was stimulated, and in some cases organised, by members of the ruling UNP, among them intimates of the President.”*

The International Commission of Jurists’ mission to Sri Lanka undertaken by Professor Virginia A O Leary in July-August 1981 concluded: “As a minimum, the Tamils are entitled to protection of their physical security within Sri Lanka. This protection can no longer be taken for granted.”** The validity of this assessment was amply demonstrated when further orchestrated violence broke out in July 1983.

The July 1983 violence had been provoked by the killing of 13 soldiers in a Tamil ambush in north Jaffna. The government acknowledged a death toll in 1983 of nearly 400, but Tamil sources claim that as many as 1,500 Tamils were killed during the July 1983 violence.

A task force appointed by the Minister of Finance to assess the damage caused by the July 1983 violence revealed that 116 industries affected had export orders worth Rs 800 million and that a high proportion of these had been lost. The task force reported that Rs 1,750 million would be needed to replace machinery, plant and equipment alone. Sri Lanka’s agro-economic tripod of tea, rubber and coconut took a heavy beating. Two rubber exporters lost stock valued at Rs 2.8 million. Nine oil mills were gutted containing Rs 60 million worth of coconut oil and copra. Tea stocks worth Rs 50 million went up in flames.

The government acknowledged that the communal killings were pre-planned and well organised. The Minister of State, Anandatissa de Alwis, said in a TV broadcast on 29 July 1983: “. . . there was a pattern about this, wherever the rioting took place, . . . His Excellency the President, when he addressed the nation, also referred to this general pattern of events, from place to place. The similarity of the action of those who took part in it. How can there be a pattern if there was no leadership? Pre-planning, instruction about what each group was to do . . . although riots took place, burnings of houses and shops took place in widely different parts of the city (Colombo) and its suburbs, there was a distinct method in every case. The rioters came along, took out the people from their homes, or the employees and proprietors from the shops, put them on the road, then carried some of the goods on to the road and set fire to them. Then they proceeded inside the workshop, or factory or house, to set fire to the rest. . . They knew exactly where to go. They didn’t search. They looked at a piece of paper, looked at a number and there they were. Therefore, there was pre-planning . . . these names were taken from the Register of Electors, from the Parliamentary Voters Lists, and were prepared very much in advance . . .”

The Ceylon Workers Congress (CWC) of which Cabinet Minister S Thondaman is President, in a statement condemned the “unprecedented savagery” by organised

* By Brian Eads, *The Observer* (London), 20 September, 1981.

** “Ethnic Conflict and Violence in Sri Lanka” by Professor Virginia A Leary, Report of the International Commission of Jurists, August 1981.

groups “which went on a rampage, unchecked for nearly a week, destroying and looting property, setting houses and establishments on fire, and killing and maiming innocent and defenceless victims while the guardians of the law remained inactive and, in some cases, even encouraged and assisted their lawlessness.”

The July 1983 violence brought in its wake an unprecedented movement of people, the consequences of which are still being felt. Many thousands were rendered homeless and destitute overnight, having lost all their possessions. From makeshift refugee camps set up in temples and school buildings, they were transported to the north by ship provided by India. Approximately 60,000 Tamils left the country to seek refuge in neighbouring south India and many more sought refuge in western Europe, Canada and Australia.

Tamil Militant Groups

The growth of Tamil youth militancy and recourse to violence as a political phenomenon in Tamil politics can be attributed to several factors: the repeated failure of all efforts to resolve peacefully what many Tamils perceived as their legitimate grievances; the intransigence shown by an almost impregnable Sinhala majority in Parliament; the apparent helplessness of the Tamil parliamentary leadership; the frequent communal violent outbreaks in which Tamils were always at the receiving end. Whatever the reasons advanced by observers and participants alike, systematic violence by Tamil groups became a dominant phenomenon in Tamil politics. “With the middle class TULF gradually losing credibility and authority, a new emergent leadership, more rooted in the Tamil soil, took command. A new generation – youthful, frustrated, desperate, angry and embittered – challenged the TULF. It also took to the gun.”*

Since the July 1983 violence and the resulting alienation and widespread fear among the Tamils, the role of the armed and trained Tamil groups has grown in numbers and capacity. To many Sinhalese and to the government they are “terrorists” but to many Tamils they are “the boys”, and freedom fighters. For the purposes of this publication they are referred to as “guerrillas” or Tamil militant groups. There is widespread documentation of terrorist activity carried out by the guerrilla forces against military and civilians.

The Guerrillas

There are at least 23 different armed Tamil groups, whose one point of unity is their desire for an independent Tamil homeland. The five most important are:

* Mervyn de Silva, *Lanka Guardian*, Vol 8, No 6, 15 July, 1985.

