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## Interview

### Tamils of Recent Indian Origin and Citizenship



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## **What were the political reasons for the disenfranchisement of Indian Tamils soon after independence?**

To understand this you must go back to 1931, the time during which the Donoughmore Constitution was introduced. At that time, the question of how to determine the franchise was an important subject, as with regard to the Indian Tamil population, the Sinhalese leaders were of the opinion that these people were not permanently settled in this country. So the Donoughmore Commissioners decided that a person who had a Ceylon domicile of origin or choice (domicile of choice to be dependent on 5 years residence) could be registered as a voter. The question of domicile was decided based on English law principles on the subject. Alternatively, a person could be registered as a voter if he possessed a 'certificate of permanent settlement' granted on the condition of five years continuous residence in Ceylon.<sup>2</sup>

During the operation of the Legislative Council (1924-31), the voter base was very small. The total number was about 200,000, and the Indian Tamil estate population only had a little over 12,000 votes. After the introduction of universal adult franchise in 1931, the total number of voters in the country increased to 1,200,000. In 1931, even under these restrictive qualifications, the number of registered Indian Tamil voters was 100,000, which was still a very low proportion of the population. But with this voter base and depending on the way in which electorates were demarcated, the Indian Tamil community got two seats. In addition of course there was always someone appointed by the Governor.

The Donoughmore Commissioners originally proposed that the legislature should comprise of 65 elected seats and 8 nominated. After discussions and some objections raised in the Legislative Council, it was reduced to 50 elected and 8 nominated seats. Under the original formula of sixty five plus eight, the proportion

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<sup>2</sup> This certificate was issued to persons who were permanently settled in Ceylon or residing in the island with intent to settle therein. See further, P.P. Devaraj (2008) *Constitutional Electoral Reform Proposals and Indian Origin Tamils* (Colombo: Foundation for Community Transformation): p.11.

of the majority community to the minorities in the legislature would have been two to one, but when they changed it to fifty plus eight, the proportion became five to one. So an imbalance was created.

The argument used was that there were a large number of Indian Tamils living in the Kandyan areas, and there was a possibility of an Indian Tamil being elected in these areas traditionally populated by indigenous Sinhalese. There was a concern on the part of the Sinhala leadership that their representation particularly in the Kandyan electorates would be diluted and therefore there was a need to restrict the number of Indian Tamil people who were registering as voters. But even under those restrictive qualifications, by the next registration in 1936, the number of registered Indian Tamil voters increased to 145,000. Then later in 1939 it went up to 175,000. The voter base across the board was increasing, and similarly the Indian Tamil voters were also increasing, but their representation was still a very low proportion of the population. Then in 1940, when the next registration took place, it went up to 225,000.

The Sinhala leaders at that time immediately objected to this, because their main intention was to restrict the number of Indian Tamils who registered as voters. So then they [the Sinhala leaders] wanted special regulations with regard to the registration of voters from the estate areas. Accordingly, for the 1941 registration it was stipulated that all those who registered as Indian Tamils or the estate area population would have to appear for a personal interview. Not only was this a very unusual requirement, but the requirement of a personal interview was not known by many in the estate sector, because the communication system at that time was not as developed as today. Therefore a large number of persons did not go for the interview. Because of this the number of registered voters came down very sharply to 168,000. This completely changed the dynamics of the electorate. However, because of the onset of the Second World War, the election for the State Council [due in 1941] was put off, and the same Council [elected in 1936] continued. But it was on the basis of this registration that elections were held in 1947 to the new House of Representatives under the Soulbury Constitution.

In 1940 and in 1941, there were discussions between the government of India and the Ceylonese officials, which were known as the 'Bajpai-Senanayake Discussions.' They put out a report called the 'Joint Indo-Ceylon Report,' in which they discussed a number of issues. A formula was discussed and arrived at, that if an unmarried person has been a continuous resident in Ceylon for a period of ten years and if a married person for seven years (of course if you were absent from the country for less than one year you would still be considered a 'continuous resident') then they could be registered as voters. The others who do not get registered in this manner would get a residence permit but they will not have a right to vote. But finally that report was not accepted and in 1940-41, because war intervened, it was decided to put off the discussion until after the war.

Under the provisions of the Soulbury Constitution, it was envisaged that out of the total of 101 seats, the Indian Tamils would be able to get 12 according to the division of electorates. But in reality once elections were held, they were only able to elect 7 or 8 members. The Soulbury Commission itself observed that they were not provided with accurate statistics and figures and the figures given gave the impression that minority representation will be ensured. But the idea was that according to the population distribution that the Indian Tamil community was entitled to 12 seats.

