The determination with which the comprador-led forces represented by the UNP sought to restructure the Sri Lankan political system in the first year of their tenure, made clear that they were bent on consolidating and perpetuating, as far as possible, their proclaimed blueprint for the future economic development of Sri Lanka. Within the delineated strait-jacket however, the implication of the democratic bonafides of the system were maintained on the basis of which it was propogated to liberal bourgeois opinion at home and abroad.

However, as highlighted in the earlier discussion, the fundamental basis for the establishment of a conservative bourgeois hegemony based on an acceptable distribution of economic benefits was very weak in a peripheral capitalist society such as Sri Lanka. In such a situation, as we shall see in the present chapter, the explicit class content of the "democratic socialist" policies implemented by the new regime weakened it further. As a consequence, the partisan attempts by the ruling bloc to maintain the desired stability at any cost seriously eroded the basis for the voluntary emergence of the national consensus the new Constituion was to institutionalise in the longer term.

Before proceeding to understand the above process and its implications in detail it is useful to make two points. Though the focus of the present work is the seventies, the following discussion has been carried over to cover the
UNP tenure till 1981/1982 for two reasons. Not only does this period form the natural unit for a discussion of the UNP policies initiated in 1977 but it also formed a kind of transitional period in which the policies and actions of various groups were influenced by calculations of the impending general elections under the proportional and preferential systems in 1983-84.

"DEMOCRATIC SOCIALISM": POLICY AND PROSPECTS

The extent to which the goal of "democratic socialism" avowed in the new Constitution was the opposite of the previously esteemed "socialist democracy" became clear even before the former was constitutionally enunciated and became even more obvious thereafter.

Industries and Services

Within four months of its accession to power the new government enthusiastically set in motion the "stabilisation programme" of the IMF involving within its ambit a devaluation of nearly 100 percent; abolition of import controls in the form of licenses and quotas (thereby allowing virtually unrestricted private sector imports); and curtailment of welfare expenditure.¹

There was a renewed emphasis on "efficiency" and "rationalisation" of all investments, public or private. To encourage private production and economic activity, a series of tax incentives were offered by the government. Indirect taxes were preferred to the progressive personal taxes on income, expenditure and wealth favoured by the UF. Tax holidays and reliefs were granted on various aspects of capitalist production, gain and profit, chiefly through the Inland Revenue (Amendment) Act No.30 of 1978 and the new Inland Revenue Act

¹. Unless otherwise stated, the following discussion and computations relating to economic factors are based on the Central Bank of Ceylon's Annual Report(s) and Review(s) of the Economy as also Department of Census and Statistics, National Accounts of Sri Lanka, 1971-1979 (Colombo, 1980).
No.28 of 1979. The public sector was to be confined to its existing domain within which it was to be run on commercial and pragmatic lines. Wherever public enterprises were considered to be uneconomic or unjustifiable, they would be closed down.

Foreign aid and investment were actively sought to overcome the resource constraint. The government invited foreign assistance on a massive scale chiefly for three projects on which it based its hopes for economic recovery and growth. The Free Trade Zone (FTZ) was perceived as necessary "to increase employment, earn foreign exchange and obviate dependence on foreign aid."\(^2\) In the demarcated areas all facilities would be provided to foreign and domestic capital to establish labour-intensive industries. The incoming foreign investment, it was argued, would bring in critically-needed technology and help diversify exports which were considered to provide "an avenue to escape."\(^3\)

The second programme, the Mahaweli Development Project (MDP) was "telescop[ed]" from the originally conceived plan for 30 years into an arbitrarily decided period of 6 years, so as to coincide with the UNP tenure. It would provide power vitally needed for the success of the imminent FTZ and purportedly solve the problems of unemployment and food. The third project, a housing and urban development programme, was perceived as necessary to correct the shortage of residential accommodation that had emerged under the UF, especially of the luxurious variety which would be required by foreign business executives and tourists. Towards the same end the city of Colombo and some others were sought to be "developed" and beautified. A new administrative complex in Kotte\(^4\) was

\(^2\) UNP Manifesto, 1977.


\(^4\) This was to be renamed Jayawardanapura in a reversion apparently to an earlier name which had fallen into disuse over the centuries.
also planned to be completed within the UNP tenure. In addition, for the benefit of the broader masses a target of 100,000 units of housing were to be completed in the same period.

Various committees were established in 1978 to monitor the pattern of investment. The Greater Colombo Economic Commission (GCEC) was created to administer the new FTZs. The Foreign Investment Advisory Committee (FIAC) was to supervise foreign investment outside the GCEC area where it would be admitted on a more selective basis. Such investment would be limited to export-oriented industries or to areas where significant technology gaps existed locally. The Local Investment Advisory Committee (LIAC) would, among its other tasks, license import of capital goods of more than Rs. 700,000 required by local industries.

As a testimony to the immense importance attached by the UNP government to the envisaged union of foreign and domestic big capital, sweeping powers were accorded to the Commission through the GCEC Law No.4 of 1978. These were considered necessary for "the development and resurgence of the economy."  

By Section 17 of the Law, the Commission was given the power to enter agreements with any enterprise in or outside the area and grant exemptions to any firm within its jurisdiction from legislation pertaining to the whole spectrum of industrial and economic controls. The GCEC moreover was permitted discretion to administer not only enterprises within its area of authority of over 200 miles but also specified enterprises in the rest of the country. Generous tax incentives and rebates were given over and above those


6. More specifically these included legislation pertaining to inland revenue, customs, exchange control, financial regulations, company law, merchant shipping, air navigation and environmental controls. See the Schedule of the GCEC Law of 1978.
already promised to domestic capital so as to attract foreign capital.⁷ Restrictions in favour of the local component in all such investment was watered down and incentives increased to attract foreign capital.⁸ Further sensitivity to the interests of foreign capital and domestic big capital investing in the GCEC or abroad was displayed in that all foreign remittances were free of exchange control. Moreover, the Business Undertakings (Acquisition) Act No.35 of 1971 and Companies (Special Provisions) Law No.19 of 1974 had no application to any area or enterprise of the GCEC. Non-citizens could also operate banks and secret-numbered accounts in non-Sri Lankan currency in banks in the GCEC area. An amnesty offered in December 1978 allowed local undisclosed income, wealth or business turn-over to be legalised after a maximum payment of 30 percent of the amount to the government⁹ and then be invested in the GCEC. In contrast to the above benevolence, rules and regulations applicable to labour were made stringent to guarantee a docile labour force.¹⁰

⁷. These included tax holidays of up to 7 to 10 years, and a turnover tax of 2 percent in lieu of income tax after that for a period of 15 years. Royalties were exempt from tax during the holiday period and dividends were exempt for the next 15 years. Total exemption was granted from export-import duties and harbor duties. Any products from the GCEC sold in the domestic market would get a rebate of 25 percent from existing import duties.

⁸. The government in its "note" of October 1977 had stated that certain conditions -- that a proportion of workers be of local origin, ownership of enterprises be ultimately transferred to local hands, proportion of managerial positions be reserved for Sri Lankans and the like -- would be imposed on investors to the Zone. These were later played down: W.D. Lakshman, "The Free Trade Zone in Sri Lanka: Some Relevant Issues", Logos (Colombo), vol.19 no.2, 19 April 1980, rev. edn. October 1980, p.41.

⁹. This was an undoubted relief when compared to the heavy tax that would have been payable under the UF regime. Alternately, the post-tax amount could be held in the National Savings Bank till April 1983 -- possibly an option followed by the smaller fry.

¹⁰. For details see Lakshman, n.8, pp.92-99.
Indeed, the enabling statute was so skeletal that its 35 sections delegated only powers and virtually no limitations on the Commission within its area of authority. The only stricture placed on the GCEC was that it comply with the "general policy" of the government. The Director-General and four Directors constituting the Commission were to be appointed by the President on the advice of the Select Committee of Parliament for Public Appointments. As events were to prove, this advice would not necessarily be taken. Moreover, in the adherence to government policy the GCEC was answerable only to the President. In the words of a critic the GCEC virtually constituted "a State within a State". The subjugation of the more popular will and direct assumption of political and administrative authority by powerful monopoly interests is only too apparent in the fact that in its area, the Commission replaced all local authorities like that of the former Municipal, Urban, Town and Village Councils and to a large extent that of the newly-instituted District Development Councils (or DDCs).

Underlining the new concentration of powers the GCEC (Amendment) Act No.43 of 1980 allowed other areas of the island to be brought in as considered necessary in future within the authority of the GCEC on the order of the President.

Clearly, the concentrated organisation of productive capital and high degree of exploitation of the labour within the delimited GCEC areas is a set-up explicitly designed to safeguard and further the interests of the

11. As proved to be the case in regard to the appointment and continuation of President Jayawardene's cousin, Upali Wijewardene as Director-General of the GCEC despite the adverse criticism by the Select Committee headed by PM Premadasa in 1980.


13. CDN, 10 September 1980.
largest capitalists and their search for greater profits as subordinate partners of metropolitan interests.

To oversee the other programmes of its development policy the government legislated to establish the Mahaweli Development Authority, Urban Development Authority and a National Housing Authority in 1978 and 1979. New state authorities were also established to oversee important units of the infrastructure such as the airports and ports on whose efficient functioning the momentum of private enterprise activity would rest. The government reorganised and decentralised the public bus transport system under the Sri Lanka Central Transport Board. Under the latter's supervision, private operators were allowed to become active again after a period of 20 years when the bus system had been nationalised. The government successively legislated to establish new organisations such as the Sri Lanka Export Credit Corporation, Institute of Corporation Lawyers, Institute of Bankers of Sri Lanka, Export Development Board, National Institute of Plantation Management, Sri Lanka Institute of Marketing and the Institute of Supply and Materials Management which would provide trained personnel and facilities to the growing corporate export sector. The Code of Intellectual Property Act No.52 of 1979 provided for a better registration, control and administration of patents and blueprints. The government likewise legislated to regulate the increasing private sector activity in finance, insurance, produce-brokering, recruitment for foreign employment, trading as also price manipulation. While it passed legislation relating to consumer protection and control of prices in 1979 it failed noticeably, however, to frame anything akin to an anti-monopolies legislation which would have been more to the purpose in view of the growth of big capital.

In keeping with the propertied base of the UNP and as encouragement to private investment in construction and real estate, numerous amendments were
made to existing law in favour of the rentier or the landlord in contrast to the preceding period. Thus the National Housing (Amendment) Act No.9 of 1978 decreed that the Commissioner of Housing could take back land after payment of principal and interest at 7 percent per annum to the occupant who could appeal to the Minister of Housing if not agreeable to this arrangement -- an option clearly to the advantage of the more influential members of the society. The Rent (Amendment) Act No.55 of 1980 amended the Act passed in 1972 making it inapplicable to premises constructed or let out after January 1, 1980 or occupied by a foreign individual or company. Moreover, in the context of the values of real estate rising sharply under the UNP, it is significant that landlords could evict tenants on payment of five years rent to the latter or on grounds of wanting it for occupation by his family. The Ceiling on Housing Property (Amendment) Act made ridiculous the 1973 Law by allowing persons to construct and retain houses for 20 years before selling them.

This direct reversion of the thrust of some of the most notable legislation of the UF regime became increasingly marked at the close of the decade.14

Public policy of growth and dependence: Through its policies the Government succeeded in raising business confidence and increasing the flow of funds and economic activity. The gross national product at constant prices grew at

14. The Food Act No.26 of 1980 repealed the Food and Drugs Act and the new Cosmetic Devices and Drug Act No.27 of 1980 made no mention of restrictions on marketing of drugs under their generic names. This gave again a clear chit to the profits of multinational drug companies through the differentiation of identical products under different brand names. More noteworthy was the invalidation of certain legislation with retrospective effect no doubt to benefit UNP supporters. For instance, the ceiling on Income and Compulsory Savings (Amendment) Act No.12 of 1980 virtually absolved the non-payers of compulsory contributions to the Consolidated Fund in the UF period from any penalties. Likewise, the Business Under­ takings (Acquisition) (Amendment) Act No.21 of 1980 provided for compensation to be paid retrospectively from the date of operation of the Act at a prescribed rate and interest. Interestingly however, the Act itself continued to remain on the statute book.
the average rate of 5.7 percent over the years 1977 to 1981. With the rate of population growth increasing slightly to the average of 1.8 percent per year, per capita income grew at the average rate of 3.8 percent per annum in the same period (as Table A-4 shows). The weightage of fixed investment within the GNP doubled in both the public and private sectors.\footnote{15}

However, significantly this increased rate of growth exhibited a distinctly declining trend. After the sharp spurt of activity in 1978 consequent to the liberalisation of imports and foreign exchange, the rate of growth of the national product fell from 8.2 percent in 1978 to 4.1 percent in 1981. Per capita income correspondingly declined from 6.3 percent to 2.4 percent over the same years.

As significantly, this growth of economic activity was not merely based on the encouragement and reliefs provided to private capital as official ideologues would have one believe but was more fundamentally based on the momentum provided to the economy through increased expenditure by the government in various spheres. This expenditure was financed mainly through increased inflow of foreign resources through official, bilateral and multilateral channels and an increase in bank borrowings\footnote{16}.

Thus while the budget deficit grew due to increased public expenditure from 31 percent of the total expenditure in 1977 to a figure approaching 53 percent by 1980;\footnote{17} the percentage of the deficit financed by foreign resources rose sharply to 58 percent in 1977 and 62 percent in 1978 whereas at no time under the UF had it risen above 41 percent. It dropped in the following

\footnote{15. See National Accounts of Sri Lanka, 1971-1979, table 1 and 13.}

\footnote{16. As Table A-8 shows borrowings from the CBC reached the exceptional high of 48 percent of the capital receipts in 1980 while private non-bank sources declined as a source of funds compared to the preceding UF regime.}

\footnote{17. The highest it reached under the UF had been around 38 percent of the expenditure.}
years as can be seen in Table A-14 in response to the more recessionary international environment after 1979 although it continued to grow in absolute terms.

Consequently the high level of aggregate demand created in the economy resulted in a high level of inflation which made nonsense of all costing of projects for development, eroded the values of fixed and wage incomes and encouraged a channelling of capital from productive real investments to commercial-speculative investments yielding quick returns.

Simultaneously, the balance of trade worsened from the surplus of Rs. 350 million in 1977 to deficits approximating Rs. 16 billion in 1980 and 1981.

While initially, international largesse in the form of grants and long-term loans served to even strengthen Sri Lanka's external assets and lighten the debt service burden from 16 percent of in 1977 to 12 percent by 1980. Later it was a different story. With the worsening of the external resources position in 1980 and 1981 and the tightening of IMF criteria for lending, the dependence on short-term credits sharply increased and the debt service burden rose by a percentage point in 1981 (Table A-4). It is interesting to note, in this context, that the concessionary grants, commodity aid, commodity loans and to some extent project loans showed a decline after 1979; and in proportionate terms the "harder" project aid, cash loans and private foreign capital showed strong growth in 1979 and after, thereby indicating the changing nature of the foreign resources flowing into Sri Lanka.