- The Liberation Tigers of Tamil Eelam (LTTE)
- The People's Liberation Organization of Tamil Eelam (PLOTE)
- The Tamil Eelam Liberation Organization (TELO)
- The Eelam People's Revolutionary Liberation Front (EPRLF)
- The Eelam Revolutionary Organization (EROS).

An analysis of the origin of each group shows how they became politicized in the seventies with the introduction of discriminatory policies against Tamil students hoping to enter university. All of the groups are committed to a socialist Eelam. The relative strength of the guerrillas is a matter of dispute. Tamil sources put it as high as 25,000 but it seems unlikely that all the guerrillas together could field more than 6,000 fighters. What is not in dispute is that with time the guerrillas' weaponry and tactics have become more sophisticated and have more support from the Tamil community. It is widely reported that help and military training is given by the Indian state of Tamil Nadu.

This is denied but there are camps where training takes place and there is popular support and funds to provide for arms, food and shelter, and training. Support among the Tamil population of Sri Lanka has also hardened in response to the reports of indiscriminate army violence, and also to intimidation by guerrilla groups. Sinhalese sources report that additional funding for the guerrillas comes from expatriate Tamils in Europe and the USA and from other support groups who contribute funds which are used for supplies to the guerrillas.

The leaderships of all these groups have been operating from Madras in south India since July 1983. It is widely believed that these groups have established basic military and political training for their followers in south India and to refugees and recruits from Sri Lanka. Two of the groups, the PLOTE and the EPRLF, operate pirate radio stations.

The Tamil guerrilla attacks may have originally been targetted at security personnel and government installations, with the objective of demoralising and weakening the forces, and making government difficult in Tamil areas, but inevitably there is a constant overflow of killing and suffering into the civilian population, caused both by military action and counter action by the resisting forces.

The security forces and the Tamil guerrilla groups have all suffered severe casualties. It is difficult, however, to arrive at any hard statistics of deaths, either among the security forces or the Tamil militants or the civilian population.

The government's policy of settlement of armed Sinhalese in what are perceived as the Tamil areas has also led to confrontation between the settlers and the Tamil groups. The attack on Dollar and Kent Farms in the northern Vavuniya district is a well known and dramatic example. These farms had been settled by plantation Tamils displaced during previously communal disturbances. The government acquired these farms for "village expansion" and refugees who had been settled there for a number of years were evicted. In their place, armed Sinhalese elements

were settled. A Tamil guerrilla group attacked these farms on 29 November 1984 resulting in a number of Sinhalese being killed.

At least 150 Sinhalese civilians died during another attack on the city of Anuradhapura on 14 May, 1985. All the five major Tamil liberation groups have disclaimed responsibility.

Violence by the Security Forces

The Sri Lankan armed forces have very often been brought into the vortex of the ethnic conflict in an attempt to restore order and maintain internal security during the army outbreaks of communal violence since 1956.

They have also become susceptible to political manipulation, through their politically appointed leadership and recruitment policies which virtually exclude Tamils.

Since 1977, the army has been thrown into the ethnic conflict for conducting a "war against terrorism".

"While policemen are trained to protect the State's citizens in peacetime, the basic training of all armed forces is to kill the State's enemies in wartime, and the Sri Lankan army is no exception. It may be understandable that a distinguished professional soldier like General Attiyala should see himself and his troops as being engaged in a 'war against terrorism', and perhaps only a little less understandable that President Jayawardene, in his capacity as Minister of Defence, should have a similar perception. But that perception is profoundly – and, in my view, dangerously – mistaken, as is the facile phrase so often used by governments all over the world that they are fighting a 'war against crime'. In a war, each side seeks to pursue the patriotic aim of defending its national territories and heritage against a foreign aggressor, sparing no degree of force or violence in the defence of those hallowed values, seeking by all available means to outgun and overpower the enemy, and so striving for an escalation of violence rather than its reduction. To transfer those objectives to a conflict between citizens of a single country can only have one effect: to escalate such a conflict into a civil war in the true sense – that is, the division of the nation itself into two groups so hostile that each treats the other as a foreign aggressor."*

The armed forces are composed of almost 98% Sinhalese, and the police force of nearly 92% Sinhalese. It is not surprising therefore that the perception within the security forces appears often to be that they are involved in action against Tamils and in defence of the Sinhalese. An essentially Sinhala army inevitably identifies the terrorist guerrilla groups as Tamils and therefore sees its role not as a neutral force in pursuit of maintenance of law and order, but to defend the Sinhalese and the country from the violence of Tamils. Equally, many Tamils view the army as an alien occupying force, running riot without any restraint whatsoever, seeking to suppress

* "Sri Lanka: A Mounting Tragedy of Errors" by Paul Sieghart, p69, ICJ.

them with brute force. And the frequently indisciplined and often appalling conduct of the forces has been widely reported. Following incidents in which Tamil guerrillas attack security personnel, the armed forces have often responded with reprisals and indiscriminate killing of innocent civilians and arson to their properties.