Transfer of power took place in 1948 and almost before the ink was dried on the independence document, the government introduced the Ceylon Citizenship Act. The Ceylon Citizenship Act was planned in such a way as to exclude these people who were later immigrants from citizenship. So as you can see the introduction of citizenship laws were not done suddenly; there was a background to it which stretched back to 1931.

My opinion is that there is some justification to the concerns expressed by the Sinhala leaders; because when an indigenous population is there, you cannot dilute the representation of that population. But a very easy system could have been adopted by the drafters of the Soulbury Constitution to give representation to both. They could have made provision for double member electorates or any other system by which, Sinhalese as well as

Indian Tamil members could get elected in plantation areas where the population was mixed. But since that kind of provision was not made, in constituencies which had a large number of Indian Tamils, then the Sinhalese would not have representation, so naturally there were concerns. This is understandable because they [the Sinhalese] had traditionally lived in those areas.

But in 1947, to some extent an attempt was made to correct the demarcation of electorates. The Delimitation Commission was given instructions that if in a particular constituency there is a concentration of an interest, substantial in number as to warrant representation, then the stipulation regarding the number of voters to each parliamentary constituency could be changed. For example, if 75,000 persons was the set number of voters per constituency, the Delimitation Commission could reduce it to, say, fifty thousand, and this applied both to castes as well as to ethnic minority communities. The Delimitation Commission had to demarcate electorates in such a way so that minorities will also get elected. This premise laid down in 1947 by the Soulbury Commission continues even till today, but this concept is never practically implemented. Sri Lanka's population structure is such that you must have an electoral system which enables the representation of the different communities in reasonable proportion to their population.

**What about the contention that there was a fear psychosis amongst the Ceylonese leaders of the time about India's role in Ceylon? What impact did this have on the status of Indian Tamils?**

That also played a role. Sir Ivor Jennings said that Mr D.S Senanayake was well aware of the dangers implicit in having a population of nearly 350 million people capable under the wrong leadership of becoming aggressive.<sup>3</sup> There was the fear of a small country against the large country. As Sir John Kotelawela said, 'The day Ceylon dispenses with the Englishmen completely the island will go under India.' There is an idea that the British

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<sup>3</sup> I.W. Jennings, 'Crown and Commonwealth in Asia' (1966) *International Affairs* 32(2): p.138.

themselves encouraged such differences between India and Ceylon. The former Prime Minister of India Jawaharlal Nehru gave repeated assurances that India's policies were different, but it was of no use. The fear of Indian influence persisted and influenced discussions on the citizenship problem.

The other important factor was that in the post-war period countries like the Soviet Union had come to the forefront and the socialist movement was gaining momentum. The Lanka Samasamaja Party (LSSP) and the Communist Party had a base amongst the Indian Tamils, and in the 1947 elections, the Indian Tamils being workers, voted for these left parties, that is how they got fourteen seats. So there was the fear on the part of the Ceylonese elite that there was a threat to their position. This played an important role in the enactment of the Citizenship Acts. They wanted to remove this Communist influence in the plantations before the next elections. That is why immediately after independence the Ceylon Citizenship Act was introduced, and then immediately thereafter, they introduced amendments to the Election Ordinance, which specified that only a citizen can be a voter. So that meant those who failed to meet the new citizenship criteria could not vote in the next election, which was coming up in 1951. But representations were made to the government that the old register should be kept operational until the people are registered as citizens, but they completely refused. Then the government of India also made representations; there was correspondence between D.S. Senanayake and Nehru that the citizenship measures went counter to the previous discussions between India and Ceylon. But the government was determined that the 1951 elections should be held without the voters of Indian Tamil origin.

Then of course local politics took its own turn. D.S. Senanayake wanted to promote his son Dudley as the next Prime Minister, but S.W.R.D. Bandaranaike was more articulate and educated and fitted the bill of being the next leader. So D.S. Senanayake sidelined him. There is also the feeling that even the British collaborated with D.S. Senanayake, because they thought they could not handle S.W.R.D. Bandaranaike. Thereafter S.W.R.D. Bandaranaike left the United National Party (UNP) and formed the Sri Lanka Freedom Party (SLFP). Bandaranaike was an

erudite politician; he was also the founder of the Sinhala Maha Sabha and he knew how to tap in to Sinhala nationalist feelings and how to cultivate the voter base at the grass roots level. Also the group that gained power after independence primarily belonged to the upper class in society, the people in the rural community were not incorporated into government, so S.W.R.D. Bandaranaike was able to mobilise these people. He was also able to mobilise leftist politicians like Philip Gunawardana. They came up with the slogan 'Sinhala Only.' Bandaranaike in 1944 supported both Sinhala and Tamil to be official languages, but in 1955 he said Sinhala Only, because that expressed the idea of Sinhala nationalism very clearly. This was an extremist form of Sinhala nationalism, which was exclusionary and did not take the multi-ethnic nature of our country into consideration.