The new dependence on foreign funds thus reversed the trend of Sri Lanka's emerging ties with the other Third World and socialist countries and had the impact of tying it once again to the capitalist metropole dominated by the USA. The USA emerged as the major creditor of Sri Lanka alone holding one-

18. As can be seen in Table A-15, in rupee terms.

<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>USA</td>
<td>3,153.1</td>
<td>3,684.8</td>
<td>4,966.5</td>
<td>6,244.2</td>
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<td>International Agencies*</td>
<td>2,144.6</td>
<td>2,443.3</td>
<td>3,292.9</td>
<td>4,681.2</td>
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<td>Federal Republic of Germany</td>
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<td>2,295.2</td>
<td>2,328.3</td>
<td>2,175.7</td>
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<tr>
<td>Japan</td>
<td>2,281.4</td>
<td>2,143.2</td>
<td>3,222.5</td>
<td>3,519.5</td>
</tr>
<tr>
<td>IMF Trust Fund</td>
<td>779.3</td>
<td>1,370.2</td>
<td>2,187.0</td>
<td>2,719.5</td>
</tr>
<tr>
<td>Others</td>
<td>4,981.1</td>
<td>4,444.6</td>
<td>6,269.5</td>
<td>9,832.0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>15,280.5</strong></td>
<td><strong>16,381.3</strong></td>
<td><strong>22,266.7</strong></td>
<td><strong>29,172.1</strong></td>
</tr>
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* IBRD, ADB loans & IDA credits.

Source: Central Bank of Ceylon.

fifth of the latter's debts as Table 8.1 makes clear. West Germany, Japan and the US-dominated multilateral agencies of finance -- the IBRD, IMF, ADB, and IDA --together held another 45-50 percent of Sri Lanka's debts. The USA, Japan and West Germany between them accounted for nearly 24 percent of the loans and grants made between 1977 and 1979, a large portion of these made available to finance imports of capital goods, wheat and flour from them. Together with Britain, they grew to receive over one-third of Sri Lanka's total exports by 1980.\(^\text{19}\) While the crucially needed oil-imports continued to be supplied chiefly by Saudi Arabia, Iraq, and Iran; the socialist countries, the USSR and GDR in particular, phased down their loans and grants.

The small improvement in the terms of trade between 1976 and 1978 due to the brief resurgence of international commodity trade was sharply wiped out in the following period, contributing to the deterioration in the payments position and highlighting the increasing vulnerability of Sri Lanka to extreme economic fluctuations. The terms of trade index fell from 83 in 1978 to 38 by 1981 -- to less than half its former value. In contrast to the rise of 539 points in the export price index, the import price index rose by 1,878 points between 1977 and 1981 -- a rise of nearly five times its former value (refer \(^\text{19}\) Over 50 percent of the emerging garment exports were purchased by the USA in 1979.)
Despite these price increases, the magnitude of foreign funds made available to the new ruling bloc encouraged an increasing dependence on most categories of imports. The direct import content of private consumption as a proportion of gross domestic expenditure rose from 15.7 to 19.3 percent by 1979 and the import content in gross domestic fixed capital expenditure increased from 28.9 percent to over 41 percent between 1977 and 1979. 21

Distinguishing the new pattern of dependence on imports from the one that existed in the past was the discernible shift that occurred in favour of investment and intermediate goods in relation to consumption goods (Tables A-2 and A-3). 22 But, in response to the demands of the middle and upper classes, the "other consumer goods" sub-category covering manufactured, processed or luxury goods other than textiles or food more than quadrupled in volume.

Foreign assistance fundamentally allowed the government to put its unbalanced growth strategy into operation with its emphasis on concentrated lead projects with a heavy construction orientation. The initiation of these projects raised the proportion of public in total fixed capital investment in real terms from 22.3 percent in the years preceding 1977 to around 53 percent

20. The rise in import prices was sharpest in the category of intermediate goods which increased to more than eight times their 1977 value by 1981. The rise in the consumer goods category was more than four times in the same period while imported investment goods nearly tripled in price.

21. This seems to have declined to 30 percent by 1981. More complete information of 1980 and 1981 however, was not available in the CBC sources.

22. While investment goods registered an increase in volume of nearly five times, over the 1977 level, intermediate goods rose by 44 points on the index and consumer goods showed a small decline due to a major reduction in the quantities of rice imported.
by 1979 (as Table A-6 shows).\(^{23}\) When coupled with the encouragement given to building in the private sector, this lop-sided expansion of construction activity diverted resources from other sectors and resulted in bidding up the prices of related factors of production.\(^{24}\) This further fuelled inflation and created scarcities causing serious problems in the costing and completion of the selfsame projects. It created lucrative avenues of profit for the suppliers of the relevant factors and demanded a sharp expansion in overhead services, especially of transport and communications.

Thus the UNP policy of public expenditure, financed mainly by a reliance on foreign capital and inflationary means, provided the central bulwark to the rise in activity of the private capitalist sector. Moreover, its policies laid the basis for an uneven expansion of the economy by which it was the classes which had been traditionally aligned to the ruling bloc which reaped the greatest benefits.

Consolidation and differentiation within the compradors: As indicated above, it was the more substantial interests linked to export production (now increasingly industrial in character), external and internal trade, contractors, transport agents, hoteliers and real estate owners, financiers and

\(^{23}\) As Table A-6 shows, there was an actual decline in real terms of total investment in 1977 primarily due to the decline of 21 percent in public investment in 1977. With the major projects initiated in 1978, the decline was more than made up by a 43 percent rate of growth of public investment in 1978.

Capital expenditure by the government rose to cover approximately half the budgetary resources by 1981 from the quarter they occupied under the UF. The Ministry for the MDP became the top-spending Ministry, being allocated increasingly greater proportions of the capital budget--19, 25, and 27 percent in the years 1979, 1980 and 1981 respectively. In the latter two years, sums of over Rs. 3 billion were allocated to it. The next largest, the Ministry for Local Government, Housing and Construction held by the PM, was given around 16 percent of the capital budget equalling sums around Rs.2 billion in 1980 and 1981.

\(^{24}\) The cost of building materials doubled between 1978 and 1979.
speculators which derived the greatest concessions and benefits from the new policies.

The central role played by the resource allocation of the government had a distinct impact on relative sectoral growth rates which can be taken as a broad indication of the relative degree of advantage derived by different sections of the capitalists. As analysis of official data reveals, within the overall growth of the economy, the proportionate contribution in current terms to GDP of the manufacturing, ownership of dwellings, transport and trade sectors rose till 1979 in response to the liberalised milieu but declined in the following period after the satisfaction of prevailing capacity, demand and opportunities within the economy. While the proportionate contribution to GDP of mining and quarrying increased slightly in response to the increasing needs of the construction sector, the latter itself exhibited strong rates of growth till 1980 in a positive relationship to the escalating expenditure by the state in this field (as indicated in Table A-16). With the sharp increase in money supply, interest rates, economic activity and prices, however, it was the banking sector which showed the maximum increase in weightage and the only sector which continued to do so into 1982.

In the industrial field the liberalisation of imports and enhanced allocations of foreign exchange permitted higher levels of production particularly in the private sector which had been severely disadvantaged in this regard under the UF. In contrast to public sector industry's average growth rate of 4.5 percent, private sector production increased by an average of 20 percent annually. But, because of the traditional lack of diversification and the adverse impact of the policy of import liberalisation on some industries, by

25. A cut-back in expenditure due to shortage of funds in 1981 had the direct impact of reducing the overall growth rates of the sector and of the economy as a whole.
1980 the tempo of industrial production was closely dependent on two increas­ingly import-based industries: refined petroleum products and garments.\textsuperscript{26} Indeed, the new regime seems to have been singularly successful in encouraging an export-based industrialisation which led to a structural shift in the composition of exports in favour of manufactured goods. While the share of tea and the three plantation crops declined to 31 and 52 percent respectively in 1981, the share of industrial exports from total earnings from exports increased from 15 percent in 1978 to 42 percent in 1981.\textsuperscript{27} Petroleum products and textiles-garments rose to constitute the second and third most important exports.

A considerable portion of these earnings consisted of exports from the GCEC enterprises which came increasingly into production after 1980.\textsuperscript{28} Indeed, within a year of setting up the FTZ it was quite apparent that the garments industry occupied a predominant position among the industries established. As late as 1981, of the total employment for 19,921 persons generated directly in the FTZ; 17,386 worked in the garment industry and of the gross export earnings of Rs.1,108.7 million generated, garments were responsible for Rs.1,002.1 million. As an observer noted, the domestic big capitalists involved in garments readily took advantage of the facilities provided within the FTZ and of extant business contacts outside, especially in Hong-Kong, to

\textsuperscript{26} By 1980, the output of refined petroleum products emerged to account for over 45 percent of industrial production and share of garments approxi­mated 8 percent, both together equal to about half the total production.

\textsuperscript{27} This figure includes gems and other non-agricultural exports. Industrial exports proper constituted 34 percent of total exports in 1981.

\textsuperscript{28} There was a total of 41 firms exporting garments and other articles by the end of 1981.
help them expand their growth.29

However, it became a fact of increasing concern to an influential section of these capitalists and the government when they found themselves in competition with the more developed foreign capital from Hong Kong or Singapore to their own disadvantage.30

While the GCEC and FIAC-approved industries covering large-scale establishments (often having a large foreign investment component) showed no similar decline; a sharp decline was apparent between 1978-1981 in the investments in purely indigenous, medium and small-scale industries regulated by the LIAC. As Table 8.2 demonstrates, this decline is as true with respect of numbers of units, amount projected for investment and/or potential employment. Contrary


30. Foreign offers that came up were not, as had been hoped, for investment in light engineering and electronics but largely for garments and rubber-based industries in which Sri Lankan industry was relatively well-developed. Of particular concern was the fact that the Sri Lankan quota for garment exports to western capitalist countries was being cornered by an influx of manufacturers, from Hong-Kong and Singapore. The latter sought to channel virtually-finished goods through Sri Lanka so as to avoid quota restrictions operative on their countries. An over-expansion in contracted capacity in garment manufacturing underlined the lack of foresight, planning and co-ordination in central policies.

The 25 garment factories scheduled by the beginning of 1980 already had the capacity of about 650 million pieces while the quota for export (to the EEC) was assessed at only 16 million pieces!: see Tissa Balasuriya, "Our Free Trade Zone: Is it Development?", Logos, n.8, pp.17-18.

Later, restrictions were placed on further expansion of garment manufacture and greater concessions were offered to incoming investments leading to the induction of light local raw material based consumer industries, jewellery and lapidary, light engineering and electronic industries.

It was the view of A.Y.S. Gnanam, a leading industrialist who had emerged under the SLFP, that had the five-year tax holiday been announced for local industrialists in the 1977 Budget, all the garment industries would have done better than anyone else and without the FTZ, which benefitted the foreign investors more.

See his testimony in Parliament, Report from the Select Committee to Examine the Suitability of Candidates for Higher Posts (Colombo, Parliamentary Series No.17, 1979), p.73.
TABLE 8.2: INVESTMENT APPROVALS IN INDUSTRY, 1978-1981

|      | No. of units approved | Total investment* | Foreign investment* | % of foreign Employment | Investment
|------|-----------------------|-------------------|---------------------|-------------------------|----------------
| GCEC | 1978                  | 52                | 1,625               | 1,202                   | 74.0            | 26,495
|      | 1979                  | 37                | 1,041               | 771                     | 74.1            | 13,169
|      | 1980                  | 48                | 1,873               | 1,315                   | 70.2            | 22,298
|      | 1981                  | 18                | 1,683               | 980                     | 58.2            | 11,408
| FIAC | 1978                  | 21                | 121                 | 74                      | 61.2            | 2,385
|      | 1979                  | 61                | 971                 | 387                     | 39.9            | 9,216
|      | 1980                  | 66                | 1,585               | 1,049                   | 66.2            | 6,985
|      | 1981                  | 63                | 1,161               | 642                     | 55.3            | 5,849
| LIAC | 1978                  | 2,385             | 1,061               | -                       | -               | 43,313
|      | 1979                  | 1,803             | 875                 | -                       | -               | 32,617
|      | 1980                  | 699               | 337                 | -                       | -               | 15,371
|      | 1981                  | 458               | 254                 | -                       | -               | 10,641

Source: Central Bank of Ceylon.

to the declared aims of the regime, the capital intensive investment in GCEC and FIAC industries has exhibited a low-employment potential. 31

As critically, the rapid expansion of industrial export-production has been based on a very high import content and resulted in low net foreign exchange earnings for the country. 32

While the policy of import liberalisation permitted capacity utilization in general in industry to increase from around 64 percent in 1976 to 74 percent by 1981, it worked also to encourage dependence on imported raw material

31. As the Table 8.2 shows, local industry has proved to be far more labour intensive per unit of capital employed -- almost three times if not more so -- than the GCEC industries. No doubt, if expenditure on overheads and revenue foregone is taken into account the costs of the GCEC would prove even more prohibitive.

32. According to one estimate, the net foreign exchange earnings from the FTZ were only one-third of the gross earnings and would be even lower if profits, royalties, etc. were calculated.


As the Central Bank pointed out in its review of the economy in 1981, this was a matter of increasing concern in the context of continuing global inflation: CBC, Review of the Economy, 1981, p.125.
contributing to a disarticulation in the economy. Information provided by the Central Bank strongly suggests that small industries and public industries (especially of consumer goods), were particularly affected by import competition. By 1979-80 rising costs of production, raw material shortages, lack of capital and even manpower shortages due to emigration served to drive out the smaller producers and manufacturers of various simple, indigenously-based consumer products. This problem compelled a modicum of protection to be offered by the government.

While the importance of public industry was scaled down in general, an examination of the data indicates that heavy capital investment/expansion was funded by the regime in intermediate industries which would serve the needs of the new sectors of development. It may even be pointed out that through the heavy capital-intensive investment made in production of steel, petroleum (and linked to it, urea), flour and sugar the new government exhibited a concern.

33. The cost of these in the total value of raw materials used in industrial production rose from 66 percent in 1977 to 89 percent by 1980. The 1981 publications by the CBC do not give the corresponding figure for industry as a whole in 1981. This increase was particularly evident in the food and beverages, textiles and chemical industries -- the first of which had strongly depended on local raw materials in the past. The non-metallic mineral products industry was the only one to show decline in use of foreign raw material due to the expansion in local industries in responses to the needs of the burgeoning construction sector activity.

34. Instructive in this regard is the differential impact of UNP policies on different units in the textile sector -- working to the advantage of the large-scale private units and decapacitating the smaller and medium-scale units and public enterprises. Small and public industry output of weaving and finishing of textiles and manufacture of garments had declined even in 1978. To a survey conducted by the CBC in 1978 and addressed to 1,300 firms in the small scale sector, about 500 firms failed to reply and another 120 indicated that they had closed down operations due to lack of former protection. However, in contrast, the large-scale modern industrial units in the textiles and garments sector faced import competition successfully and even expanded their output and more than offset the drop in small industry output.

with erasing the old sources of dependence in its own inimitable manner. Except for the sugar, rubber and mineral sands-linked industries, the rest remained heavily import-based in respect of their raw materials. More importantly, all of them in being concentrated capital-intensive projects created very few broader linkages or backwash effects for the economy as a whole.

Though, by and large, no large-scale handing over of public property to private interests occurred, a trend in this direction was evident in various decisions of the government. It was in the services sector, however, that private interests recorded some of their greatest gains. Besides the trade, transport and construction linked private interests, the tourist industry showed strong growth. Earnings from tourism doubled between 1976 and 1979 and it ranked as the fourth largest exchange earner by 1980, exceeding even coconut earnings.