Many reports by civil and human rights organisations, both inside and outside the country, and by journalists, have confirmed an increase in the commission of atrocities by the security forces in retaliation to guerrilla attacks. The government admitted that on 11 August 1984, following the death of two service personnel in a land mine explosion reportedly planted by guerrillas, the security forces went on a rampage in the northern town of Mannar setting fire to 123 homes and businesses and killing a number of civilians. "It is like an army of occupation flattening everything in its path" was the comment of the Roman Catholic Bishop of Mannar, Thomas Soundaranayagam. "Sri Lankan forces are conducting a harsh and remorseless campaign of intimidation among the island's Tamil minority. By means of random murder, indiscriminate and trigger-happy soldiers keep the Tamils in the north in a state of constant fear. With the vanishing of reason, the fight against Tamil separatist terrorists now has the shrill tones of naked ethnic struggle. The predominantly Sinhalese army seems to have a free hand as it cracks down on the civilian population in the overwhelmingly Tamil northern province."*

With the government imposing a Security Zone covering the entire Jaffna and adjoining districts under the emergency, the situation deteriorated further.

The Civil Rights Movement of Sri Lanka, in a comprehensive report dated 25 January 1985 on the escalation of violence stated: "Mass arrests of Tamil youth are being carried out. Detainees in the custody of the state have been killed. Some members of the security forces have carried out massive reprisals against the civilian population and, in the course of their operations, have killed many people, and have caused much damage to private property, burning and destroying homes and farms. Peasants in the language-border areas have been pushed out of their villages. The killing of combatants and non-combatants on both sides has escalated; the civil administration of these areas and the normal economic and social life of the community have been disrupted."

Similar reports are being received in January and February 1986 but it is not the purpose of this report to detail violations of human rights and standards by either security forces or guerrilla groups. It is deeply regrettable that these events occur and will continue to occur until a political solution is found and implemented.

Recent reports of the involvement of overseas advisers, suppliers and supplies can only serve to heighten the tension, both within Sri Lanka and among Sri Lankans outside their country in India and elsewhere, whether as refugees or for domestic or commercial reasons. The existence of Tamil camps in Tamil Nadu is not disputed, nor the support of Tamil expatriates. The government is now reflecting in its

*The Guardian (London) 14 August 1984

**The Times (London) 31 December 1984

anti-terrorist activities the advice and assistance given by Israeli experts despite the absence of diplomatic relations between the two countries.

Militarisation

The continuing ethnic conflict and its violent expression has resulted in militarisation on both sides. Guerrilla groups are armed and trained with weapons captured from government security forces and from outside sources. The government has inevitably spent its own scarce resources on building up a military machine. Wherever violence is the overriding policy and government and opposition are locked in armed combat, normal administrative functions become subsumed in security considerations.

"The defining characteristic of the 'State of National Security' is that all decision making is subordinated to what is perceived by the regime as 'national security.' Secondly, the civilian process is militarised, and the military brought into what used to be the exclusive domain of politicians and civilian bureaucrats."*

Such a "State of National Security" has to divert much needed resources from welfare and development to security. This was spelt out by President Jayawardene in the following terms: "Immense resources needed for education, research, health and welfare have to be diverted to provide greater security for civilians everywhere. Protection must be extended to civil aviation, public buildings . . . We may have to equip ourselves . . . to do so at the expense of development and social and economic welfare plans."**

Again, such democratic and individual rights immediately fall victim to the obsession with security. President Jayawardene stated: ". . . But it is difficult to safeguard against terrorism while guaranteeing the freedom of the individual. It may not be long before we compromise the very beliefs on which democracy is built."*** The President also told the Executive Committee of the ruling party "We gave freedom to the press; the freedom to hold meetings, the freedom of opposition. But it should be remembered that in times of war, the opposition will not be allowed to do as it wishes. The freedom even of newspapers would have to be curtailed."**** Using emergency powers, the President banned an industrial action by the Bank Employees Union and he "cautioned trade unions that anti-government forces were engineering strike action in an attempt to further embarrass the government at a time when it was fully engaged in matters vital to the security of the country."*****