**Were there parallels in the reasoning behind the Citizenship Acts which led to the disenfranchisement of Indian Tamils and the reasoning underlying the Sinhala Only Act?**

One can say that both these policies were in some way reflections of the particular directions that Sinhala nationalism was taking. To that extent, you can say there were similarities. The direction of Sinhala nationalism was not based on a multi-ethnic perspective, but on an emphasis on the rights of the Sinhalese community. Furthermore the Sinhala Only policy was also a result of the fact that there was a growing Sinhala middle class which wanted a share in the government administration service. They felt excluded and that the minorities were given a bigger share because of the use of the English language under British rule. So they thought once Sinhala Only was implemented, they would have greater opportunities in the government service. So I think that played a major part in the thinking behind the Sinhala Only policy.

**How was the Citizenship Act and its implementation perceived by the Indian Tamils?**

After the enactment of the Citizenship Act, and the regulations made under the Act were made public, the main organisation of

the Indian Tamil community, the Ceylon Indian Congress (CIC) boycotted registration on the basis that it was a very unfair law. The contention of the government of Ceylon was that the CIC was boycotting an Act which provided a mechanism for Indian Tamils to apply for citizenship. I think the Indian government also asked the CIC to take a positive attitude towards it and see how it would work. So after a boycott for seven months, people applied. 237,000 applications covering nearly 824,000 persons were submitted. The procedure to process these applications was complex. First of all, the application would be rejected and the people were asked to explain why they should be given citizenship, then you had to submit all of your proof. Deputy Commissioners [of the Department of Registration of Persons] would be appointed as Inquiring Officers before whom you had to appear and place your proof.

Applications were rejected on flimsy grounds. There were cases where a man first signed an application as 'Sandanam', and the next time when he signed as 'K. Sandanam.' He had only added his initial, but they would say the signature was different and reject it. Some people initially used their thumb impression, but later learned to sign their name and use the signature. These too would be rejected. These are actual cases – you could of course appeal against these rejections and there were successful appeals. But how many can you appeal? You cannot appeal every single one. In order to appeal you needed to have lawyers. At that time this was extremely difficult for people who worked in the plantation sector. Even to appear before the Deputy Commissioners, you needed trained people in order to put all the documents together, but everyone who applied could not afford to retain trained people who could help them with the complex procedure.

There was a reason for this rigorous implementation, and it was brought out by S.W.R.D. Bandaranaike during a debate in Parliament. A UNP member said something which irritated Bandaranaike who responded by saying, 'I know, I was present at that discussion. D.S. Senanayake wanted to make only fifty



thousand people citizens under that Act.”<sup>4</sup> So it was clear they wanted to make use of the Act to reject the majority of the applications.

In 1952, Dudley Senanayake became Prime Minister and there were discussions between the governments of India and Ceylon. These were the ‘Dudley-Nehru discussions.’ During the discussions, Dudley Senanayake said that if the Act is properly implemented 400,000 people will be registered as citizens. Mr Dudley Senanayake was a very reasonable man, he was an honourable man, and he did not want any injustice to be perpetrated. But he was not allowed to continue.

They went on rejecting applications and people were reluctant to apply. It was a terrible period. More than the law, it was the implementation which was harsh. This was an example of enacting a law that appears reasonable and then sabotaging it, because you do not want to implement it. Even now you find legislation like the Tamil Language (Special Provisions) Act under which, for an example, 29 Divisional Secretariats have been declared as bilingual areas, but in reality it is not implemented.

Anyway, at the end of this process only 134,000 people were registered as citizens. The problem continued as the balance 975,000 people became ‘stateless persons.’ Then that started another process of negotiation and discussions between Ceylon and India.

**When this process of rejecting applications on flimsy grounds was taking place, what was the reaction of the Indian Tamil Community?**

Definitely there was a reaction. They took two approaches. Firstly they conducted protests highlighting individual cases and issuing statements against this process, but they did not go on mass strike.

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<sup>4</sup> An Administrative Circular came to light in which the Deputy Commissioners were asked to reject applications on the basis of a percentage: see P.P. Devaraj, ‘Indian Tamils of Sri Lanka – Identity Stabilisation and Inter-ethnic Interaction’ in Social Scientists Association (1979) *Ethnicity and Social Change in Sri Lanka* (Colombo: SSA): p.159

The second was to work to help the people making applications, to ensure there were no mistakes. Many people were trained to go and make representations before the Deputy Commissioners. There was also an attempt to get more legal advice, as there were a lot of legal issues involved in this process from filing applications to filing appeals.