The sharp expansion in public expenditure, government borrowings domestically and increased economic activity and demand for credit led to high rate of monetary expansion, increased credit creation by commercial banks and a rapid increase in resources of the commercial banks. In 1980 itself there was

36. Petroleum, steel and flour remained 100 percent import-dependent for their raw materials.

37. For instance, the most notable of these has been the intervention of the government to handover the management of 5 textile mills of the National Textile corporations to foreign textile manufacturing firms for better management and 5 of the decentralised power-loom workshops to local private sector enterprises. Likewise, a condenser factory on the East coast was denationalised on grounds of increasing efficiency and production (see FEER, vol.113 no.38, 13 September 1981, p.22). It appears to favour the idea of floating joint-stock companies to manage other public enterprises and especially to so lease the public plantations. In November 1982, in the interest of boosting private banking, the regime rendered all banks free to determine the rate of all foreign currency they dealt in thereby virtually giving up governmental control over the national exchange rate.
a 65 percent increase in resources of the commercial sector.\textsuperscript{38} The above
trend emphasise the attractiveness of investment in commercial rather than
productive channels encouraged and inherent in the UNP pattern of development.

The whole economic policy tended in essence, as a concerned observer
points out, to make local manufacturers become mere traders with prospects of
higher profits and commissions, creating thereby a greater economic dependence
with serious problems for employment and sustained economic development.\textsuperscript{39}

It was the capitalists linked to export-manufacture, export-import trade,
tourism and real estate, construction, banking and speculation who derived the
maximum benefits from UNP policy. They represented also the larger and most
concentrated sections of capital. It was this limited section of capitalists
which became even more closely linked with each other, in large part because
of their dependence on foreign capital. Domestic traders, retailers and
smaller transport agents remained subordinate partners to this alliance of
compradors. A broad stratum of the urban petty-bourgeoisie and lower classes
became active in the interstices of the new model as wayside hawkers of
imported goods, transport agents, construction workers and in the tourist
business. In political terms, while the indigenously-based medium and small
capitalists facing a decline in their fortunes argued for protection and
viewed the SLFP with greater favour again, it is suggested here that members
from the middle and lower levels of the comprador bloc felt the pinch of the

\textsuperscript{38} By purpose, nearly half the total advances were made for commercial
purposes because of the increase in trade, prices and exchange rate. The
increase in advances for industrial and agricultural purposes declined
marginally to 41 percent of the total while advances for construction,
consumption and other uses increased. Similarly, the sharp decline in
gross credit to co-operative institutions indicated the increasing role
private interests in marketing agricultural commodities.

\textsuperscript{39} Balasuriya, n.12, p.21.
declining funds and opportunities after 1979 and formed a diffuse support base for the Prime Minister.

**Agricultural Policies**

The policy measures of the UNP in the agrarian sector closely followed the logic of its overall economic thrust of "rationalising" all investments to increase production and profit. In doing so, as shall be seen, it served the needs and interests of the agrarian bourgeoisie which had emerged as a whole to establish its domination in the rural economy in the preceding decade. Influential sections of it, particularly affiliated to trade and moneylending, had been hurt by the UF policies and had been more faithfully represented by the UNP in the political arena.

**Consolidation of the Agrarian Bourgeoisie :** As the massive expenditures incurred on the "telescoped" Mahaveli Project signified, there was an all-out effort to scuttle the issue of land reforms which had emerged to become the central plank of the previous government's policies and instead to sharply augment irrigation capabilities. Despite the fact that a strong case existed in favour of redistribution in accordance to a 2-6 acre ceiling to obtain maximum productivity from the existing area under cultivation at the minimum of cost and no debt burden, it was ignored. Instead, attempts were concentrated on raising production, and reaching self-sufficiency in domestic paddy production through capital-intensive means through dependence on foreign imports and finances. It was an option to the obvious advantage of the Sinhalese agrarian bourgeoisie and commercial compradors that the UNP evidently represented.

Correspondingly, in the shorter term, with the backing of foreign finances, the new government offered liberal agricultural credit in 1977-78,

40. See Chapter 6, n.43.
increased the guaranteed price of paddy and subsidised imported fertiliser. The cuts in the food ration in and after 1978 and the introduction of a free market in paddy and rice in 1979 sharply reduced the importance of the PMB while working to the advantage of the surplus producers, millers and traders of paddy. By 1980, several district projects based on the concept of integrated rural development administered from above and funded by foreign governments or multilateral agencies were being actively developed.

Due to the increased importance of export earnings for financing economic development, increased incentives were also provided to the plantation sector in the form of producer subsidies. Notably, these incentives were offered on a more generous basis to private planters as compared to the state plantation sector and were reportedly withheld from at least the tea smallholders of less than half an acre.

The class content of the new regime was even more obvious in the agrarian legislation passed in this period. Just as in the case of private ownership in industry and commerce, a whole series of legislation was passed by the UNP government stabilising property rights in favour of the affluent agrarian capitalist landowners. The Partition Law No. 21 of 1977 provided for the partition and sale of land held in common. It thus reversed the UF bias favoring consolidated collective ownership over weak individually-owned

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41. The rice-ration was withdrawn from about one-half of the population from January 1978. The introduction of the Food Stamp Scheme in 1979 further decreased the commitment of the state agencies to supply food grains so that by 1980 PMB procured 10 percent of the production at a "floor price" in the glut season.

42. There were World Bank schemes in various stages of development for Kurunegala, Puttalam, Matale, Mannar and Vavuniya districts. The Netherlands, Belgian, Norwegian and Swedish governments had variously committed themselves to schemes in the Nuwara Eliya, Moneragala, Hambantota and Matara districts respectively.

fragmented plots. The State Lands (Recovery of Possession) Act No. 7 of 1979 provided for the recovery of state lands. This had the impact of primarily ejecting the poor illegitimate squatters, often of Indian origin, who had proved their credentials as cultivators by undertaking the hardships associated with breaking land for cultivation. In contrast, the accompanying Land Acquisition (Amendment) Act No. 8 of 1979 gave relief to landed persons whose lands had seemingly been acquired without adequate justification under the UF regime. Soon after this, the Land Grants (Special Provisions) Act No. 43 of 1979 provided for the transfer of agricultural or estate land from the LRC to the Government and thence to landless individuals, free of charge -- a measure which possibly benefitted the more indigent Sinhalese loyalists of the UNP.

The deliberate shift in favour of the landlord with the evident ultimate aim of allowing him to control as much of land as possible under the new dispensation became abundantly clear with the promulgation of the Agrarian Services Act No. 58 of 1979. The new Act specifically replaced the Agricultural Productivity Law of 1972 and the Agricultural Lands Law of 1973 and though using much of their terminology, it insidiously shifted legal power away from the paddy tenant -- an aim of which no mention is made in the preamble of the Act.

In contrast to the 1958 Paddy Lands Act and its successor in 1973 which set the rent to be paid at the lowest of three options -- 15 bushels of paddy per acre, quarter of the crop or the customary rent, the higher of the first two options must be paid now. No mention is made of customary rent. In view of the fact that in large areas half-share rents had continued to apply, the law would seem to favour the tenant. This progressive appearance is however undermined by the fact that under the new legislation no responsibility for cultivation standards or provisions of necessary capital and equipment devolve on
the landlord as it had earlier. The absence of such provisions particularly hit radicalised areas in the South and West of the island which had succeeded in implementing the provisions relating to quarter-share rent and efficiency obligations on the landlord. It thus provided the possibilities of increased exploitation of tenants in such areas.

For the first time the Act placed a limit of five acres on the land that may be cultivated by a tenant. Any non-payment of rents would no longer be considered a civil debt but lead to the eviction of the tenant by the Commissioner of Agrarian Services. Likewise, the procedure for nominating a successor to a tenancy was narrowed down to the family and made more troublesome by requiring a written testified document.

In contrast, the obligations on the landlord were lightened. Besides the release from efficiency obligations already mentioned any violation of the tenant's rights would result merely in the old fine of up to Rs. 500 -- an amount devalued by inflation -- and no imprisonment as earlier.

The connecting thread running through all such provisions for tenant default was the reversion of land concerned to the landlord which seems to have been the main purpose of the Act in view of the increased profitability from capitalisation in agriculture. The central attempt of the new Act seems to have been, as Moore rightly points out, to solve the "tenancy problem" by eliminating the tenant; 44 without the embarrassment of forced evictions which are clearly prohibited by the Act.

Simultaneously, it provided the legal basis for a new structure of rural institutions. It abolished of the structures for local democracy sought to be sustained in the preceding two decades from above with increasing state involvement. Rural Development Societies (RDS) had already been dissolved in

mid-1977 and People's Committees were abolished through legislation in 1978. On the grounds of political partiality and poor performance Cultivation Committees (CC), Agricultural Productivity Committees (APC) and Agricultural Tribunals had also been suspended by the UNP government in 1977. Their functions were carried out by new Cultivation Officers who were mainly drawn from the local UNP cadres taken into the public service. The new Agrarian Services Act 1979 formalised their position and also established Agrarian Service Committees (ASC) having a majority of official members, to replace APCs.45

The failure in the emergence of popular organisations of the poor peasants and/or the landless allowed the rural bourgeoisie to consecrate its hegemony in the countryside. An efficient bureaucratic structure was sought to be created to service it at various levels with new forums for their interaction and exchange formalised soon after in the DDC scheme, which will be examined below. By the beginning of the eighties, the distinct trend of reverting land taken over by the state to private ownership made itself apparent. The Land Development (Amendment) Act No.27 of 1981 allowed the purchase of such land by payment of amount fixed by the Land Commissioner in annual instalments in a period of 10 years at 4 percent interest per annum. The ceiling of 8 acres placed on alienation to individuals evidently indicates that the main beneficiary of the law was to be the corporate sector, possibly the private. Of the individual beneficiaries, it would be the affluent ones who would benefit from the exemption from payment possible to a "peasant permit-holder" since all costs of improvement prior to the sale had to be recovered by the Commissioner.

45. The Agrarian Services Committee (ASC) consists of 14 persons of whom not more than 8 are public officers, employees of public corporations and statutory bodies and of whom not more than 6 will be owner-cultivators or occupiers of agricultural land within the area of command of the organisations.
The Land Reform (Special Provisions) Act No.39 of 1981, however, perhaps constituted the most blatant reversion of the egalitarian intent of the main law brought in 1972. It legitimised the transfer of excess land, even by sale, or holding of it on lease from the Land Reform Commission (LRC) up to a maximum of 150 acres. Under the amendment to the original Act, minors and "private trusts" are considered "persons" and land taken over in the past of such persons can be reversed by order of the Minister of Lands. To the benefit of the landed interests, the rates of compensation were increased with retrospective effect from the inception of the original Act from 7 percent to 10 percent. The basis for calculation, moreover, was overinflated by among other things, utilizing the preceding 5 to 7 years' productivity figures, thereby including the more productive years in the post-1975 period. More tellingly, agricultural land in excess of 50 acres can be alienated by lease for purposes approved by the Minister. The revival of old liabilities and encumbrances, on the transfer back to the old owner safeguard old tenancy obligations and perhaps unpaid debts to the landowner which existed at the time of the takeover. To top it all, land alienated by the LRC could be replaced by other, and therefore possibly more fertile, lands to the former owner.46

In keeping with the technocratic and bureaucratic orientation of the new regime the state plantation sector was streamlined. The plantations managed by Ministry of Agriculture were transferred back to the Ministry of Plantation Industries and all large plantations managed as co-operatives were liquidated and transferred to the Janatha Estate Development Board (JEDB) and State

46. Cases of such exchanges in favour of leading UNP figures were commonly rumoured in Colombo at the time of the author's visit in August-September 1981.
Plantation Corporation (SPC). The two organisations were decentralised into four regional boards each in 1980 but the head offices remained in Colombo and little authority was delegated to the regional boards.

The Emerging Agrarian Structure: Changes in the ownership and management of land in conformity with the new laws exhibited certain features. The inter-institutional distribution of public plantation land finalised in 1979 left the two management agencies, the JEDB and SPC, together almost equally responsible for 71 percent of the total land taken over. 47 Analysing Central Bank data, it appears that some 15 percent of the total land taken over was alienated to individuals between 1978 and 1980, partly under the Land Grants Act of 1979. As Table 8.3 shows, after the initial spurt of distribution in 1978, the extents of land alienated progressively declined over the next two years -- possibly due to a lack of willingness on the part of the government to undertake responsibility to provide the necessary marketing and extension facilities to make such units viable and productive. 48

<table>
<thead>
<tr>
<th>Year</th>
<th>To individual villagers</th>
<th>To former owners</th>
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<tbody>
<tr>
<td>1978</td>
<td>39,000</td>
<td>9,830</td>
</tr>
<tr>
<td>1979</td>
<td>9,626</td>
<td>4,853</td>
</tr>
<tr>
<td>1980</td>
<td>8,845</td>
<td>10,211</td>
</tr>
<tr>
<td>Total</td>
<td>57,471</td>
<td>23,864</td>
</tr>
<tr>
<td>As % of total land taken-over</td>
<td>15</td>
<td>6</td>
</tr>
</tbody>
</table>

Source: Central Bank of Ceylon, Review of the Economy.

47. The SPC and JEDB were respectively responsible for 36 and 35 percent of total land taken-over.

48. The need for these was repeatedly voiced by the Central Bank of Ceylon in its annual reviews of the economy in 1979 and 1980. According to an official in the plantations ministry, it was originally envisaged that 125,000 or more acres would be alienated free to individuals with incomes of less than Rs.750 per month. Such plots would consist of 3 acres of paddy land and 1 acre of high land: Ariya Abeysinghe, Ancient Land Tenure to Modern Land Reform in Sri Lanka, vol.2 (Colombo, 1979), p.144.
In the same period, some 6 percent of the total land taken over was returned to former owners.49

As indicated in the preceding discussion the benefits of the new regime's policies fell with an uneven incidence over the various strata of agricultural producers and affected agricultural performance. Though on the average agricultural production grew at some 5.5 percent between 1977 to 1981, production fluctuated sharply from one year to the next highlighting the shortcomings in government policy.50

The state-owned plantations continued to suffer from various disabilities despite their reorganisation. Besides the management problems ensuing from an over-centralised structure of decision-making, they suffered from a constant lack of liquidity which affected their efficient operation. Under the new structure of taxation the state plantations were the most heavily taxed sector and in effect subsidised development in other sectors. They received production incentives on a discriminatory basis, as evident in the case of the fertiliser subsidy while they were called upon to improve working and residential conditions for the labour so as to attract Sinhalese villagers to estate jobs.

The government's policies pertaining to credit, producer subsidies, product prices and paddy distribution benefitted the larger private producers of both paddy and plantation crops. It benefitted particularly the surplus paddy producers from the Dry-zone districts of Anuradhapura, Polonnaruwa, Trincomalee and Batticaloa. The activity and advantages ensuing from the Mahaveli Project did and would continue to tip the balance in favour of the

49. An explicit section devoted to land reform and/or statistics detailing the extent of any land alienated in 1981 were notably absent from the CBC, Review of the Economy, 1980, pp.17 ff.

50. In proportionate terms, the contribution of agriculture to GDP fluctuated around 27 percent. Refer to Table A-16.
Dry-Zone area -- a region particularly favoured in the past by public policy and relatively well-developed.