* *Lanka Guardian*, Vol. 7, No. 18, 15 January 1985

** President Jayawardene's address to the National State Assembly, 22 February 1985

*** Ibid

**** Ibid

***** *Sun* (Colombo) 22 March 1985

The consequences of the dominant concern for security cover the whole country, including both Sinhalese and Tamils. The laws hitherto operated in the Tamil areas have been extended to the rest of the country. Arrests and detentions, both under the Prevention of Terrorism Act and Emergency Regulations, are being carried out in the South on an escalating scale. Three opposition parties stated: "A sinister development of this situation is that the UNP government, in the name of 'fighting terrorism', has begun steadily to extend the militarisation that exists in the north and east to the rest of the country, thereby adding a new dimension to its concerted efforts to replace democratic institutions with greater authoritarianism and dictatorial rule."*

The government's obsession with "security" is such that there are no less than five ministers in charge of security and defence. Fourteen old airfields built by the British during World War II have been renovated and reopened and the existing runways are being extended. Israeli Secret Service personnel, military advisers and even ex-SAS mercenaries are operating in Sri Lanka. Arms supplies are being imported from various countries including the US, the UK, Pakistan, South Korea, China, South Africa, Singapore, Malaysia, Taiwan, Israel and through private international arms dealers.

More and more men are being brought under arms. Besides the increase in the number of the three armed services by several thousands, the Minister of National Security recently announced the intention of the government to raise a permanent army of 100,000 troops. Already batches of school cadets and "Home Guards" have been sent to Pakistan for training.

In early October this year, the Sri Lanka government put through parliament in a single day the Mobilisation and Supplementary Forces Bill. This enactment enables compulsory conscription of all sections of the population. The Act enables the setting up of a National Auxiliary Force, any other Auxiliary Force, any Para-Military Force, the Home Guard and a Civil Defence Force.

According to the explanatory note to the legislation, the NAF would "be a youth and young adults movement in arms" and para-military security forces. Those called up will be liable for military training every year and will serve for 10 years. The NAF is liable to be called for active service by the President to deal with "prevention or suppression of any rebellion or insurrection or other civil disturbance".

The opposition and civil rights organisations in Sri Lanka have already commented upon the sinister purposes behind the new legislation and the creation of the NAF which they fear would become the para-military arm of the ruling party to crush any opposition.

The massive programme of militarisation undertaken by the government is reflected in the dramatic rise in expenditure incurred on defence. The defence expenditure

*Statement by the Sri Lanka Peoples Party, the Lanka Sama Samaja Party and the Communist Party, *Lanka Guardian*, 15 February 1985.

has increased from Rs. 750 million in 1977 to Rs. 6 billion in 1986, an 800% increase. According to the Finance Minister, the military bill for a day is Rs. 16 million (\$750,000). Although the provision in the 1985 budget for defence expenditure was Rs. 3.7 billion (\$137 million) the actual expenditure was Rs. 6 billion (\$222 million).

The inevitable effect of escalating violence and the abandonment of negotiation on both sides is that funds are diverted to military purposes, civil liberties are undermined and both guerrillas and government become more and more committed to a perpetuation of a conflict from which no military solution will emerge.

Again the involvement of aid giving governments and international agencies is subject to re-examination.

Consequent to the increasing military expenditure Sri Lanka is facing a big budget deficit for 1986 and the Finance Ministry announced that supplementary votes "except for very essential security purposes" would be turned down. The 1985 budget which was projected to have a surplus of Rs. 1.7 billion (\$63m) would end with a deficit because of increased defence expenditure. The total expenditure for 1986 has been estimated at Rs. 67 billion (\$2.5 billion) and revenue at Rs. 35 billion (\$1.4 billion) giving a deficit of Rs. 32 billion (\$1.1 billion). The amount estimated for defence expenditure is an enormous Rs. 5.84 billion.

Prevention of Terrorism Act

The Prevention of Terrorism Act (PTA) which was enacted as a temporary measure in 1979 has now become permanent.

The PTA has been subjected to detailed scrutiny by the International Commission of Jurists, Amnesty International and other human rights organisations. The condemnation of its provisions has been universal.

"These provisions (in the Prevention of Terrorism Act) are quite extraordinarily wide. No legislation conferring even remotely comparable powers is in force in any other free democracy operating under the Rule of Law, however troubled it may be by politically motivated violence. Indeed, there is only one known precedent for the power to impose restriction orders under section 11 of the Sri Lankan PTA and that — as Professor Leary rightly pointed out in her Report — is the comparable legislation currently in force in South Africa . . . such a provision is an ugly blot on the statute book of any civilised country . . ."