**In light of the Indo-Ceylon dispute on the status of Indian Tamils going back to the 1920s and 30s, did the Indian Tamils consider the safeguards in the Soulbury Constitution adequate to protect their interests?**

I think the term 'Indo-Ceylon Dispute' is not the right term. I think it should be referred to as the 'Indo-Ceylon Issue' or 'Indo-Ceylon Problem.' There was a problem in relations between the two countries. The problem of the people of Indian origin who were workers in the plantation sector led to a difference of opinion. So this Indo-Ceylon issue played a major role in shaping foreign policy in the early years of the independent government of Ceylon.

In the 1920s, there was a desperate need to get labour and the cheapest was from India which was also easily accessible due geographical proximity. At that time, the only issues between the administration in India and Ceylon was in relation to regulating the minimum wage, providing proper housing and medical care for these workers. So the issue actually started in a big way probably with the introduction of the adult franchise and then during the post-independence period with the introduction of the citizenship legislation.

Section 29 (2) of the Soulbury Constitution provided that no law which discriminates against a community can be passed. But that provision had one defect. In a country like India, individual rights were enshrined in the constitution. That meant that no individual could be discriminated in addition to the group. Under the Section 29, only the group rights were protected. When discrimination took place – regarding the registration of voters and registration as citizens – and when it went before the Privy

Council they used that particular point. They said individual rights were not protected. So Section 29 (2) was not able to protect the interest of the Indian Tamil people.

Having said that, in actual fact, there was as far as Indian Tamils were concerned, a feeling that Section 29 (2) was a protective clause, that it was an entrenched clause, which was a condition on which independence was granted to Ceylon. But this provision was done away with in the 1972 Constitution, which did not provide an alternative to this safeguard.

**How did the Indian Tamils view the role played by Sri Lankan Tamil leaders during the citizenship legislation? Did they feel that the All Ceylon Tamil Congress (ACTC) represented their interests adequately?**

Essentially the Sri Lankan Tamil leadership represents the Northern and Eastern Provinces. Therefore the issues and the problems of those areas were their main concern. There is also the background of Sri Lankan Tamil nationalism, which has a geographical dimension. It is in that background that their politics emerged. Soon after the Citizenship Act, there was a division in the ACTC. G.G. Ponnambalam and a few others joined the government, whereas S.J.V. Chelvanayakam formed the Federal Party and they took a different position on this issue. At that time it was said that G.G. Ponnambalam betrayed the interests of the Indian Tamils and that because of his betrayal these people suffered greatly. That is not correct. G.G. Ponnambalam in fact voted against the Ceylon Citizenship Act. But he did vote for the Indian and Pakistani Residents (Citizenship) Act. Of course at that time he could not have known that D.S. Senanayake had in his mind to only give 50,000 people citizenship under those Acts. Ponnambalam thought a larger number might be granted citizenship. S. J. V Chelvanayakam made this an important issue in his political propaganda. He said that this is the beginning of the erosion of the rights of the Tamil people.

There were a lot of Tamil Deputy Commissioners who were appointed under the Indian and Pakistani Residents (Citizenship)

Act. Many people say those Deputy Commissioners were very rigid, because they were performing a job and were implementing the regulations and the instructions they were given very strictly, so they rejected a lot of applications on flimsy grounds. So that also created some concern. Whereas I have been told many times that the Sinhalese Deputy Commissioners were fairer. But that had nothing to do with the political thinking at the time.

**What were the various issues in relation to the Sirima-Shastri Pact? How did the Indian Tamil community view the attempt to place them on a separate electoral register?**

The Sirima-Shastri Pact came after the full implementation of the Indian and Pakistani Residents (Citizenship) Act. It was estimated that there were 975,000 stateless persons at that time. The Indian Prime Minister Lal Bahadur Shastri was very anxious to come to some agreement on this issue, because at that time, after the Sino-Indian War, there was criticism that India did not have good relations with all its neighbouring countries. This was the first international negotiation taking place after he became the Prime Minister, so Shastri wanted to make some concessions and build goodwill. He came to the agreement with Mrs Sirimavo Bandaranaike that of the 975,000 persons, 300,000 persons would be absorbed as citizens of Ceylon and 525,000 would be absorbed as Indian citizens. This left a balance of 150,000 and when Indira Gandhi became Prime Minister, it was agreed to divide these remaining persons between the two countries.<sup>5</sup> So in all 600,000 would be absorbed as Indian citizens and 375, 000 would be absorbed by Ceylon. In order to implement this they had to have an Implementation Act. But in 1965, Mrs Bandaranaike's government lost power and it was Dudley Senanayake who introduced the Implementation Act in 1967. In the Implementation Act, Dudley Senanayake said, that for every 7 persons registered as Indian citizens, 4 will be registered as citizens of Ceylon. But Mrs Bandaranaike said that this was not the understanding that was reached, and the understanding was that for every 7 persons repatriated from Ceylon, after they have