The position of the small-holders, indigent tenants, and deficit producers of paddy, concentrated particularly in the rural Wet-zone areas in the South and West, worsened in contrast. The drastic tightening of agricultural credit according to commercial criteria, the decrease in fertiliser subsidy, unchanged guaranteed paddy prices by late 1978 disproportionately affected these smaller producers who had been in a position to take advantage of these incentives. At the same time, the small producers in general were sharply affected by the declining importance given by the authorities to transport and marketing facilities and agricultural extension services. According to CBC estimates, the replanting subsidies were not enough to induce the small-holding rubber, and particularly the coconut sector to forgo earnings between the time of planting and productions by new trees. Adverse weather conditions, rising costs of production and costs of living likewise, sharply eroded small producer margins and economic viability in the post-1978 period. The exclusive concentration on the mammoth Mahaveli Project adversely affected the resources and attention devoted to the maintenance of the minor irrigation networks and thus affected the possibilities for intensive cultivation by the smaller producers. In addition, the wholesale and rapid denudation induced by the accelerated program accentuated the annual drought conditions.51

The viability of the predominantly small producers of coconut, the minor export crop producers and the producers of subsidiary food crops was also affected in a variety of other ways. Increased import and subsidy of flour and

51. According to one report, only 20 percent of total land area remained under forest whereas 25 percent was critical for hydrological stability. The forest area would shrink further to a mere 15 percent after completion of the new development programs: Economic Intelligence Unit (or EIU), *Quarterly Economic Review: Sri Lanka* (London), 2nd quarter 1982, pp.7-8.
rice led to a drop in the demand for potatoes, manioc and other subsidiary crops. The stabilisation of prices of onions, chillies and potatoes through imports, and of coconut through a ban on its export affected both short and long-term production prospects of these crops. Interestingly, this sensitivity to consumer needs in relation to these crops produced predominantly by small holders stood in marked contrast to the relatively high prices allowed for paddy.

In a variety of ways, government policies worked cumulatively to benefit not only the surplus producers of paddy but also the allied importers, traders and middlemen. As a consequence, in political terms, important sections of these, particularly in the Dry-zone areas continued to support the UNP. In contrast, after 1979 large sections of the agrarian lower classes in the South and West shifted their support back to the SLFP -- as evident in the DDC elections in 1981 and even more so, the presidential elections in late 1982. 52

The Lower Classes and Labour

Through its particular model of development, the UNP regime promised to raise income levels and resolve the problems of unemployment, inflation and scarcity of goods which had sharply afflicted the lower-middle and lower classes in the preceding period.

The various policies of the UNP succeeded in alleviating the problem of

52. In response to the call for boycott by the anti-UNP Sinhalese parties in the DDC elections, there was a sharp drop in the turnout of over 22 percent in the majority of the districts in the South. For details see n.125. That the SLFP was aware of the mood of the agrarian indigent classes is evident in the promises made by Hector Kobbekaduwe, the SLFP presidential candidate in 1982, to distribute land to the poor and landless if voted to power.

The SLFP gained 39.1 percent of those polled, demonstrating thereby that it was virtually back on its old (pre-1977) footing: for details see Manik de Silva, "Victory in Sri Lanka", FEER, vol.118 no.44, 29 October 1982, pp.10-11.
unemployment only to some extent. Unemployment fell to around 15 percent of the work-force from some 20 percent it had reached under the UF.53

The impossibility of the necessary employment being generated by the UNP pattern of development which encouraged capital-intensive investment was underlined by the decline in jobs created after the initial spurt of activity in 1978-79. Compared to the 145,000 and 115,000 openings in the organised sector in 1978 and 1979 respectively, in the following two years the number of jobs was only 18,035 and 40,812 respectively.

In the context of this demonstrated incapacity of the UNP model to generate sufficient employment, migration to the oil-rich West Asian countries provided a release valve in terms both of employment and foreign exchange. It was thus allowed to continue unabated by the regime despite adverse effects it had on the needs of local development.54

On the plea of releasing financial resources for productive investment, the UNP cut consumer subsidies in food, fuel, health and education. These cuts in income-supports important to the less-affluent classes stood in contrast to the incentives offered to capital. The removal of price controls and public distribution of most essential consumer goods, and increased dependence on

53. CBC, Review of the Economy, 1979, p.75.
According to Central Bank estimates, the total employment generated in the organised sector between 1978-1981 amounted to 318,847. Despite the fact that employment in the informal sector is not taken into account, this scale of employment generation fell clearly no where close to the 1 million jobs between 1977-1982 promised by J.R. Jayawardene in 1977 when launching the new development program. It was also clearly insufficient in relation to the estimated 125,000 new entrants to the labour market annually.
The highest unemployment (20.7% of the workforce) was found in the urban sector while the estate sector had the lowest (5.6%).

54. Of the total number of emigrants approaching 24,000 by 1979, approximately half were those of the high (1.8%), middle (7.3%), and skilled (40.1%) level. In view of the past trend of them increasing exponentially, it became a matter for serious concern. The vocational training centers set up hurriedly were hardly sufficient enough as the CBC reported as early as 1978: CBC, Review of the Economy, 1978, p.88.
indirect taxes for revenue further shifted a greater proportion of the development burden on the lower classes.

Less directly, the inflation induced by escalating government expenditure worked to erode the incomes of the wage-earning and fixed-income workers. The wholesale price index for consumer goods registered a rise of over 112 points on the index between 1977 and 1981. The foods category, important to the common man weighted at 62 percent of average household expenditure, more than doubled with a rise of 174 points on the index in these years. In real terms the incomes of workers declined after 1979 (refer to Tables A-11 and A-12).

Faced with the restiveness the above program raised in the politicised Sri Lankan milieu, the UNP regime proceeded at the same time to carefully neutralise the traditionally well-organised labour movement. It sought to depoliticise and streamline the matter of job allocation in the state and public sector through Employment Data Bank Scheme in 1978. An unemployment dole of Rs.50 was instituted in 1979 to pacify the frustrations of youth with the "open" policies of the government. Budgetary relief allowances and special allowances were instituted through legislation in 1978 to cover particular categories of workers in the private and public sectors.

Its interest in bureaucratization of industrial disputes became clear in 1979 when the Wage Boards (Amendment) Act No.10 of 1979 and the Shop and Office Employees (Regulation of Employment and Remuneration)(Amendment) Act No.12 of 1979 provided discretion to the Commissioner of Labour to decide on cases of default of employers in payment to employees in case of lack of records. As in the case of the Payment of Gratuities and Other Monetary


56. The centralised Employment Data Bank replaced the employment exchanges and all appointments to the public, and advisedly the private sector, were to be made through this Scheme.
Benefits to Indian Repatriate (Special Provisions) Law No.34 of 1978, the decision of the Commissioner was final and unchallengeable in courts. Perhaps as a concession to the political support of Thondaman to the UNP, the latter law, however, compelled action by the Commissioner if wrong information had been provided by officers of plantations. More tellingly, another law attempted to provide for institutionalised and compulsory arbitration of all industrial disputes by a permanent body instead of a resort to strikes by labour. However, due to the strength of the opposition it aroused, the Employees Council Act No.32 of 1979 was confined in application to state undertakings and governing bodies. As a bit of kite-flying and perhaps an augury of things to come the idea of one union for each industry was also peddled by government spokesmen in this period.57

Soon after, the Essential Public Services Act No.61 of 1979 was passed which was described as "the most disturbing measure directed against trade union rights that this country has ever experienced."58 The new law made it possible for the executive to declare a wide number of public services provided by various government departments, corporations, local authorities and co-operatives as essential. Strikes in them consequently became illegal even in "normal" times. This was done despite the fact that there already existed ample provision to deal with strikes in important services in both emergency and "normal" times since 1959.59 The stringency of the original Bill in regard to penalties automatically devolving on offenders was such that it had to be modified in response to the Supreme Court ruling them as unconstitu-

57. It had been part of UNP Manifesto, 1977.


59. See Chapter Four, n.81.
Despite that, as remarked by the Civil Rights Movement (CRM), the potential penalties remained "unprecedented, illogical, and totally disproportionate." Like other repressive legislation passed by the government, the Act was operative for three years. The teeth in the new law thus were such as to constitute a qualitative change in regard to the rights of labour.

The Communal See-Saw

The different minority communities were differentially affected by the UNP policies.

a. The Ceylon Tamils: Of these, the Ceylon Tamils were particularly adversely affected. The lop-sided pattern of development encouraged by the UNP resulted, as seen, in the chief projects for development being set in the predominantly Sinhala areas. Of these, the Mahaweli project bordered on the Tamil areas and was linked to the sensitive issue of land colonisation. According to one study, the ethnic composition of settlers in the completed H-area

60. The general scope of its applicability was such that, as the CRM hypothesised, even the act of a mother advising her daughter not to go to work for reasons of safety at the time of a strike-call would constitute illegal action: Statement by the CRM, "The Essential Public Services Bill" (Colombo, 1 September 1979, mimeo).

The Supreme Court consequently ruled that "compulsory forfeiture of property and erasure of offenders' name from professional register, in addition to imprisonment or fine, constitute excessive punishment and savour of cruelty." It was therefore unconstitutional: see SC Application No.58/59 -- Ratnasiri Wickremayake, General Secretary of SLFP vs. The State, 2 October 1979.

The Bill was then amended to make their imposition dependent on the court.

61. CRM, "Review 1979", n.58.

Erasure of names from the professional register for offences unconnected to the practice of the profession concerned so as to result in the loss of livelihood of the offender was, as Colvin R. de Silva remarks, "a unique provision which is an invention of this 'Dharmishta Government':" C.R. de Silva, Dictatorship Tightens its Grip on Sri Lanka (Colombo, 1979?).

As an interesting adjunct, the Buddhist Temporalities (Amendment) Act No.22 of 1980 debarred with retrospective effect any person from holding office who had been disqualified under the provisions of any written law (such as the Public Services Act) from practising or engaging in any profession or trade.
was almost 100 percent Sinhalese.\textsuperscript{62} Related sectors of activity such as construction, commerce, transport, tourism and plantations were also consequently not based in Ceylon Tamil areas except for some self-employment generated by increased trade.

With all state-employment channelled through the Job Bank, electorates represented by opposition MPs were excluded and virtually no selections of Tamils for the lower grade vacancies. Following the initial largesse, the IMF-enforced reduction in government expenditure by 1980 affected the state's capacity to generate employment and the few jobs that emerged went to the aspirants from the majority community. Amirthalingam alleged during the debate on the District Development Councils (DDCs) that people from Tamil-speaking areas had formed less than 2 percent of those who got state employment in 1977-1980.\textsuperscript{63}


Official sources cite, at best, the case of Mahadiulwewa in Seruwila electorate in Eastern Province where, on the basis that the surrounding villages were of a Sinhalese majority; of those settled less than 11 percent were Tamil, and over 12 percent were Muslims: High Commission for the Democratic Socialist Republic of Sri Lanka, "The Tamil Minority of Sri Lanka -- The Facts" (Delhi, 9 October 1981, mimeo), p.9.

With the idea of the agricultural FTZ which was more recently being discussed, there will be obviously less land for distribution to the less affluent and even less for the minorities.

\textsuperscript{63}. Bastian, ibid.

There has been no official data to contradict this evidence. Instead, the whole thrust of the official argument seem to be the opposite -- that the Tamils are a privileged minority with little to complain about. For instance, see the note by the High Commission for Sri Lanka, n.62, pp.3-6. As the given data shows, in what was most probably the most favourable year, recruitment of Tamils to the Administrative Services was equal to less than 8 percent of the Sinhalese recruited that year (the numbers promoted were, however, double their proportion within the service) (p.6). Similarly, in the Prima Flour Mill in Trincomalee, despite the local preponderance of non-Sinhalese, 16 Sinhalese were employed in staff grades versus 15 Tamils and 233 Sinhalese versus 55 Tamils in the non-staff grades (p.6.).
With the post-1977 cuts in funds for education, and no expansion of facilities there was little done to ease the politically-sensitive issue of implementation of the language rights newly promised by the Constitution and university admissions. The predominance of Sinhala and increased use of English tended to discriminate against the Tamil-educated petty-bourgeois youth of the north in particular. These increasing disparities on ethnic lines deepening those of class were further underlined in the reintroduction of a masked form of standardization in 1979, after the initial abandonment of such schemes. The scheme continued to discriminate against the better educated Jaffna student but benefitted the other districts of the North along with the East which were backward in terms of secondary educational facilities.

In the consequent impasse of job opportunities for the Ceylon Tamil youth, migration to West Asia and to some extent the Western countries offered an

64. The new scheme consisted of university admissions of 55% made on district basis, 15% to underdeveloped areas and only 30% on merit. There was a sharp rise of Tamil admissions into the prestigious science courses in 1978 from the reduced numbers being admitted in 1974 when standardization and district quotas were applied with modifications. The proportion, however, fell in the following year 1979 when quotas were re-introduced.

The minor increases in the proportion of Tamils in Physical Science, Bio-science and Architecture may well have been due to their continued advantage in these relatively more uncommon specialised fields.

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<tr>
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<th>1974</th>
<th>1978</th>
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<tr>
<td>Engineering and</td>
<td>79.7</td>
<td>60.1</td>
<td>66.1</td>
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<td>Applied Sciences</td>
<td>15.7</td>
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<td>(except in 1978)</td>
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<td>Medicine &amp; Dental</td>
<td>69.9</td>
<td>54.7</td>
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<td>(except in 1979)</td>
<td>26.3</td>
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<td>Physical Science &amp;</td>
<td>75.1</td>
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<td>Bio-Science &amp;</td>
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avenue to escape which some took readily. Though no precise figures are available as to the communal breakdown of the emigrants, it has been remarked by a Colombo-based Tamil journalist that Jaffna is fast becoming a home for children and the aged, living on expatriate inflows. However, as is obvious from the hard core of "terrorist activity" in the North, not all lower middle-class youth could or would take this avenue and conceivably it is this segment of the Jaffna population which provides the militant core around which Tamil separatist aspirations revolve.

b. The estate Tamils: In contrast, the estate Tamils found themselves in a more ambiguous position. As Minister of Rural Industries Development, their leader Thondaman was in a position to negotiate projects overtly benefitting them.66

Due to the adverse impact of skilled estate labour shortage on tea plantations, the UNP with its plantation-based interests preferred to slow down repatriation after it came to power (as Table A-17 demonstrates).67 Their policies thus aggravated and perpetuated the problem of the "stateless". To ease the pain of forced repatriation, at Thondaman's behest, the link between the award of Indian citizenship and repatriation was severed in 1980 and those


66. In his aim of assimilating the estate Tamils into the national mainstream, attempts were made to improve estate facilities for education, health and housing. He initiated a rural credit plan whereby the estate labourers could take a small loan from the bank for dairying or small cultivation supplementing their income. Netherlands promised funds to finance the rural development project of particular benefit to these labourers: in conversation with author, 30 July 1981.