The PTA provides for —

(a) detention incommunicado for up to 18 months at a time;

* "Sri Lanka: A Mounting Tragedy of Errors" by Paul Sieghart, Report of the ICJ, March 1984, p.33.

- (b) detention without access to lawyers or relatives;
- (c) detention at such place . . . and subject to such condition as the Minister may determine. This enables the movement of the detainee from place to place and in army camps;
- (d) admission of confessions made to the police.

The Sri Lankan Government makes it a point to suggest that similar provisions exist in other countries, such as the United Kingdom. However, in Sri Lanka, any person suspected or believed to be concerned or connected with any "unlawful activity" may be detained under the PTA. The offence of "unlawful activity" has been given a definition in Section 2 of the PTA even to include erasing, mutilating or defacing "any words, inscriptions, or lettering appearing on any board, or other fixture on, upon or adjacent to any highway, street, road or any other place." Moreover, under the Sri Lankan PTA, detentions are authorised for 18 months.

The PTA enables any confession made by a person orally or in writing to a police officer at any time to be admissible in evidence.*

Any document found in the custody, control or possession of anyone accused of an offence under the Act, or of his agent or representative, may be used in evidence against him at his trial without calling its maker, and the contents of any such document are evidence of the facts stated therein.***

If any witness at such a trial contradicts a statement he made earlier, the Judge may still act on an earlier statement, and then have the witness arraigned and tried for perjury.***

Under the normal law in Sri Lanka, no confession is admissible in evidence unless it has been recorded by a magistrate who is expected to ensure that the maker of the confession is doing so voluntarily and the record of that confession should carry a certificate to that effect. Even where a confession is recorded by a magistrate, it is often open to the defence to challenge the voluntariness of the confession when it is tendered in evidence and where such a challenge is made, the burden of proving that the confession concerned was made voluntarily is always upon the prosecution.

However, under the PTA****, where the defence challenges the confession on the ground that it is irrelevant by reason of the fact that it had been obtained under torture, then the burden of proof falls on the defence. There is no additional evidence that the defence can adduce to discharge this burden when the confession is always obtained in conditions of solitary confinement in army camps. In all cases instituted under the PTA, despite defence allegations of torture, including graphic details of the forms of torture inflicted, the places where such torture occurred and by whom, the court has upheld the prosecution.

*Section 16 of Prevention of Terrorism Act 1979

**Section 18(1) of Prevention of Terrorism Act 1979

***Section 18(2) and (3) of Prevention of Terrorism Act 1979

****Section 16 (2) of Prevention Terrorism Act 1979

Article 11 of the Constitution of Sri Lanka provides as one of the fundamental rights that:

“No person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

While the constitution, supported by the International Covenant on Civil and Political Rights proscribes torture, the PTA prescribes conditions under which torture becomes a frequent occurrence. The Amnesty International “File on Torture” (October 1985) gives graphic examples of allegations and makes the following comment:

“Allegations that torture occurs in Sri Lanka have long been of concern to AI. Over the past five years, however, the organization has received consistent reports, many in the form of sworn affidavits, which lead it to conclude that the practice is widespread and persistent. Torture is used particularly against political detainees, some of whom have died as a result, and also against criminal suspects.”

Prohibited

When the present government took office in 1977 it prohibited torture and cruel, inhuman or degrading treatment under the Constitution. It has also denied that torture is permitted, stating, for example in a letter to AI on 30 July 1984:

“The Government of Sri Lanka categorically denies that it permits or condones the use of torture for any purpose whatsoever.” In 1982 the government also deposited a Unilateral Declaration Against Torture with the United Nations.

However, torture has been widely reported by a variety of sources. AI has received testimonies from former detainees detailing torture and from torture of others; from relatives of victims and from lawyers. In addition, the findings of several medical examinations of former detainees are consistent with the tortures alleged.

Those most at risk are young men, between the ages of 17 and 25, who are members of the Tamil community and have been arrested under the 1979 Prevention of Terrorism Act (PTA). Tamil women are also known to have been tortured.

Assault

AI has also received allegations that Sinhalese prisoners belonging to opposition parties, in particular the People's Liberation Front (JVP) and the Sri Lanka Freedom Party (SLFP) have been tortured. Sinhalese criminal suspects are also

regularly reported to have been tortured. For example, W A Dayaratne, a young man arrested on suspicion of theft, died in custody on 28 March after interrogation in Wallawa police station. At the inquest the magistrate stated he had died as a result of police assault.

Torture occurs in military and police camps and in police stations, but is rarely reported from prisons. It is used to extract "confessions" or to obtain information. It is widely used by the army and the police, including the Criminal Investigation Department (CID) and the Special Task Force, a recently formed police unit which operates in the Eastern Province.