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<sup>5</sup> This was done in 1974 by the Sirimavo-Gandhi Pact.

gone to India, 4 persons would be registered as citizens of Ceylon. Dudley Senanayake generally was a more level-headed person. I think he introduced the Implementation Act in this manner because he felt it was only fair that if people are registered as citizens, they must immediately become citizens. But Mrs Bandaranaike came back to power in 1970 and she withdrew that policy, and until 1977, nothing happened on this issue.

Then in 1977, the Ceylon Workers Congress (CWC) supported J.R. Jayewardene to come into power. The discussions before the elections were that the CWC would support him if he agreed to solve the problem of stateless persons. In 1981, communal riots took place which affected the Indian Tamils particularly in the south. Then in the early part of 1982, J.R. Jayewardene went on a visit to the affected areas and saw for himself the seriousness of the situation. Later in 1982, J.R. Jayewardene went to India for a Commonwealth Prime Ministers' Conference and he was asked a question by a reporter about the issue of 'stateless people' and he gave an unusual answer. He said 'the stateless people are in Sri Lanka, so it is our problem.' That is what signalled a change in the attitude. J.R. Jayewardene promised in the UNP's election manifesto to constitute an All Party Conference (APC). In 1986, the government introduced a law through which in addition to the 375,000 persons to whom Sri Lanka had granted citizenship, a further 94,000 persons were granted citizenship. This was the difference between the total number to whom India was committed to provide citizenship (600,000) and the actual number who applied for Indian citizenship (506,000). Another factor which helped resolve the dispute over stateless persons was the increasing violence in the north from the late 1970s onwards. With the rise of Tamil militant organisations, increased priority was given to solve the issues of Indian Tamils. During the APC in 1984, the Mahanayake Theros of the Malwatta and Asgiriya chapters advised the government to solve the problem of stateless persons without a delay and thereby remove any reason that may exist for Indian intervention in Sri Lanka.<sup>6</sup>

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<sup>6</sup> See further Devaraj (2008): pp.31-34.

**What was the political situation in the lead up to the 1970 election as far as the Indian Tamils were concerned? What were the main platforms of the CWC as the main party representing the interests of the Indian Tamils?**

It has to be noted that relations between Mrs Sirimavo Bandaranaike and Mr Saumiyamoorthy Thondaman [the leader of the CWC] from 1964 to the late 1980s were strained. Before the Sirima-Shastri talks in 1964, Mr Thondaman asked Mrs Bandaranaike for an appointment so that he could explain the position of the Indian Tamils on this matter. But Mrs Bandaranaike had asked him to go and speak to his Prime Minister [meaning the Indian Prime Minister], and not her. In 1965, Mrs Bandaranaike's government faced a crucial vote in Parliament. Mr Thondaman was one of those who abstained from voting and her government fell. Mrs Bandaranaike did not forgive him for this for a very long time.

During the 1970 elections, the SLFP and the left parties once again went back to the politics of the mid-1950s, resorting to Sinhala nationalism. In 1965-70, the UNP was again in government, so the SLFP-led left were now going back to the policies of 1956 in order to regain control of Parliament.

The left parties –the LSSP and CP – were left in the cold after 1956. They were anti-UNP, but at the same time they did not agree with Sinhala extremism. But they had to adjust themselves and reconfigure their principles in order to regain power and in the process they had to accept Sinhala extremism to an extent. The idea which dominated their thinking was that, you had to go along with this populism if you want social change. They believed they could not bring about social change without going along with the nationalist trend. But what happened was that this actually weakened the left movement and they lost some members to the SLFP. But this thinking continued even during the 1970-72 constitution-making process. People like Colvin R. De Silva who was at the forefront of the constitution-making process thought that things would be worse if the left had not got involved in that

project. But actually that is not how it really worked; the support of the leftists only strengthened the hand of the extremists. I think the leftists felt that in order to preserve their position and take it forward, they had to go along with the Sinhala nationalist trend that had developed. Meanwhile, there was pressure from the JVP, which was also another section of the left with its own specific communal approach. In this backdrop, the SLFP pushed through the 1972 Constitution disregarding all the objections and protests by the minorities. They removed Section 29 (2) of the Soulbury Constitution. Colvin R. De Silva in fact made the argument that since Section 29 (2) was ineffective, that they replaced it with a bill of rights. But the rights in the 1972 Constitution were not justiciable.