67. A large number of applications for Sri Lankan citizenship had been held up until 1980. In other cases though all formalities had been completed, repatriation was held up by procedural delays especially in the settlement of provident fund and other dues: see Gamini Navaratne, "Indo-Sri Lanka Move on 'Stateless' Issue", Times of India (henceforth Bombay edn), 1 March 1982, p.8.
desiring were allowed to remain till retirement.\textsuperscript{68}

The award of citizenship was obviously a touchier issue with both political and economic implications for the ruling bloc. On the one hand, the UNP did so in dribbles to ensure the compliance and support of the Tamils. On the other hand, it was evident that in the deteriorating situation of the lower most rural strata of the Sinhalese in the subsistence sector, there was a renewed interest in plantation jobs which now appeared more attractive for their improved income, residence and stability factors. Indeed the dominant classes in the UNP were faced by the contradictions of their economic and political interest in the plantations by retaining the relatively more skilled and docile Tamil labour force versus their Sinhala constituency and the need to alleviate the conditions of the rural poor for fear of wider repercussions. This conflict of interests became obvious in the efforts by the leadership of the UNP and CWC on the one hand to work together at the national level and the communal demands and tensions extant in their support base.\textsuperscript{69} In 1977, 1979 and again in 1981 the politically vulnerable Tamil labourers became the targets of communal passion inspired by the attempts of the ruling party to subjugate Tamil recalcitrance in the North.\textsuperscript{70}

\textsuperscript{68} Ibid.

\textsuperscript{69} Despite acquiescence to UNP policies, Thondaman insisted on maintaining a separate political identity for the CWC, which seemed to rankle the UNP and its more Sinhalese-chauvinist petty-bourgeois following in the hill areas. The CWC was faced by incursions made by the UNP's trade union, Jathika Sevaka Sangmaya (JSS).

\textsuperscript{70} As a result, by 1981 a large number of estate Tamils preferred to go to India. But, in addition to the other factors complicating the problem of repatriation was added the fact that the 1964 Agreement ceased to be operative after 31 October 1981. According to official sources, by November 1982, of the 6 lakhs envisaged by the Agreement only a total 406,094 persons had been accepted by India (of whom 302,518 had been repatriated: see Table A-17). India has refused to extend the Agreement any further.
c. The Muslims: The policies of the UNP benefitted the traditional Muslim occupations of trading, gem merchants, highly qualified professionals and to a lesser degree the paddy landlords of the East. The Muslims were bolstered by their affiliations not only to the ruling party but the increasingly influential oil-rich Muslim countries. Their well-being continued evidently to be a source of envy amongst the Sinhalese population as highlighted by the communal conflagrations between the two communities in Galle in 1981.\(^7\)

**The Contradictions of Open Dependence**

As seen above, the various policy measures of the ruling comprador bloc were specifically designed to encourage increased private capitalist activity in general and the consolidation of links between foreign and local big capital in particular. There was an increased reliance of extensive foreign and domestic borrowing to finance its liberal economic policies, subsidise capitalist growth and implement its massive lop-sided and capital-heavy investment program. Legislation was specially framed to stabilise property relationships in favour of the more privileged estate owner, landlord and creditor.

The neo-colonial model of growth encouraged a resubordination and integration of the local economy to foreign resources and influence and a disarticulation of the emerging inter-sectoral linkages in industry. It was the more substantial interests linked to export production, trade, services, finance and speculation who reaped the maximum benefits from the new policies and for whose benefit indeed, the policies would seem to have been designed. Large sections of the middle bourgeoisie moved forward a stage in the production process and switched to importing and trading goods they had formerly manufactured. However, the continued deterioration in their position with the

increasing control of the big importers and traders over business, led sections of them led to favour a modicum of protection. The class content of the UNP's policies became clear in relation to the austerity advocated and fostered vis a vis the broader masses.

The growing domination of comprador capital and by proxy, foreign capital, over the productive processes at the expense of lower classes was accompanied by moves to shift power away from the structures of popular participation and representation at the various levels. As seen, the GCEC supervising the fusion of domestic with foreign private monopoly capital was totally removed from accountability to popular representatives in Parliament and directly linked to the executive President. The local administrative process in the designated areas was also purged of all electoral pressure and conflict. In these, as in the case of the new rural institutions, the role of bureaucratic officials was enhanced while that of the rural lower classes was minimized, if not done away with. Likewise, there were moves to remove labour disputes and conflicts from the realm of collective bargaining through mass action to institutionalised bureaucratic channels of arbitration.

These trends at the socio-economic level were, as we shall see in the next section, accompanied by corresponding changes in the organisation of state power.

By and large, the increased rate of economic growth, the satisfactions of increased consumerism and the possibilities for emigration protected the regime from widespread discontentment. A broad stratum of the urban petty bourgeoisie became active in the interstices of the new economy and so identified with the regime. However, the adverse impact of UNP policies was critically felt by the close of the seventies by the organised labour in urban south-west of the island who suffered an erosion in income, and the Tamil
minority group in the North distant from the new poles of development. Due to their organised cohesive character and political orientation, these two groups posed a particularly potent challenge to the new pattern of development. Likewise, while the SLFP succumbed to declare that it approved of the FTZs and would not harm foreign interests if it came to power, its attempt to rally support among the wider masses by promising a restoration of their ration books, greater control over prices distribution of land to the landless, and preferential treatment to local capital posed an alternative and therefore a danger to the virtually unbridled neo-colonial pattern of growth favoured by the ruling comprador bloc.

Consequently, the fear of disruption of the favoured growth-model if an alternative party or coalition of interests came to power led the UNP political elite to use all means at its disposal to negate the opposition and its power. Any dissent or challenge to the regime posed a threat of snowballing into a major disturbance upsetting the precise alignment of interests on which the new Constitution and the calculated predominance of the comprador classes was based.

REFLECTIONS IN THE ORGANISATION OF STATE POWER

In our discussion of the 1978 Constitution we had noted that the new Constitution had been framed to encourage the emergence of a conservative consensus between the two or three major parties. In practice, however, in keeping with the underlying socio-economic threats to the position of the ruling bloc, the UNP leadership deemed it politic to uphold the ruling party as the primary embodiment and aggregation of this consensus.

Accordingly, during its tenure it followed a "carrot and stick" policy
towards the opposition. To the extent possible, it sought to win over and so, neutralise sections of the opposition through political patronage. It gained a fair degree of success in relation to the more moderate Tamils and Muslims in the Eastern Province and non-Jaffna Northern Province areas.

However, the insistence on maintaining an independent political identity by the SLFP and the left and recalcitrance of the TULF were sought to be dealt with through more draconian means. As shall be seen, despite its five-sixths majority in Parliament, the UNP elite resorted to extra-ordinary measures not merely to contain but instead to decimate the opposition as a potential alternative to itself. The cynical disregard for the wider body of opinion exhibited by the ruling party in the manner it introduced the Constitution was reinforced by its subsequent actions.

The Legislature: Arbitrary and Arrogant

Despite its majority and its professed faith in democracy, constant recourse was made to Article 122 of the Constitution providing for a swift promulgation of "urgent" bills. The most important bills in the post-1977 period relating to the three constitutional amendments, retroactive legislation and penalties, extraordinary powers to deal with possible threats to law and order and the DDC Bill were all rushed through Parliament. Thus such matters of "national interest" were not permitted to be debated substantially outside or even inside the Parliament. However, it needs to be noted, by so excluding popular opinion and debate, the legislators voluntarily denuded

72. It informally offered Cabinet positions to the SLFP in 1977, responsible positions to leftist leaders and district ministerships to the TULF.

73. The new regime successfully drafted C. Rajadurai, the defecting TULF Member from Batticaloa, into the Cabinet. By mid-1979, the UNP had 9 out of 12 seats in the Muslim Tamil-populated Eastern Province. Of these, 2 were Cabinet Ministers (the other being K.W. Devanayagam who had always supported the UNP), 4 MPs were appointed DMs and 1 a Deputy-Minister. Overtures to the Muslim sections in the Northern Province paid dividends in the DDC elections.
their own contribution and importance to policy-making.

Despite the guarantee as a fundamental right in the Constitution against retroactive legislation, and retroactive punishment, such provisions were routinely incorporated in laws aimed at members of opposition parties. This was done without them ever being formally charged or tried in a court of law or left with a remedial course of action.\textsuperscript{74}

The ruling Parliamentarians, likewise laid the institution of Parliament open to derogation by the increasingly partisan character of the legislation they passed.

Within six months of the promulgation of the Constitution, the Second Amendment was passed which made it possible for two opposition MPs to defect on spurious grounds to government benches in Parliament without losing their seats as the Constitution had originally stated.\textsuperscript{75} Article 161 was amended retrospectively to allow the case of expulsion by a party of a defecting Member, and a Supreme Court opinion upholding such an expulsion, to be referred to a Select Committee of the House. The Committee would contain a majority of government Members. The decision of the Committee would then be confirmed by an absolute majority (about 85 Members) of the House. On the calculation that the UNP may not have a majority in a future Parliament, the

\textsuperscript{74} The first of these, the Local Authorities (Imposition of Civic Disabilities) (Special Provisions) Law of 1978 was used against some 34 of the most powerful SLFP members including Felix Dias Bandaranaike. They were deprived not only of their civic rights for seven years, but also the right of any government employment for life. This action was taken on the findings of the G.P.A. Silva Commission and S.W. Goonewardene Commission appointed to "clean the public life of the country": W.A.W. Warnapala, "Sri Lanka in 1978: Reversal of Policies and Strategies," Asian Survey, vol.19 no.2, February 1979, p.183 ff.

\textsuperscript{75} While one of the MPs was the TULF MP Rajadurai from Batticaloa, the other was R.G. samaranayake from the SLFP. For details see Gamini Navaratne, "Constitutional Fiasco in Sri Lanka", Times of India, 22 January 1982. On the amendment itself see N.M. Perera, Critical Analysis of the New Constitution of the Sri Lanka Government promulgated on 31 August 1978 (Colombo, 1979), pp.107-112.
amendment applied only to the present Parliament.

In defence of this Amendment, the PM asserted the principle that "...it was the prerogative of Parliament to decide on whether a member should remain in the House." 76

This principle was followed with particularly drastic effects in the proposed Third Amendment and expulsion of the major opposition figure of Mrs. Bandaranaike from Parliament. It, in effect, converted the principle upheld by the new Constitution of the subjection of a Member to party discipline into the subjection of all Members to the disciplinary power of the majority party. 77

A Third Amendment bill was passed in late 1980 to enlarge the strength of the legislature from 168 to 169 members. This farcical enactment would have enabled the UNP Member of Kalawana whose election to the seat in 1977 had been declared null and void by the Supreme Court, to retain his seat as a nominated member along with another member to be elected from Kalawana. Besides the change in number of the MPs, the Amendment obviously introduced the new principle of two MPs representing a particular electorate of whom one could be nominated. Consequently, the Supreme Court ruled that this controversial Amendment constituted a change to the basic structure of the Constitution and


77. While this Amendment was framed obviously with opposition defectors to government benches in mind, it exposed an acutely embarrassing loophole for the ruling party two and half years later. The situation arose when the UNP MP Neville Fernando was expelled from the party for his statements in Parliament during the communal tensions in July-August 1981. Fernando then did not appeal to the Supreme Court but instead continued to sit in Parliament as an independent Member till a resolution was moved by the UNP to expel him, whereupon Fernando resigned -- as an independent! Logically, no party could nominate a replacement to the vacant seat: Navaratne, n.75. Since there was no time limit placed for replacement either, the seat was allowed to lie vacant till the next parliamentary elections in preference to a by-election which could prove embarrassing to the ruling majority.
as such required endorsement by referendum. The Kalawana by-election was lost soon after to the joint opposition candidate, so that the UNP member considered it wiser to resign and let the matter die down.\footnote{See \textit{FEER}, vol.111 no.5, 23 January 1981, pp.13-14.} Legally the fact that the President did not conduct the referendum despite the ruling of the Supreme Court on an amendment which had been supported by a two-thirds majority in Parliament, left an unhealthy precedent of the President ignoring the will of these two institutions.

In keeping with the newly asserted role of the legislature being judge in its own cause, it rushed through the Parliamentary Powers and Privileges (Amendment) Law in 1978 to empower it to punish two journalists for a photo-caption mix-up in their paper. Contradicting all precedents of parliamentary practice and the UNP's own decision in 1953 on the incubation of the original Act, the Parliament proceeded to sit as a whole, purportedly as an impartial court of law and determine punishment, in this case a fine, on the offenders for a perceived breach of privilege against itself.\footnote{Heretofore, the practice had been that minor breaches of privilege were tried by a select committee of Parliament and the punishment determined by the Supreme Court. By the new Amendment, the Parliament was free to impose a fine on culprits or sentence them to imprisonment. See N.M. Perera's and S. Nadesan's critiques in \textit{CDN}, 8 February 1978, and 29 March 1980 respectively.}  

\textit{a. The judiciary overruled:} The arrogance of the UNP elected leadership in their strength outdid that shown by the UF parliamentarians. For the first time in Sri Lankan history, the judgement of a superior court was declared null and void soon after the promulgation of the new Constitution thus belying the UNP's promises to respect the independence of the judiciary.

In keeping with the Constitution, the Special Presidential Commissions of Inquiry Law No.7 was passed in 1978. A presidential commission was appointed
under it to investigate alleged excess of the previous government headed by Mrs. Bandaranaike. The Law contained several of the unsatisfactory features of the Criminal Justices Commission Act 1972 which the UNP had criticised from the opposition in 1971 and repealed on assumption of power in 1977. In diluting the judicial process to served political purposes it undermined not only public confidence in the independence of the highest judiciary but inflicted "a kind of second class justice for political offenders." 80

The Court of Appeal in its judgement of November 9, 1978 granted a writ of prohibition to Mrs. Bandaranaike against the Presidential Commission appointed to investigate the charge. The government responded swiftly with two laws. The Special Presidential Commissions of Inquiry (Special Provisions) Act No. 4 of 1978 made changes to the Law with the purpose of clearing "the doubts expressed by the judiciary about the intentions of Parliament." 81 It thereby retrospectively validated the hearings of the Presidential Commission against which the Court of Appeal had ruled.

The other enactment, the First Amendment changed Article 140 to limit the power of the Court of Appeal to issue writs of prohibition on Presidential Commissions manned by current or former judges of the superior courts. 82

b. Castrating the opposition: In the aftermath of the cohesive joint opposition trade union strike in 1980 the UNP moved to disable its most potent


The more politic procedure respecting the decision of the Court, as pointed out by Colvin R. de Silva, would have been to legislate anew more effectively and set up a new Commission: Socialist Nation, 29 November 1978.

82. For details see N.M. Perera, n.75, pp.101-106, and CDN, 21 November 1978.
opposition party and its leaders.\textsuperscript{83}

In pursuance of the findings of the Presidential Commission, the Parliament expelled Mrs. Bandaranaike from Parliament on October 18, 1980. This was done against all principles of natural law which demanded that the findings of the Commission be adequately and publicly agitated in a suitable judicial forum. As pointed out by her, the offences such as the "abuse of power" were vague, unknown to law and what is more, nowhere defined even within the enabling legislation -- the Presidential Commissions of Inquiry Law No. 7 of 1978.\textsuperscript{84} Further, as the Leader of the Opposition pointed out the actions of Mrs. Bandaranaike had been legitimate under the 1972 Constitution, approved by her Parliament and had been upheld by the same even against an attempted vote of no-confidence in 1976. They could not, therefore, in any fairness be judged under a different Constitution by a different party majority in Parliament.\textsuperscript{85}

The day after the expulsion, the ruling majority imposed further restrictions through surprise amendments to the new elections law. The two accused by the Presidential Commission, Mrs. Bandaranaike and F.D. Bandaranaike were not only deprived of their civic rights but prohibited from campaigning or participating in parliamentry or presidential elections even on behalf of other candidates. If they did so, they would personally commit criminal offences, while the candidate concerned could be disqualified. The extraordinary lengths to which the ruling party went to paralyse its major political opponents led the CRM to remark that obviously "...the intention was not to cleanse public

\textsuperscript{83} Only the JVP kept aloof from this strike for which it came under severe criticism by the rest of the opposition and lost its most substantial trade union -- that of the school teachers led by Rohana Wijeweera's brother-in-law.