In recent years most of the Tamil opposition groups demanding a separate state for the Tamil minority have resorted to violence. In addition to killing security forces they have been accused of killing alleged Tamil "informers" and in 1985 of killing Sinhalese citizens and of kidnapping and killing politicians."

The PTA also affords blanket immunity to all those who purport to act under it:

"No suit, prosecution or other proceeding, civil or criminal, shall lie against any officer or person for any act or thing in good faith done or purported to be done in pursuance or supposed pursuance of any order made or direction given under this Act."*

The PTA contains criminal provisions of a retroactive character contrary to Article 15(1) of the International Covenant on Civil and Political Rights.**

Independence of the Judiciary

Sri Lanka's judiciary has had an enviable reputation for its traditions of independence and impartiality. Inevitably, these qualities have brought the judiciary into occasional conflict with the Executive under different administrations. However, measures undertaken since 1977 have seriously undermined and threatened the independence of the judiciary.

Article 163 of the 1978 Constitution deemed that "all judges of the Supreme Court and the High Court . . . holding office on the day immediately before the

* Section 26 of Prevention of Terrorism Act 1979.

** Section 21 of Prevention of Terrorism Act 1979.

commencement of the Constitution shall, on the commencement of the Constitution, cease to hold office." Thus, all judges of the superior courts of the island stood dismissed.

Many of the previous judges were reappointed to the newly reconstituted Supreme Court, the Court of Appeal and High Court. However, a substantial number were not reappointed. A number of senior judges, including seven from the Supreme Court and five from the High Court, stood summarily dismissed; four judges were demoted and one District Court Judge was promoted over the heads of the entire High Court to the new Court of Appeal.

The newly reappointed judges, together with those appointed to fill the vacancies created by the dismissals, were enjoined to take their oaths of allegiance to the new constitution and thereby the question of the legality or otherwise of the new Constitution was effectively placed outside the scope of judicial review.

Previously, the subject of disciplinary control of judges and other judicial officers was dealt with by a Judicial Services Disciplinary Board which was comprised of the Chief Justice and other Judges of the Supreme Court. This body was replaced under the 1978 Constitution with a (Special) Presidential Commission of Inquiry to deal with, inter alia, the conduct of judges.

The two moves, the selective dismissal of several senior judges of the Supreme and High Courts who had served with distinction and impartiality, and the substitution of the Judicial Services Disciplinary Board with a (Special) Presidential Commission implied executive interference and political control of the country's judiciary. The trend became more pronounced and was reflected by government responses to judicial decisions and by the first amendment to the new Constitution which deprived the Court of Appeal of its power to deal with writ applications. This was seen as a direct result of the President's displeasure that the court, in exercising its independent judgment, had held that the Special Presidential Commission appointed to probe the conduct of the former Prime Minister did not have retroactive jurisdiction. This amendment to article 140 "seriously undermined the independence of the judiciary."

The constitutional amendment was not the only illustration of the government's response to judicial decisions.

A Superintendent of Police seized some 20,000 leaflets from a Buddhist monk who was engaged in a campaign opposing the extension of the life of parliament without a general election. The monk petitioned to the Supreme Court under Article 126 of the Constitution claiming that the Superintendent's action was an infringement of his fundamental right to freedom of speech and expression. The Court held in the monk's favour and awarded 10,000 rupees damages against the Superintendent personally, with costs. On 23 March 1983, the government announced that the police officer would be promoted and that the state would pay the damages and costs.

* "Critical Analysis of the New Constitution" by N.M. Perera, Ph.D., D.Sc., p. 104

Similarly Mrs. Vivienne Gunawardene (a former MP and well known veteran politician) was arrested and assaulted by a police officer. She petitioned to the Supreme Court claiming that she had been subjected to degrading treatment which constituted a violation of her fundamental rights guaranteed by the Constitution. On 8 June 1983, the Court found that the arrest was unlawful and awarded her 2,000 rupees damages with costs, and also directed the Inspector General of Police to conduct further enquiries. The day after the judgment, the government announced the promotion of the police officer concerned in the case.

Two days later, the private homes of the judges who heard the case were surrounded by unruly mobs which conducted themselves in an intimidatory manner. When the judges called for police assistance, it was not forthcoming.

The entire Supreme Court met and requested the government to carry out investigations with a view to apprehending and prosecuting the offenders. But no action was taken.