**The Federal Party's early rhetoric used the term 'Tamil-speaking peoples.' However you talked about how the problems of the Sri Lankan Tamils were distinct and different from the problems the Indian Tamils faced. Did the Indian Tamils consider themselves as part of this broader 'Tamil-speaking peoples' identity?**

The Federal Party put forward the concept of federalism or devolution for the Sri Lankan Tamil people. Then there was the confusion in the term 'Tamil-speaking people.' The Federal Party's position is actually a reflection of Tamil nationalism but in order to accommodate the Muslims in the Eastern Province they brought in this concept of 'Tamil-speaking people.' Chelvanayakam had the idea that if the Muslims wanted, they can have a separate unit. This concept of Tamil-speaking people also brought in the Indian Tamils so it was the Tamil-speaking people as against the Sinhala-speaking people.

But this does not accord with the reality because Tamil nationalism was dominated by a geographical dimension. That is why it asked for devolution power for a particular area in the country. This was the underlying concept both in Bandaranaike-Chelvanayakam Pact and the Dudley Senanayake-Chelvanayakam Pact. One of the prime concerns in the Bandaranaike-Chelvanayakam Pact was the implementation of

Tamil language in the Northern and Eastern Provinces, and also the language of the courts. Even in the Dudley Senanayake-Chelvanayakam Pact, it was Dudley Senanayake who pointed out at that meeting, that it was the intention of the government of Ceylon to see that any Tamil-speaking man, in any part of the country would be able to transact business with the government in Tamil. But the Federal Party's main concern was with mechanisms for power-sharing or devolution.

They were puzzled as how to incorporate the Indian Tamils. Some people thought that another unit could be formed by combining the Sabaragamuwa, Uva and Central Provinces. All kinds of ideas were floated but there was a lack of clarity on these matters. That is because the essentially different demographic pattern in relation to the Indian Tamils had not been fully appreciated. The Sri Lankan Tamil demand for autonomy was very reasonable and justifiable but to take along with that another group which was located in these mixed areas and to link them together would be trying to create a Tamil nation across the country. That is not acceptable; it is also not practically possible as the geography of the country and the ethnic relations in the country would not allow it. Even when the Bandaranaike-Chelvanayakam Pact was signed, many people say it was the interests of the Tamil nationalism that were articulated, not the interests of the minorities who were dispersed throughout the country.

**What was the thinking behind the CWC in joining the Tamil Union Front (TUF)? What were the reasons why the CWC did not vote for the Vaddukoddai Resolution?**

One of the reasons for the CWC to join the TUF was that, at that time, in the early part of the 1970s, the Indian Tamils were also under attack; under Mrs Bandaranaike's government, the attack on the Indian Tamil community was particularly strong. Her government nationalised plantations and a lot of people were been thrown out of work and were being evicted. She would not listen to the representations that were made to her. In the country as a whole, there were food shortages which also affected the



Indian Tamil community. Also in the background, fuelled by the JVP, an anti-Indian sentiment was developing in the country. During the very same time, members of the Federal Party were being put in jail. So there was a feeling, which started with the 1972 Constitution, that there was an attack on the Tamil people. So they felt that they should come together in this situation. That was the reason for them to come together and they tried to coordinate with each other.

But in the north and east, militant groups were developing and were pressurising the traditional leadership represented by the TUF. Therefore the Tamil political leadership decided to pass the Vaddukoddai Resolution which declared that a separate state was their main objective. I think this was a profound error, but of course if they did not do that, they might have got into more difficulty, because the situation in the north and east was very tense at that time.

In reality, the Sri Lankan Tamils were for devolution of power to a geographically bounded area. But the Indian Tamils were a less concentrated population, and were distributed in many parts of the country. Their problem cannot be compared to that of the Sri Lankan Tamils. Therefore the CWC made a statement saying, we appreciate and understand the reasons for the demand of the Sri Lankan Tamils, but this will not be the solution for the problems faced by the Indian Tamils, therefore we distance ourselves from this demand [for a separate state]. In internal discussions also the CWC thought that this demand was not a good thing; that this idea of a separate state would lead to a lot of trouble in the future, but they did not articulate that in public. Because they felt when one large community is putting this forward, we should not say anything directly contradictory. The Sri Lankan Tamil leadership thought that the demand for a separate state was a way of bargaining with the government. But this method of bargaining touched on a raw nerve of the Sinhala people. If the Federal Party had maintained the position that they were for a solution within a united country despite the difficulties they faced I think it would have been better for the Tamil people.