\textsuperscript{84} For Mrs. Bandaranaike's statement before the Presidential Commission, see CDN, 8 May 1980.

life so much as to prevent an effective opposition campaign at the next general election and at the first election to be held in Sri Lanka for the office of President". 86

Likewise the ruling party passed a series of laws augmenting the powers of the executive to deal with the militant wing of the TULF and organised opposition action by labour, described later.

c. The time of reckoning: PM and Parliament vs. President: Rigid party discipline was used, in effect, to erode the powers of representatives in the legislature and augment those of the executive President both formally and informally. The removal of M.D.H. Jayawardene from the Cabinet in 1980 underlined the fact that no criticism would be tolerated even from old stalwarts of the party and senior colleagues of the President. 87 The Member of Parliament became, more than ever, in the words of an old political veteran who had taken full advantage of the political freedom allowed to an MP in the past, a "prisoner of the party." 88

The ruling out of more substantial purpose to parliamentary debate led to a degeneration in its quality. The thrust of UNP debate and interjecture exhibited dangerously and blatantly communal overtones. 89


87. The outspoken former Minister of Plantation Industries criticised the government's economic policies, particularly in the debate on the 1980 Budget in Parliament. He was compelled to resign the post consequently: Hong Kong Standard, 14 December 1979.

By his own admission, after strict warning he remains a silent backbencher of the ruling party: in interview with author, 7 August 1981.

88. A MP of the ruling party, he specifically asked the author in late 1981 not to be identified!

89. this "first" in constitutional history had been preceded by another ridiculous "first" -- the spectacle of a government parliamentary majority debating the resolution of no-confidence of an absent opposition in order to defeat it! For details see Forward(Colombo), 1 January 1981.
This demeanment of their own authority had an important repercussion in the longer term. In contrast to the strong figure of President Jayawardene, the vast majority of the UNP MPs figured as incompetent, weak and often corrupt to the public mind. This consideration led MPs to acquiesce to the passage of the Third Amendment to the Constitution through which the presidential elections were pre-poned by over a year to October 1982. In doing so, on the one hand they opportunistically sought to strengthen the chances of their victory at the parliamentary election if the latter followed closely on the heels of the highly likely victory of President Jayawardene.90

The adroit maneuvering and manipulation of events by the President was, one is led to suspect, particularly directed to upset the strength of reputedly 90 MPs who had coalesced as a group under the PM Premadasa.91 While powerless individually, this section of UNP MPs had evolved to collectively

90. By mandating the Presidential elections first and, more critically, informally handing undated resignation letters to the President soon after his re-election in October 1983, the majority of the elected representatives completely subordinated themselves to the will of the newly-elected President and party chief. The newly-secure President thus not only overcame the potentially divisive issue of the contents and ordering of the party-lists at the time of the elections but could force the resignation of any UNP MP in future without necessarily carrying the majority of party MPs with him even! Interestingly, he now acquired the power that had been sought in the "smuggled" provision at the time of the constitution-making (see p.336 of the present work).

91. According to non-UNP observers the PM had demonstrated that he would stick with them through thick and thin -- often in the process supporting questionable acts of MPs and stands of the UNP in Parliament. Forward, 1 January 1981 and 20 January 1981. The restiveness of the Members under party discipline, dissatisfaction with the increasing shift of powers regarding allocation of jobs and funds to the bureaucracy headed by the President along with the distance of the President from his parliamentarians in contrast to the PM, also contributed to this development. The vast powers of the PM over funds, contracts and patronage as the Minister of Local Government, Housing and Construction were very obviously used in creating wider bases of support with his MPs and their constituencies.
constitute a real pressure group on the actions of the President and his faction both in the government and in the party. The conflict between the two top positions in the government was as pointed out in the last chapter, built into the structure of the Constitution.

In view of his obvious ambitions to be the next President, the PM and his faction posed a threat to the predominant position of J.R. Jayawardene and his faction over the government and party apparatus. This threat was magnified under the 1978 Constitution (as it had been drafted) by their potential bargaining capacity at the Parliamentary elections scheduled before mid-1983 and the Presidential elections due before February 1984. This threat was adroitly nipped in the bud by the President through the use of a Presidential Inquiry Commission to serve notice on the prime ministerial faction of the party; while also playing up the considerations leading to the Third Amendment in the minds of the UNP legislators and effectively subordinating them to his control.

Presidentialism Reinforced

a. The growing armoury of executive powers: Other aspects in the organisation of the state further emphasised the powerful concentration of power that was taking place in this period in the hands of the executive.

Rules and regulations formerly evoked in times of emergency were made into ordinary statute law. The UNP leadership thereby sought to avoid the necessity of declaring the attention-catching emergency in times of pressure but instead passed legislation allowing a generous use of arbitrary power beyond the

92. With the laudable objective of punishing irregularities within his government, the President used the report of a presidential commission appointed for the purpose to force the resignations of E.L. Senanayake from the Cabinet and certain public officers from their posts.

For a report of the incident, see Manik de Silva, "Let's Keep it Clean", FEER, vol.116 no.21, 21 May 1982, pp.36-37.
Besides the particular measures directed against the SLFP and organised labour, other legislation was passed to deal particularly with the Tamil militants. However, though aimed at them, the Criminal Procedures (Special Provisions) Law No.15 of 1978 and the Proscribing of Liberation Tigers of Tamil Eelam and Other Similar Organisations Law No.16 of 1978 gave the executive enormous powers to curb the activities of virtually any political organisations and suppress any political dissent.

In the following year, the Prevention of Terrorism (Temporary Provisions) Act No.48 of 1979 became operative with retrospective effect and permitted extended interrogation by the police. In addition to some of the most objectionable features of the above laws, it permitted extended interrogation by the police. Oral or written confessions derived in such and other questionable circumstances were made admissible as evidence in the court against the accused. Though officially it has been equated to the Terrorism Act adopted in Britain in 1974, one impartial observer has pronounced it far broader in scope and more repressive than the British law. In its violation of

93. Indeed, as the regime's apologists argued, it was wiser to foresee situations presenting a challenge beforehand and aggregating the required powers beforehand: the author was presented with this argument on two different occasions -- in her interviews with Lalith Athulathmudali, 6 August 1981; and H.W. Jayawardene, 29 July 1981.

94. Ministers of the government were given power to order the detention of any person and forfeiture of property. The ambit of the latter law, which was in all probability unique to Sri Lanka among democratic countries, extended to organisations which were unproscribed but engaged in "activities substantially similar to those carried out or formerly carried out" by expressly proscribed organisations [Section 2(2) and (3)]. The Criminal Procedures Law also provided for a person to be detained with no possibility of bail on an allegation that he had committed scheduled crimes. This was made operative despite the statement of the Commissioner of Prisons that only 20 percent of those remanded to custody were eventually convicted (CRM, "Review 1979", p.2). Section 5 of the Tigers Law dealt with controlling publications of the proscribed organisations and, in fact, meant that newspaper censorship could be put into effect.
internationally accepted minimum standards for criminal procedure, it was
adjudged similar to the 1967 Terrorism Act of South Africa in several

Pertinently, in view of the uncertainty regarding the political
complexion of future parliaments, the Liberation Tigers Law was allowed to lapse in May 1980 after being extended in 1979. The Criminal Procedures Law was amended and extended in 1979 and relegislated in 1980. The law relating to terrorism effectively covered the period of the 1977 Parliament by being made operative for three years.

While these extraordinary powers of repression by the state remained operative for the whole country all the time, they were applied with particular reference to the Jaffna peninsula.\footnote{Maitripala Senanayake of the SLFP compared it to the Emergency Regulations in force between 1971-77, the CJC Act 1972 and the Exchange Control (Amendment) Act of 1972 which the UNP in opposition had condemned as "inhuman and barbaric": Parliament, Debates, vol.5 no.13, 19 July 1979, col.1414.}

Simultaneously, the concentration and use of repressive power by the executive was accompanied by the strengthening of the domestic police and

\footnote{For details see MIRJE, Emergency 79 (Colombo, May 1980), and What's Happening in Jaffna: Days of Terror (Colombo, July 1981).}
armed forces -- the coercive apparatus of the state.97

In the broader context, strategically, the strengthening of the air-transport and telecommunications network serves not only to integrate Sri Lanka's FTZ internationally but could be used for strategic purposes in times of need.98 Jungle areas, which had formed vital hide-outs for the insurgents in 1971, were being depleted by the Mahaveli Development Programme (MDP) and similar projects.

b. Exercise of emergency powers: In view of the above developments, periods of emergency were consequently less frequently used. However, when used emergency assumed draconian proportions when directed against the Tamil opposition and organised action by labour.

For instance, emergency rule was declared over the district of Jaffna on July 12, 1979 and continued in operation for the permitted six months. The infamous emergency regulation of 1971 permitting the police to dispose of dead bodies of persons who died in custody, without observing any formality, was re-introduced under it. Though it was revoked within a week, a number of

97. The army was shaken-up early during the regime and strategically, the same ranks were awarded to the three service chiefs, (CDN, 15 October 1977) a move that served to strengthen the dominant position of the President. The police force was reorganised so as to combat crime more effectively (Ibid., 15 and 29 October 1978, 7 December 1977 and 12 April 1978). A contingency plan was designed to deal with any break-down in law and order. "Vigilance posts" were opened by the police to deal with rising unrest and robberies while French and British help was sought to help set-up para-military squads on the pattern of Malaysia's to "search and destroy" terrorists. Moreover, it was planned to double the police recruits after 1979 and establish a local "Sandhurst" at Kaduwela. To "provide a better internal security system", the President approved a blue-print to establish 4 Task Forces covering the entire island, each consisting of 5 infantry battalions. For details see ibid., 17 April 1978, 6 October 1978 and 5 January 1980; Tribune, vol.23 no.14, 14 October 1978; and Times of India, 29 October 1978 and 14 October 1979.

deaths and "disappearances" took place meanwhile. Brigadier Weeratunge of the army was given charge on 17 July 1979 with the specific presidential directive to "eliminate the menace of terrorism in all its forms from the island and more specially from the Jaffna district". For this all resources and personnel of the state were placed at his disposal. Thereafter, though no more killings took place; arrests, detentions, torture, censorship, and harrassment of the Tamil public continued on a heightened scale. "Flushing-out" operations were carried out in villages of the Jaffna peninsula.

In its study, the politically-unaffiliated organisation MIRJE was led to conclude in 1980 that

After almost half an year of emergency rule to apprehend "terrorists" every one in the country is still agog to see who these "terrorists" are. "Terrorists" were not apprehended. But every attempt was made to terrorise the Tamil people into submission to the government, and to compel them to abandon their democratic right to determine in their own collective wisdom the future of their nationality group.

Two years later, the same attempt to terrorise the population seemed to have been at work with the approach of the DDC elections. A chain of incidents culminated in incidents of arson and violence on the nights of May 31 and

99. Of those taken away on the night of 13-14 July, six were never to return. A Select Committee was appointed to investigate these alleged deaths in custody, but little was heard of its activity: MIRJE, Emergency 79, n.96, pp.23-25.

100 For the full text see Sunday Observer, 15 July 1979.

101 Seemingly arrests were made not only in the Jaffna district but also in other Tamil areas and even in Colombo. Arrested persons were taken overnight to Jaffna in order to get legal coverage under the emergency law operative in the Jaffna district: MIRJE, Emergency 79, n.96, p.28.

102 Ibid., p.32. After the lifting of emergency, 21 Tamil youths continued to be held in detention, under the Prevention of Terrorism Law, presumably for offences committed before July 1979.
June 1, 1981 in which it was alleged that the police were directly or indirectly involved. Along with private shops and houses, buildings that constituted Tamil centers of political opposition and cultural learning came in for special attention. Emergency was proclaimed on June 2 and curfew imposed on Jaffna district. Brigadier Weeratunge's task this time was to maintain law and order.103

While it is difficult to be certain as to the degree of involvement of the Center and certain leading UNP figures, incidents such as this highlight one fact. The recurring use of the coercive forces coupled with the Center's propaganda against Tamils had turned members of the forces themselves into partisans and targets for suspicions and attack vis a vis the Tamil populace as the June incidents had shown. They developed a dangerous potential for reaction and attack, not altogether controllable by the Center while carrying out their tasks in the North.

A month of emergency rule was imposed on 16 July 1980 following the strike decision of thousands of public and private sector employees. As against the strikers' claim that it was caused by intolerable economic hardship owing to the rapid rate of inflation; the government significantly perceived it as a plot aimed to overthrow it and to sabotage its development programme. Under the emergency regulations and the Essential Services Order many thousands of workers104 were deemed to have vacated their posts. A very low proportion of


104 While official sources contend it is 40,000; other estimates border closer to 100,000 (Lakshman Wickremasinghe, Chairman of CRM, "On the Strikes", Tribune, vol.25 no.8, 6 September 1980, p.12) and even 140,000 workers (opposition estimates as reported by Jayantha Somasundaram, "Anatomy of a Strike", Lanka Guardian, vol.3 no.8, 15 August 1980, p.7).
the total workers were taken back subject to acceptance of restricted political activity in the future.\textsuperscript{105}

The ruthlessness with which the strike was handled exhibited a determination not merely to quell any threat to the regime's hegemony from the left but to lure foreign capital by demonstrating a reassuring capacity to maintain industrial calm, whatever the odds.

The Emerging Techno-Bureaucracy

\textbf{a. The presidential secretariat}: In tune with the changing nature of the Sri Lankan social system and the increased role of the presidential executive at the expense of the legislature, power grew to devolve to the higher echelons of bureaucracy directly answerable to the President. The shift of power to the technical and bureaucratic assistants of the government, especially of the President, were justified on the grounds of efficiency and overcoming the political partisanship patent in the working of the UF regime. Indeed, by 1980 a five-member committee of Secretaries chaired by D.B.I.P.S. Siriwardhena, Secretary of Public Administration made specific proposals towards increasing the efficiency of the system. It proclaimed the need to set up a Presidential Secretariat recruited from the best managerial and functional skills available in the country. Emphasising the emerging shift in power, it was "to be entrusted with tasks of formulating overall national policy, economic goals

\textsuperscript{105} A large proportion of these were possibly skilled employees, and therefore difficult to replace in the Ministries of Transport, Education, Home Affairs and Finance. For very rough estimates and details on this score refer to Centre for Society and Religion, "Strike July 80" (Colombo, Dossier 77, March 1981, mimeo), pp.36-37, 44.
and functional tasks of Ministries.”

In direct relation to the growing dependence on foreign funds and foreign capital, the government exhibited a growing dependence on foreign technical advice. Foreign experts were called upon to evaluate, if not draw up most major projects -- Kotte, Mahaweli, the rural development projects, public sector enterprises and the like. The needs and suggestions of these experts received the highest attention often unlike the recommendations made by humbler Sri Lankan officials, officers in the field and interested non-governmental organisations. Instead, honest and often adverse criticism of government policies drew certain retribution from higher quarters.