"Such events are hardly calculated to encourage the judiciary to remain independent, or to enhance public respect for its members, their judgments or the Rule of Law . . . The President freely conceded that he had personally ordered the promotion of the two police officers, and the payment out of public funds of the damages and costs. This he said had been necessary to maintain police morale . . . The conclusion is inescapable that he was deliberately seeking to teach the Judges a lesson, in order to make them more pliable to the Executive's wishes. If that is so, these were grossly improper acts; but for the immunity from all suit which the President enjoys under the Constitution, they might well have been criminal offences . . . I find it a matter for regret that in this instance, the President has on the basis of his own admissions fallen well short of that high responsibility. What he did may be understandable, but it is not excusable."

The Sixth Amendment to the Constitution required all public officers, including judges, within one month of the enactment of the amendment, to take a new oath promising that they would not support or advocate the creation of a 'separate state' within the territory of Sri Lanka.

Following tradition, all judges of the Supreme Court and Court of Appeal took their oaths before each other. However, the government, supported by a ruling from the country's Attorney General, insisted that the judges should have taken the oaths before the President. By failing to do so, the government declared that the judges had "ceased to hold office".

Judges were locked out and police were posted to prevent them from gaining access to their chambers. They, including the Chief Justice, were denied the right to remove their personal effects and papers from the chambers. Their official cars and the police protection given to guard their residences were promptly withdrawn.

* "Sri Lanka: A Mounting Tragedy of Errors" by Paul Sieghart, Report of the ICJ, March 1984, pp.59-61.

The country was without a Supreme Court or a Court of Appeal for a week. The impasse was resolved only when the judges proceeded en masse to the Presidential Palace and took their oaths before the President. All the judges were promptly reappointed.

In March 1984, a Parliamentary Select Committee was appointed, on a resolution moved by the Prime Minister and supported by MPs of the ruling Party and opposed by opposition MPs, to enquire into and report upon the conduct of the country's then highest judicial officer, the Chief Justice. The matter which caused this action was a speech, which the government claimed was politically controversial, delivered by the Chief Justice at a school prize giving function.

The Parliamentary Select Committee demanded of the Chief Justice to show cause why he should not be removed from office. Before the deliberations of this Committee were completed, the Chief Justice's term of office expired and he retired.

The traditional independence of the judiciary is thus eroded.

Tamil Refugees from Sri Lanka

Since the communal riots in Sri Lanka in the summer of 1983 the numbers of Tamils fleeing their own country has increased considerably. The riots of that year were followed by nearly two years of increasing violence in the north, north-west and east of the country. Many Tamils have fled from the violence of the 'security forces' which have been indiscriminate in their reaction to attacks on them. Others have fled from the attempts by militant groups to force Tamil youngsters to join them in their fight for a Tamil independent state — "Eelam".

The majority of those who have fled have landed up in south India where there are large camps in which the refugees are looked after by Indian governmental and voluntary organizations.

There are also an estimated 40,000 to 50,000 Tamil refugees in Europe. They have arrived in such numbers that many governments have taken steps to deter more arrivals by receiving them with less of a welcome than is usually given to refugees. In the United Kingdom a visa requirement was introduced for Sri Lankans who had to apply in Colombo before departure.

The main European countries affected are Germany, France, Holland, Switzerland and Britain.

The Federal Republic of Germany has received the largest numbers. Until July 1985 they arrived by Aeroflot or Interflug in East Berlin and because of the special international status of that city, they were able easily to cross into West Germany where they were granted asylum. In July a deal was struck between East and West Germany involving large trade credits from the Bonn government and an agreement by the East Germans to prevent the entry of Tamils who had no visa. This deal was

endorsed by the airlines concerned and the flow stopped virtually overnight. Today they come direct to West Germany.

Nearly 20,000 have arrived in the 15 months to November 1985 and although the flow has decreased since the summer, even in September 1985 1,057 arrived. By and large the Tamils are given immediate recognition as asylum seekers. The government then appeals this decision and thus condemns them to two years during which they are kept in restricted areas or detention centres with only basic rights while the appeal is heard.

The Netherlands has received approximately 3,500, but over 1,500 of these have since 'disappeared', presumably to neighbouring countries due to fear of being returned and also because of the harsh regime imposed on them in the Netherlands.

Switzerland was said to have 2,600 Tamils in June 1985 and Britain has about 2,000. France is another country where large numbers of Tamils have arrived. It is reported to have about 15,000 individuals. In Denmark all Tamils have been given asylum.

Elsewhere there is very considerable pressure exerted on them to return to Sri Lanka. With one or two possible exceptions, no Tamil has been returned unwillingly, but the threat of such action is constant — as it must be for asylum seekers whose status is undetermined.