**Was the thinking behind the decision of the CWC that a solution to the Indian Tamils' problems can only come within a united Sri Lanka, and not necessarily in a separate Tamil state?**

Yes, in a way a separate Tamil state would not have been a solution to the Sri Lankan Tamil problem either. All along what we thought was the Tamil state demand was been put forward to get the maximum level of autonomy. That is the understanding people had. The CWC would have been happy if the Sri Lankan Tamils got the maximum extent of autonomy possible. The bargaining method/technique they used of putting forward a separate state and coming down on that – you can argue whether that is the best way or not – but as far as the Indian Tamils were concerned, they just could not go along with it.

**How did the relationship between the Indian Tamils and the northeast based Sri Lankan Tamil nationalism (in its federalist and secessionist dimensions) change after the Vaddukoddai Resolution?**

For some years they continued to have good relations. Not voting for the Vaddukoddai Resolution did not create a problem, but a distancing took place. Then after the parliamentary elections of 1977 it slowly weakened and tapered off.

**The CWC supported the UNP in the 1977 election, and thereafter Mr Thondaman took up a ministerial portfolio. What was the impact of this decision on the relationship between the CWC and TULF leadership?**

The TULF did not like it, but they were also very careful not to make any statement against it. But at a certain point, Mr Thondaman was a mediator between President J.R. Jayewardene and the TULF. In fact I was present at the discussion at Thondaman's house. Thondaman's suggestion was to leave the northeast to the TULF, to let them contest all the seats there and

he asked J.R. Jayewardene not put forward UNP candidates in the parliamentary election of 1977 in those areas. He told J.R. Jayewardene to negotiate with the TULF leadership. But J.R. Jayewardene was not agreeable to that.

Even Tamil militant organisations had contact with Mr Thondaman. For example, once a militant group had abducted a group of European tourists, and the government was desperate to get them released. So Mr Thondaman intervened and negotiated the release of the tourists. The government was thoroughly grateful, because this might have had an undesirable affect on the tourism industry. Mr Thondaman was even critical of the government within Parliament. He opposed the Sixth Amendment to the Constitution; he pointed out to the government that it was making a mistake and voted against the Sixth Amendment.

**You have repeatedly stated that the Indian Tamil identity is distinct from the Sri Lankan Tamil identity. Obviously there are historical reasons for this, but do you think that the distinction was further accentuated by the different modes used by the Indian Tamil leadership and the leadership of the Sri Lankan Tamils in order to solve the problems of their communities?**

The modes used by the different leaders were an outcome of the actual reality in society. When you talk about identity, now there is what you may call an overarching Tamil identity, which embraces Tamils all over the world. That is one level of identity. Then if you take Sri Lanka, there is certainly a relationship between the Sri Lankan Tamils and the Indian Tamils because a large number in both communities are Hindus, and therefore the Hindu traditions and culture are shared by both communities. So there is another identity which spreads across these groups. Then if you include the Muslims, particularly from the Eastern Province, some of whom are good scholars and have contributed immensely to the Tamil language, then you have a linguistic identity of what you would call the 'Tamil-speaking people.' So there are levels of identity and the existence of these levels of identities are natural,

you cannot pit one against the other, each identity is complementary to the other.

The mode of solution to particular political problems is dictated by the exact reality of the ground situation, and it does not affect the linguistic identity or the identity that comes through sharing culture. But that does not mean the power-sharing technique amongst different groups have to be uniform. That does not mean that the issues of the Indian Tamils can be accommodated within a power-sharing mechanism adopted for the north and east. When it comes to the areas in which the Indian Tamils live in, the dynamics are different. For example, in Kandy 70% are Sinhalese, and the minorities are about 30%, but there are some pockets in which it is a fifty-fifty or sixty-forty proportion. In these situations, what is important is fair representation in Pradeshiya Sabhas, and you must have Tamil *grama sevakas*. This is power-sharing in a different way, at the local level. Then you must be able to have Tamil teachers, Tamil officials in government offices at the district level. So these problems are different to the needs of the Tamils in the north and east of Sri Lanka.

**What lessons can post-war Sri Lanka learn from the 1972 constitution-making process, specifically in the context of the pending appointment of a Parliamentary Select Committee (PSC) for constitutional reform? Moving forward, what do you think we should do differently?**

I appreciate and I understand the reasons why the Tamil National Alliance (TNA) is hesitant to participate in the PSC. Because past experience shows that when governments do not want to face the problem, they call for a discussion and these discussions can go on and on and not come to a conclusion. Then after some time, again the government calls for another discussion, and the process is repeated. So I can understand that concern of the TNA and why they want the government to state its position on this matter before joining the PSC. So the process as it is now, the government must clearly decide its position as to what extent they can extend the Thirteenth Amendment, where they want to draw the line in devolving power, and what the process of

implementation is going to be. Then they must make sure that there is some sharing of administrative power at the central level, and the language policy must be implemented sincerely, honestly. These are things that can be done; these mechanisms can be set in motion. It is important that the government state its position clearly because then they can discuss with their partners, convince them and bring them on board with the government's position. The government has to take a stance, if not this issue will drag on.