There developed simultaneously firm links in the form of graft and corruption between foreign and private capitalists, and politico-bureaucratic figures in the government responsible for approving various public and private projects. These grew increasingly entrenched in direct relation to the magnitudes of private investment and governmental expenditure. Whereas the earlier public control of vast sectors of the economy had allowed irregularities to percolate to the lowest rung in the bureaucratic hierarchy, the new links accentuated the recent shift of power in favour of the rich, the wealthy and the influential at the highest rungs.

b. Decentralised administration: The District Development Councils: In keeping with the trend towards centralisation under the presidential

106 From a report in Ceylon Daily Mirror, 4 August 1980. Emphasis added. Indeed, the same Committee made two other very interesting proposals which perhaps provide an indication of future trends. It suggested that provisions be made in the Constitution similar to those in USA for the allocation of Cabinet portfolios to those with requisite managerial and functional skills. Moreover, it was suggested that training be provided to party candidates to the Ministerial post to better equip them for their positions!

107 Reportedly, as much as 10-25 percent of the actual costs of projects went to line the pockets of officials and politicians endorsing projects: Times of India, 7 April 1982, p.15.
executive, the new DDCs emerged to constitute more a forum for decentralised administration under the aegis of the President than the fulfilment of the demand towards greater regional autonomy by the Ceylon Tamils. Rather, as alleged by the non-TULF opposition, the DDCs did not have even the limited powers and autonomy to raise funds independently or take any initiatives on their own that the former Town and Village Councils had which they had supposedly replaced. Instead, the 630-odd Councils and their thousands of elected members were replaced by 102 DDC members and 168 MPs, all to be elected on the proportional system. Thus, both quantitatively and qualitatively, the new scheme would place the people at a greater distance from local decision-making and development than before -- a fact the rural-based SLFP was quick to point out. Therefore, while in respect to its centralising aspect the scheme seemed a legitimization and streamlining of the earlier DPA system, due to its specific features it went beyond that. In effect, it institutionalised the domination of the more substantial rural interests at the district level, and created the structures for their bargaining and negotiation with the Center for development resources and personnel.

In the shorter term, it ensured the effective control of the UNP over the workings of the Councils in 20 of the 24 districts. This was done by the weighted majority provided to MPs in the composition of the Councils. This arrangement raised the ire of the non-TULF opposition, and was an important factor influencing the decision of SLFP, LSSP and CP in not participating in the elections held in June 1981. However, the TULF was not so influenced despite the fact that of 7 districts in which it fought the elections it had a weighted majority in its favour only in Jaffna district. In its calculations,

108 Forward, 1 September 1980.

once the next Parliament was elected by PR a more balanced representation in the other Tamil districts would be inevitable.\textsuperscript{110}

As the chief progenitor of the DDC Act after the President, A.J. Wilson points out, the District Development Councils Act No.35 of 1980 sought to reproduce the constitutional structure of Colombo in the districts. The roles of the District Ministers, Executive Committee and the District Council were made akin to those of the President, Cabinet and Parliament respectively at the Center. While the first two were made responsible for implementation, the third was equivalent to a subordinate legislative authority.\textsuperscript{111}

In the scheme, therefore, the attempts of earlier governments towards a devolution of limited executive powers to regional councils was given up, and such powers would be now exercised by the DM heading the committee. He would nominated by and responsible to the President. Likewise, the District Secretary supervising the district service would also be an appointee of the President. The Act obviously provided new depth to the constitutional provision that the executive power of the people would be exercised by the President!

Other controls would be exercised by the central Cabinet and Parliament. Proposals in respect of subjects contained in the Schedule I of the Act and even outside it that were formulated by the Committee in consultation with the "appropriate Minister" would be sent to the Minister of Local Government who would send it to the Council for approval. Funds, expertise and equipment required by the Council would be also variously subject to their availability


\textsuperscript{111} A.J. Wilson, "District Development Councils", \textit{Morning Star} (Jaffna), vol.141 nos 23-26; 5,6,19 and 26 June 1981.
at the Center, the largesse of the Parliament or various ministers of the Cabinet -- generosity which could well be coloured by political considerations of the ruling party. All by-laws or regulations passed by the Council were made subject to confirmation by the Parliament.

Characteristically, in line with the complex system at the Center, careful checks and balances were provided which rendered the proposals acceptable to the TULF. While Committee members (including the ex-officio Council Chairman who was the first Member of the winning DDC electoral list) were specifically required to hold the confidence of the Council and be collectively accountable to it, central appointees such as the DM and the District Secretary would have to necessarily be acceptable to a majority of the Council. The President, who retained the dominant hand could dissolve an Executive Committee or dismiss any Member if he felt its differences with the DM were irreconcilable. However, the President had to constitute another which commanded the confidence of the Council. In turn, the Council could only be dissolved by the Minister of Local Government on stated charges of mismanagement or irregularities confirmed by the investigations of a retired judicial officer.

Indeed, as A.J. Wilson points out, the scheme was based on the presumption of "bargaining co-operation and effecting compromises." But it needs to be highlighted that such bargaining may not always be possible in situations of economic crisis and competition, shortfall of resources and communal tensions. In this regard, conspicuously at variance with the "minority report" on the basis of which the final Act was purportedly drafted, no

112 Morning Star, 26 June 1981.

institutionalised body and basis for the allocation of funds from the center was provided for.

c. Gramodaya and Pradeshiya Mandalayas: In response to the widely-felt need for institutions closer to the grass-roots, the Development Councils Act was amended in 1980 to provide for Gramodaya and Pradeshiya Mandalayas (the Village and Regional Councils respectively).

The former were to consist of the heads of non-political organisations as specified and considered eligible by the Minister of Local Government. This consequently removed the possibilities for institutionalised intra-class conflict below the district level between the SLFP and UNP influentials. Instead, it may be pointed out, it institutionalised the mode of selection through nomination practised by the SLFP between 1970-77 but severed the open political alignments upheld by the preceding model. Underlining this, a number of public officers or heads of public corporations nominated by the Minister would be included as non-voting members. The Chairman, who would be annually elected from amongst themselves by the voting members, would be a voting member of the Pradeshiya Mandalaya. The one public officer deputed to serve the Pradeshiya Mandalaya would be a non-voting Member.

In view of the fact that it was not mandatory for recommendations on the agenda of Development Council and its Committee to be sent for the consideration of the Pradeshiya Mandalayas, it is apparent that the introduction of this limited and filtered form of indirect participation of local interest groups was not intended in any way to dilute central control over the district -- only to incorporate it within the structure. The indirect participation provided to local economic and other interest groups in the Gramodaya Mandalayas would ensure that only the more affluent local strata which was, moreover, acceptable to the ruling party could proffer an opinion on the local
developmental process. The non-voting official public Members would not have this role.

Indeed, it is remarkable as to the consistency with which the bureaucracy has been made subordinate to the dominant coalition of interests at every level but subject to central control and therefore above the influence and pressures of the broader individuated masses.

Redefinition of Individual Rights

a. The role of the judiciary: In conformity with its consolidation of property relationships and legal rights, on coming to power the UNP re-established the system of law and justice that had been rejected by the UF as too arduous and expensive for the common man.

After the Constitution had been promulgated, in keeping with its Article 105(1) the Judicature Act No.2 of 1978 established the system of courts of first instance -- High Courts, District Courts, Family Courts, Magistrates' Courts and Primary Courts.

To lighten the burden of seeking justice on the less affluent, it provided for the grant of legal assistance and set up the necessary machinery through its Legal Aid Law No.27 of 1978. Such assistance was, however, to be limited to "deserving persons".

In contrast to the broad assertion of individual rights in the Constitution, the rights were treated to a narrow interpretation when they ran into conflict with the expanding executive power. As seen in at least half a dozen cases raising the issue of infringement of fundamental rights, the Supreme Court closely held with the government and asserted the discretion of the
executive\textsuperscript{114} -- a trend which would seem to have been certainly not uninfluenced by the reorganisation the Court had recently undergone under the UNP.\textsuperscript{115}

b. Curbs on individual rights: Nominally, in keeping with the fundamental rights upheld by the Constitution, the government signed the International Covenant on Economic, Social and Cultural Rights as well as the Covenant on Civil and Political Rights in 1980.\textsuperscript{116} In actuality, the government continued to further circumscribe and limit such rights. Laws such as the Interpretation (Amendment) Act, the Press Council law of 1973 and Co-operative Societies Law which it had criticised from the opposition continued unrepealed and were even used and expanded by the government. Instead, the Local Government (Special Provisions) Act No.3 of 1979 and the amending Act No.12 of 1979 interfered with pending cases by removing the right of certain employees to appeal to Labour Tribunals. They provided instead that employees appeal to the

\textsuperscript{114} For instance, in relation to a complaint by a government teacher regarding government action in response to the July 1980 strike, the Supreme Court pointed out that the test of need for emergency regulation was the subjective "as appear to be necessary or expedient" to the President not the objective one of "as may be necessary". To the petitioner's contention that it affected his right of association, the Court declared that the right to strike was not a fundamental right of an employee and that according to Article 55 of the Constitution all public officers hold office at pleasure of the executive. Moreover, the test for "essentialness" of a service likewise was not as needed by life of community but as judged by the government.

In J.A. Yasapala vs. Ranil Wickremasinghe and Others, SC Application No.103/1980, 8 December 1980.

However, the Job Bank Scheme was held partially unconstitutional in that it provided for an arbitrary nomination of 1,000 persons out of applicants fulfilling the eligibility criteria.


\textsuperscript{115} See Chapter 7, n.93.

\textsuperscript{116} It did not, however, sign the Optional Protocol to the Covenant on Civil and Political Rights which would enable individuals to make complaints to the Committee if they feel that their rights have been violated: CRM, "Review 1980", p.6.
very Minister of Local Government against whom allegations of victimisation were being made.

In an interference with the right to association the Voluntary Social Service Organisation Act of 1980 provided for government officials to attend meetings of such organisation without invitation. The law is particularly discriminatory against organisations dedicated to pursuing the social good.\textsuperscript{117} The University Higher Educations Act placed restrictions on the activities of both faculty and student organisations alike.

Reportedly, besides the express action of the armed forces of the state under emergency and "normal" times, the public witnessed an increasing use of thuggery in a political context by the ruling party.\textsuperscript{118}

c. The Ombudsman: Likewise, the Parliamentary Commissioner for Administration (Ombudsman) Act No.17 of 1981, despite its early promise and belated appearance offered "no real evidence of a corresponding commitment to make it a truly effective office of continuing public accountability of the executive in the discharge of its duties."\textsuperscript{119} Instead, the office was made another political weapon at the disposal of the ruling majority in Parliament and the all powerful President.

Remaining firmly within the ambit of Article 156 of the Constitution, the executive actions of Ministers and MPs were placed beyond the purview of the Ombudsman by law. Contrary to the Report of the Law Commission on the Draft Bill,\textsuperscript{120} the Ombudsman was not given the power to receive complaints

\textsuperscript{117} Ibid., p.5.
\textsuperscript{118} Ibid., pp.2-3.
\textsuperscript{119} "Summary", Seminar on the Ombudsman, Marga Institute, Colombo, 24 February 1981 (mimeo).
\textsuperscript{120} "Report of the Law Commission on the Draft Bill for Establishing the Office of Ombudsman" (mimeo, n.d.)
directly from aggrieved persons. He was not empowered to investigate vigilantly on his own. Neither could he recommend action or issue public reports as is the practice in other liberal democracies in imitation of which the office was modelled. Instead, he was limited to investigate petitions referred to him at the discretion of the Public Petitions Committee of Parliament. Likewise the report and recommendations of the Ombudsman would be left at the Committee's discretion as to whether they would be reported to Parliament. The latter could then legislate or pass a resolution on it. The more practical and meaningful suggestions contained in the Law Commissions' Report on the Ombudsman suggesting remedial measures that could be attempted by the Ombudsman in relation to the body at fault before forwarding his report to Parliament were obviously ignored. The Parliament has been consequently called on to assume uncalled for judicial functions in the exercise of which it would not always be consistent due to its political complexion. The Ombudsman was likewise restricted in investigating not only cases to which there were alternative channels for remedy but also those which related to misuse of power by the coercive forces of the state. Moreover, he could discontinue investigations without giving reasons. All investigations and hearings had necessarily to be in private, and no person could by right present or be present at any hearing. The Ombudsman was not only made immune from any counter-action in respect of his reports by law but also along with other public officials freed from the threat of exposure by publicity of his actions.

Thus, while on the one hand, the office of the Ombudsman was removed from an intimate involvement with the broader society, it was on the other hand shielded against repercussions from the same direction arising from actions it would take.
Consequently, as a fall-out; the uninfluential, more humble petitioner remained at a disadvantage not only by the exclusion of a direct complaint but also by the prohibition on publicity and exposure of all cases dealt with by the Ombudsman. Also, since a petitioner could according to the new Law not be represented except in person, the procedure was one that an individual of humbler standing would obviously find intimidatory if, for instance, the object of his complaint was a superior public officer.

In view of the above developments, in effect, what the CRM said of the actions of the government in 1979 could with truth be applied to the UNP regime as a whole: "Characteristic of the measures introduced... has been the idea of protecting the state against the people, while the concept of protecting the people against the state has been sadly absent."[21]

Electoral Participation and Representation

Following the change to the proportional system of representation in the Constitution, subordinate legislation was passed by Parliament delineating the specific features of the new electoral process at various levels -- the local, district and parliamentary.

However, the mode of conversion of votes to seats applied to the three levels was different -- seemingly with an eye to advantages accruing to the ruling party. As seen in the last chapter, at the national level where the UNP had traditionally received the maximum vote, the winning list in each electoral district received a bonus seat. The Local Authorities' Elections (Special Provisions) Law No.24 of 1977 pertaining solely to Municipal and Urban Councils went a step further. The party-list securing the highest votes automatic-

ally had its nominees for Chairman and Vice-Chairman declared elected.\textsuperscript{122}

Again the UNP had traditionally always had the advantage in the urban arena. However, curiously, the rationale given out by the UNP leadership of the necessity of firming proportional majorities by these bonus seats in regard to these two levels was abandoned at the district level, where in the rural areas the SLFP and in the North and East the TULF had substantially greater advantage!

More generally, the bias in favour of the three big parties was maintained by the inclusion of the one-eighth cut-off point in the provisions for the local and district elections also. Consequently, smaller parties which would be otherwise entitled to representatives would be disqualified by the cut-off in as many as 9 of the 22 parliamentary electoral districts and 6 of the 24 Council districts. This could particularly work to the disadvantage of left parties in the heavily populated urban areas and radical constituencies in the South-West of the island.\textsuperscript{123}

As further measures reinforcing the established party system and increasing the distance from the voter, the Parliamentary Elections Act No.1 of 1981 and the Development Councils Act of 1981 expressly prohibited house-to-house

\textsuperscript{122} Otherwise, it maintained the extant number and membership of the 9 Municipal and 34 Urban Councils, so that the Colombo Municipal Council has 47 members and the Panadura Urban Council has 9: Chandra R. de Silva, "Proportional Representation in Sri Lanka", Seminar on Universal Adult Franchise, Sri Lanka Foundation Institute, Colombo, 17 and 18 July 1981, p.5 (mimeo).