The Dutch Government has investigated the possibility of opening reception centres in Sri Lanka to which Tamils can be sent back. Various sources have reported that the Federal Republic of Germany is exploring ways of sending the Tamils on to countries such as Bangladesh, Lesotho or the Maldives, which do not require entry visas. It has been officially announced that Switzerland is working with the United Kingdom, the Federal Republic of Germany, the Netherlands and Canada on a joint policy on Tamils which will include the question of return. They are intending to reach a consensus by the end of 1985.

Two things have probably been influential in persuading European governments to treat Tamils with this kind of harshness. One is the relatively large numbers that have arrived at a time of economic difficulty for Western Europe; the other is a widespread suspicion, not borne out by facts, that most of them are economic migrants taking advantage of the sympathy that undoubtedly exists for them in their struggle as a minority group in their own country.

It is perhaps not fair to speculate that they might have been treated with more sympathy if they had happened to be Caucasian.

Recent Arrests in the South

Widespread arrests of mainly Sinhalese youth and some persons associated with human rights organisations have occurred towards the end of 1985 and they are

being detained both under the Emergency Regulations and the Prevention of Terrorism Act. The number of those detained is estimated to be in the region of 200. The exact number detained is unknown, neither their names nor numbers have been released and the whereabouts of many of those arrested are also not known. Among those detained is a leading member of the Movement for Inter-Racial Justice and Equality, Mr Indika Gunawardene. A habeas corpus application filed by his wife has been resisted by the government and the Supreme Court has not yet set a date for hearing the application.

According to official press statements, those arrested are being detained for alleged connection with 'separatists' and 'terrorists'. The Civil Rights Movement of Sri Lanka, in protesting against these detentions, has stated: "These persons are being held in various police stations, often under acutely uncomfortable physical conditions, and in general . . . without the right of access to family or lawyers . . . many of them . . . are persons alleged to be members of the Samajavadi Janatha Viyaparaya (SJV) (Socialist Peoples Movement), a political grouping formed a few years ago which functioned openly, brought out publications, and advocated a peaceful settlement of the ethnic problem on the basis of regional autonomy. Those arrested include middle aged school teachers from rural districts respected in their areas with a record of service in their localities."

What Now?

Devolution must come. This has been accepted by both the Government in its proposals at the Thimpu talks – which the Tamils rejected as not going far enough – and in the stance taken by Tamils and their own four principles – rejected by the Government as going too far. The recent endorsement by the President in his statement in January 1986 of a military solution must give cause for alarm. The imposition of such a solution can only lead to further bloodshed on both sides and will in the end be no solution – it will solve nothing.

Both sides must recognise the very real fears and misperceptions of the other. Sinhalese and Tamils have lived in amity for generations – what has suddenly become so different? Are not all those who live on the island Sri Lankans? Is it not possible for Sinhalese and Tamils 'of good faith' to get together and work out an agenda for a solution which, given time and good will, can result in a gradual welding together of the disagreeing factions into one nation. Given such an agenda all politicians need to abandon measures of short term advantage to individual parties and to adopt a statesmanlike and long term attitude above party politics.

Sri Lanka is part of Asia, the Commonwealth and the United Nations. Peace or conflict in Sri Lanka affects everyone and all nations.

It is in recognition of these implications of the conflict in Sri Lanka that the International Emergency Committee was established.

Appendix B

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The International Emergency Committee on Sri Lanka

In the early part of 1985 there was increasing concern among the non-governmental development agencies and human rights groups about the increase in ethnic conflict, with its subsequent violence, world wide and in Sri Lanka in particular. Some of these agencies came together for a consultation in Utrecht convened by the Netherlands Institute for Human Rights (SIM), together with PRIO (International Peace Research Institute Oslo) and the UN University, Colegio de Mexico, in February 1985 to consider what joint action was possible, the direction it should take, and what organization might be needed to carry out the programme.

The outcome of these deliberations was the foundation of the Standing International Forum on Ethnic Conflict, Development and Human Rights. The situation in Sri Lanka was considered to be of such paramount importance that the first committee formed was the International Emergency Committee on Sri Lanka. Dame Judith Hart, MP agreed to act as Chair and its members include Bishop Tutu of South Africa and Senator Alan Missen who are Vice Chairs.

The aims of the International Emergency Committee are to work towards a peaceful solution of the ethnic problem on the island, the cessation of violence, and the re-establishment of basic human rights.

International Emergency Committee on Sri Lanka

Chair: Rt Honourable Dame Judith Hart, MP, PC

Vice Chairs: Bishop Desmond Tutu (South Africa)
Senator Alan Missen (Australia)

Members: Adnan Buyung Nasution (Indonesia)
Nicole Questiaux (France)
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