My analysis is that the character of Sri Lanka after colonisation has not been correctly defined, because it had now become a multi-ethnic country. It is no longer what it was at the time when the colonial countries took over. It has become integrated, and the administrative system has changed. Colonial conquest has changed the very character of the country and this reality has to be born in mind when deciding on constitutional reform.

### **What constitutional changes need to take place in order to protect the interests of the Indian Tamil community?**

First of all, the constitution must recognise the component groups which constitute this country. Already a formula exists in Professor Tissa Vitharana's APRC Final Report, which says Sri Lanka is constituted by the Sinhala, Sri Lankan Tamil, Muslims, Indian Tamil and other communities.<sup>7</sup> Then, from that flows that all these people will have certain rights. Furthermore there are

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<sup>7</sup> The Final Report of the All Party Representative Committee (APRC) submitted by its chairman, Professor Tissa Vitharana to the President on 13<sup>th</sup> August 2010 has not officially been made public. But a version of the report was published by two members of the APRC, available at: <http://www.groundviews.org/wp-content/uploads/July-20-APRC-Final-Report.pdf>. This contains the following provision as Article 1(4): "The People of Sri Lanka is composed of the Sinhala, Sri Lankan Tamil, Muslim, Indian Tamil, Malay, Burgher and other constituent peoples of Sri Lanka. The right of every constituent people to develop its own language, to develop and promote its culture and to preserve its history and the right to its due share of state power including the right to due representation in institutions of government shall be recognized while strengthening the common Sri Lankan identity. This shall not in any way be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of the Republic."

already laws, like the language law, which need to be fully implemented. The Official Languages Commission has said that there are 104 Divisional Secretariat areas where bilingualism can be implemented. So this must be implemented. In districts such as Nuwara Eliya, all the Divisional Secretariat areas are bilingual so they can declare the district as bilingual through existing legal provisions. The government services and administrative arrangements do not reach the Tamil people because there is a language problem, so you must appoint more *grama sevaka* officers, and also, where there is a substantial concentration of the minority communities, members from those minority communities should be absorbed in to the administrative structure. It is not enough to have constitutional provisions and laws alone; we must have institutional mechanisms to implement them. One of the institutional mechanisms we have suggested is the establishment of Community Councils for the Muslims and for the Indian-origin Tamils as they are dispersed throughout the country. Then there is the question of the number of the Divisional Secretariat Divisions. On several occasions there have been agreements to increase the number of Divisional Secretariats in Nuwara Eliya, but it has not been implemented, and this must be done in other areas where there is a substantial concentration.

Over the past 50 years there has not been a sufficient budgetary allocation to the plantation areas, so there must be affirmative action in those areas particularly in fields such as education, housing, electricity and physical infrastructure. For example, now the Open University of Sri Lanka wants to expand their facilities in Hatton, funds must be provided for this. There is in fact a national action plan to improve the estate sector, which has been approved by the Cabinet of Ministers, but these initiatives need to be implemented. If money is a problem the government can negotiate even with foreign countries for funding. The national action plan is already allocated funding under a UNDP programme.

I agree that the efficiency of an officer does not depend on his nationality. There are Tamil officers who are very good and work among the Sinhala people and there are Sinhala officers who are equally good. But there has to be a reasonable ethnic distribution in the public service. This is because it will make it convenient for

people from different ethnic groups to communicate with government officials. Even people in the government service recommend this for practical reasons, because they say otherwise it takes a long time to communicate with people.

The other issue is the electoral system. Even the Soulbury Commission suggested that if there is a substantial concentration of minorities in an area, provision must be made for them. We have given some concrete suggestions, using the formula forwarded by the Dinesh Gunawardena Select Committee. For example, in a district which returns 8 parliamentary seats, and where at least 25% of the population is from a minority community, it is fair that at least one seat is reserved for them. If there is a difficulty, there is provision to increase the allocation by one seat. Because as of now, in the Ratnapura District for example, the Indian Tamil community is 11% but they never had a representative. So you must try and provide mechanisms to ensure representation for these people. One might question as to why a Sinhala member cannot represent the interests of another ethnic group, this practically never happens because the representative is pressurised to provide funds for his own [ethnic] constituency. So the electoral system must change in order to guarantee representation to these people.