In the conversion of votes to seats the UNP was over-represented by as much as 30 percent in the Tangalle Council while SLFP was under-represented by nearly as much as 17 percent in the Haputale council. Due to this factor, minority vote for the UNP was translated into a majority of seats in at least 5 Councils: Julius (pseud.) "The Big Fraud", \textit{Nation}, 1 June 1979.

\textsuperscript{123} There were, however, only 2 instances where the cut-off point prevented a list from winning a seat it might otherwise have won in the 1979 Local elections: de Silva, ibid., p.9.
canvassing for votes by future parliamentary candidates as had been the custom and instead provided that state-owned mass media, radio and TV, would be available to recognised political parties. Security deposits on parliamentary election petitions were doubled from Rs.5,000 to Rs.10,000 and the right to file petitions was limited to candidates. In imitation of the electoral system as operative in USA, it was further provided that the state would grant election expenses to recognised political parties on the basis of the last general election -- a proviso placing the UNP in obvious advantage.

Likewise, the Presidential Elections (Special Provisions) Act No.2 of 1981, provided for US-style debates by presidential candidates. The deposit for such candidates was fixed at Rs.50,000 and for independents at Rs.75,000.

Notably while the feasibility of US-style "primaries" for the presidential race were studied by a Parliamentary Select Committee, it was left to each party to evolve the required procedures. In response to pressure from the younger MPs, the proposal of voters indicating preferences for individual candidates of a party was also studied but nothing was done in this direction.124

The Referendum Act No.7 of 1981 specified that while the referendum option could be framed in wider terms, it had to be answered in a "yes" or "no" -- a feature again underlining the limited, plebiscitary character of the political system being institutionalised.

Other developments in the electoral arena: 1981, the year celebrated by Sri Lanka as the fiftieth since the introduction of universal franchise was distinctive not only for the spate of electoral legislation described above

124 Sun, 9 August 1980.
Mark Fernando, Joseph Cooray and members of the Law Commission assisted in studying these proposals.
but also other features marking the DDC elections held that year in early June. For the first time, the major Sinhalese opposition parties boycotted an island-wide election, albeit at the district level. As a fall-out, for the first time there was a high proportion of close to 50 percent of absentee vote -- an abnormal high even for local elections. For the first time also there was 8 percent of invalid votes -- where it had been only 1 percent in 1977. Highlighting the growth of political opposition unaccommodated within the parliamentary arena, a large number of the invalid votes were not only deliberately spoilt by hard-core opponents of the regime to prevent bogus voting, but virulently abusive of the government as well.

More tragically, as already mentioned, the stronghold of Tamil opposition, Jaffna was subject to pre-election violence perpetuated by the armed forces of the state in the days immediately preceding the poll on June 4, 1981. Also for the first time in Sri Lanka's experience an election was conducted under emergency and wholesale rigging was attempted by the ruling party. Despite this, the Jaffna Tamils turned out to vote as cohesively for the TULF

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125 S.W.R. de A. Samarasinghe and Chandra R. de Silva, "The Development Council Election of 1981: Its Political and Electoral Implications", Seminar on Universal Adult Franchise, Sri Lanka Foundation Institute, Colombo, 17 and 18 July 1981, p.10 (mimeo). In each of the 10 out of 17 districts in the South which polled in June 1981, the turnout was below that of 1977 by a margin exceeding 22 percent and if 3 of these districts are excluded, the drop exceeded 30 percent (ibid., p.19). As Samarasinghe and de Silva point out (p.10), the new, more distant structure and mode of election of the DDC had probably aggravated this difference. The rural areas had traditionally been relatively more keen in local elections.

126 The more politicised areas recorded the greatest percentages of spoilt votes: Colombo - 13.3%, Gampaha - 10.7%, Badulla - 7.6%, Galle - 7.5%, and Kalutara - 6.7%: ibid., p.41.

127 MIRJE, Days of Terror, n.96.
as they had in 1977.128

Opposition fear of widespread rigging being attempted in the forthcoming presidential and parliamentary elections were underlined when the independent-minded Commissioner of Elections, A. Piyasekera, was replaced by a personal aide of the President's. The norm hitherto had been that the next in command to the Commissioner was appointed.129

Communal Realpolitik and a Vitiated Consensus?

In broad communal terms, however, the Ceylon Tamils as a whole benefitted exclusively from the rise in percentage of seats of the Northern and Eastern Provinces from 15.5 percent in the 1977 Parliament to 20 percent in the DDCs.130 If the DDC election figures are taken as an indication, despite the unaccounted irregularities in the election, in contrast to the Jaffna district, the other districts of the North and East would seem to have softened their stand on Eelam. In these six districts, the UNP won almost the same number of votes as the TULF.131

128 The TULF improved its polling percentage over 1977 from 72 percent to 82.2 percent in Jaffna district. Despite the lower turn-out here (a drop of 12 percent), the TULF virtually maintained its proportion of support within the population -- its vote polled as a percentage of the total electorate dropped only from 58.6 to 56.8 percent.
See Samarasinghe and de Silva, n.125, p.15.

129 Times of India, 14 April 1982.


131 While the TULF seemed to have lost some support in Amparai, the UNP increased the total vote polled here and in Trincomalee compared to 1977. It did as well in Batticaloa and the non-Jaffna districts of the North. The results created a situation where the two parties' commitment to "development" over political partisanship could well be put to the test. In the northern districts of Vavuniya, Mullaitivu and Mannar the UNP won an equal number of seats (2) to the TULF but because of the TULF MP in each, the TULF was in majority control. In Trincomalee and Batticaloa, the TULF won the chairmanship of the Councils by virtue of having gained the largest number of votes. The UNP, however, had the control because of more MPs: CDN, 6 June 1981, and Samarasinghe and de Silva, ibid., pp.12-18.
Likewise, UNP policies bore dividends in the case of the estate Tamils. In return for their political support for the UNP, a large number of estate Tamils were enfranchised and voted cohesively for the UNP in the DDC election.\footnote{132} As a result the CWC gained 5 representatives on the UNP list.\footnote{133} It was ironic indeed that the party which was instrumental in depriving them of their vote in 1949 when the Tamils were militantly organising against it to struggle for their rights, was slowly giving their franchise back when it had reduced them to a position of abject vulnerability and support.

The introduction of the DDC proposal had a mixed repercussion on the Muslim minority. Moors lost heavily in the Eastern Province where their representation was almost halved from nearly 42 percent in the Parliament to around 22 percent on the DDCs -- a figure substantially below the 34 percent they constitute of the province's population. However, gaining from the non-participation of the SLFP and left, they more than doubled their proportion among those elected for the UNP in the Sinhalese districts from 4.2 percent in 1977 to 8.8 percent in 1981.\footnote{134} As the case of the Muslims illustrated, the chances of a minority in a district depended among other things on the number of seats in that district as well as the political weight of the minority in...
terms of population. These would determine the position on the list and chance of being within the victorious bracket on the list of a particular party. While by and large, the proportional system offered the possibility for integration of minority interests within the dominant parties, on occasion electoral calculations could accentuate communal loyalties.\textsuperscript{135}

However, another sequence of events highlight the need for more than structural arrangements to ease ethnic tensions.

To reconnect, the sharply deteriorating economic situation for a large section of the masses offered fair ground for joint actions by various sections of the opposition not only in the July 1980 strike, but also a reconciliation-of-sorts between the three UF constituents, the TULF and the MEP in the Five-Party Alliance. Even though it was merely a "coming together of parties for joint action where such action is possible",\textsuperscript{136} it offered the possibility of viable opposition action focussed against the UNP and its arbitrary policies in the economic and political field.\textsuperscript{137} In particular, the development of amity between the two largest opposition parties -- the SLFP and TULF -- which had heretofore had irreconcilable differences posed a danger of unsetting all the careful calculations of the UNP on which it had based the new system of PR and preferential elections.

\textsuperscript{135} For instance in Amparai, the UNP nominated and won a seat for all three communities, the Moor, Sinhalese and Ceylon Tamil on the list (in that order). The TULF, in contrast, nominated an all Tamil list and so exclusively appealed to the Tamils constituting 22 percent of the population, and won 1 seat.

\textsuperscript{136} See Colvin R. de Silva, President Plays with Fire (Colombo, June 1981).

\textsuperscript{137} Such joint action bore dividends in the Kalawana by-election and the DDC elections. In the DDC election, in Batticaloa and Trincomalee, Sinhalese equal to about 7 and 14 percent of the registered voters in the respective districts who had voted SLFP in 1977, in response to the SLFP's call voted TULF in 1981: Samarasinghe and de Silva, n.125, pp.18-19.
Triggered by the spectre of a viable opposition to itself, the UNP, led by the President, sought to incapacitate this new alignment through various swift actions in the wake of smashing of the worker's agitation in July 1980. These ranged, as discussed, from the deprivation of civic rights of his foremost political opponent Mrs. Bandaranaike and her chief adviser, F.D. Bandaranaike, to presenting the DDCs as a salve to the demands for autonomy of the TULF. However, the indications of continued amity between the two parties till as late as the DDC election in 1981 aroused a vicious communal attack by senior UNP leaders seeking to identify the TULF with the alleged terrorists in the North and the SLFP as supporting the Eelam demand -- making any open co-operation between them an impossibility in view of their traditional support bases.

This cynical arousal of communal passions resulted predictably in the tragic communal violence witnessed in August 1981 focussed not only against Ceylon Tamils in Eastern and Northern districts but also the helpless estate plantation labour in the interior.

As a consequence, the UNP might have partially succeeded in under-cutting the traditional base of the SLFP by loudly identifying a chauvinist Sinhalese wing within its fold, it aroused the distrust of the wider Tamil base, both up-country and Ceylonese.138 Its actions not only dangerously diverted the popular perception of social conflicts from class to communal lines but provoked a yet more cohesive response along communal lines by the opposing Tamil

138 The actions of the President in upbraiding his party membership for their role in initiating the violence (see CDN, 5 September 1981) and offering concessions after discussion, rejuvenated his stature as a "national statesman" as also his prospects at the presidential election held in October 1982, the reconciliation between the UNP, TULF and CWC remains an uneasy one. See FEER, vol.113 no.38, 11 September 1981, pp.20-21.
population. 139

In the broader context, it can also be hypothesised that the actions of the ruling party served not only to reinforce communal differences but to vitiate the broader consensus that could possibly have emerged in the longer term under the new Constitution.

In the discussion of the Constitution in the last chapter, we had noted that for a viable democracy to emerge within its restricted premises the emergence of two conditions were imperative as a check on the powers of the powerful executive President. Firstly, a two or three party system had to emerge to strengthen the Parliament; and secondly, inner-party democracy had to exist. The consequent political scenario proved to be dismal in both these respects.

The emergence of the first condition was not only disrupted by the actions of the ruling party described above but conclusively blocked through the holding of a referendum in December 1982 to extend the tenure of its mammoth majority in Parliament for another six years. Explicitly, thereby the UNP sought to continue its five-sixths majority in Parliament with the vote of one-third of the electorate required in a referendum rather than risk attempting to gain the impossible minimum of 55 percent of the vote necessary if it was to hope for a two-thirds majority under its own Constitution. 140

Cumulatively, the greater party discipline required for the proportional system introduced by the UNP, the increasing control of the UNP ruling party

139 Accentuating the continuing alienation of the Tamils from the national framework was the low turn-out of 46 percent for the non-TULF but separatist Tamil Presidential candidate as against the national average of 81 percent -- a decline on 1977 turnout: Manik de Silva, n.52.

140 Their more popular leader, J.R., had managed to get only 52.9 percent of the votes polled in the Presidential election in October 1982. For a detailed analysis of the Presidential election and the referendum, see W.A. Wiswa Warnapala and L. Dias Hewagama, Recent Politics in Sri Lanka: The Presidential Election and the Referendum of 1982 (Delhi, 1983).
hierarchy over its members, along with the UNP onslaught on the opposition to consolidate its position, did not inspire greater inner-party democracy in the UNP or the SLFP. Instead, the SLFP also undertook similar moves to tighten the party organisation. Though these proved largely unsuccessful, due to the ambiguous position Mrs. Bandaranaike was reduced to vis-a-vis other contenders to her position in the party, critically such moves were perceived as necessary by large sections of the middle and lower SLFP cadres and following who continued to offer their allegiance to her.

ENTRENCHMENT OF THE INTERVENTIONIST MODEL

Thus, as seen, the ruling comprador bloc's attempts to maintain a partisan stability in its own favour at any cost resulted in the letter and spirit of the new constitution being cynically contravened on numerous occasions.

Despite its five-sixths majority in Parliament, the UNP resorted to extraordinary measures to buttress its own power for marginal gains, to pass important legislation and to castrate the opposition -- whether from the SLFP, the left or the TULF.

In a circular linking of cause and effect, strict party discipline upheld by the 1978 Constitution propelled the UNP legislators to denude their own powers further both wittingly and unwittingly. The measures acquiesced in by them to outsmart or defeat the opposition acquired an edge when they functioned to simultaneously erode their own substantial role as legislators in decision-making.

In the process, as seen, the powers of the presidential executive were enhanced both directly and indirectly. He was arrogated far-reaching powers of suppression and coercion even in "normal" times. The coercive apparatus of the
state was strengthened to effectively maintain "law and order." Periods of "emergency" consequently became short and sharp. They were directed in particular against the politically-conscious labour and minority Tamil sections of the population which protested against their marginalisation both economically and politically. The findings of the non-judicial presidential commissions of inquiry were used not only to rationalise the political disabilities placed on the leading figure in the opposition and some of her most powerful associates but also to call to line the dissenting prime ministerial faction within the UNP. In the process, established judicial procedures were distorted or ignored and rulings of the Supreme Court were overridden.

The subordination of the UNP parliamentary majority to the President was completed at the close of tenure of the 1977 Parliament through the dextrous manipulation of the legislators and events by President Jayawardene.

The Presidential executive grew to increasingly reflect the interests of the fusing foreign and domestic monopoly capital not only through the institution of the GCEC, as noted in the first part of the chapter, but also through the presidential secretariat. That the representation of these interests will continue to grow in the core of the state apparatus in the eighties seems to be evident in the strengthened position of the executive over the representative structures of the state and therefore the comprador bloc as a whole.

While institutionalising the increasing intervention of the presidential executive in the socio-political process, the UNP regime also continued to shift the very basis of political participation and representation away from the people. The various laws relating to elections, to freedoms of political dissent and the institution of the Ombudsman illustrated the circumscribed nature of individual rights evolving under the new dispensation. As in the case of the ASCs, the new grass-root institutions the Gramodaya mandalayas and
Pradeshiya Sabha, dispensed with the elective principle and the role of the lower rural classes at the local level. These new institutions for decentralised administration were removed from the pale of broader mass politics. At these levels primacy was given to interests closest to the ruling party and little opportunity for open intra-dominant class competition was afforded. Such competition was only permitted at the fairly high district level, in the DDCs, and then too within confines of the proportional system of representation.

In effect, the attempt of the preceding intermediate regimes to forge populist linkages and vertical alignments with the broader masses was done away with. In place of popular channels for participation and pressure, the bureaucracy was incorporated with the social interests dominant at the various levels, and indeed openly subordinated to them to service their needs at the local level.

The spiralling incidence of political suppression, distrust and violence between the state dominated by the comprador bloc and other socio-political groups worked against the emergence of the bi-partisan conservative consensus that the new Constitution was to inculcate through its system of representation. It underlined the importance of the need for more than structural arrangements to ease societal tensions.

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