CHAPTER IV
THE CONSTITUTIONAL FABRIC

An attempt was made in the last chapter to outline the processes of peripheral capitalism and the development of various socio-economic groups in Sri Lanka by the onset of the seventies. The mechanics of the politico-constitutional process will now be sought to be understood in the light of the differential development of these diverse groups since Independence. The tensions and strains put on the extant politico-legal fabric by the developments in the post-1956 period will be explored as well as the consequent adjustments. Finally, the repercussions of this process for the evolution of constitutional forms and structures in the 1970s will be spelt out.

THE ELITIST NATURE OF CONSTITUTIONAL DEVELOPMENT

Structural Factors

The smooth, constitutional manner in which Sri Lanka attained her independence in 1948 has been commented on widely by many.1 While some in the colonial tradition congratulate the wise and benevolent policies of the British as being responsible for this smooth process,2 others look to them as having resulted in the creation of an elite capable and well-versed in

1. "The nationalist movement was in fact curiously academic": W.I. Jennings, "Nationalism and Political Development" (New York, 1950, mimeo), p.16.
self-government. In this connection, the crucial role of Western education both in understanding the "central value system" and consequently in attaining the requirements of "successful oppositional leadership" has been particularly stressed in such literature on national movements, not only in regard to Sri Lanka but also other colonial countries. The role of these Western-educated in pressing initially for reforms indigenising the administrative services in a search for new avenues of advancement under colonial rule has also been stressed. The role and participation by members of the liberal professions -- by virtue of their skills and their positions vis a vis the colonial state in initiating movements towards political reform and self-government has also received adequate attention. In this regard, in the context of Ceylon, it is of relevance to confirm in passing that having been subject to the influence of Western nations and efforts at proselytization through education for several centuries, it was the low-country Sinhalese and Ceylon Tamil elites that were most active in pressing for reforms in the early part of twentieth century.

3. For instance see, G.C. Mendis, Ceylon: Today and Yesterday (Colombo, 1963), pp.112-113; Jennings, n.t, p.11; and A.J. Wilson, Politics in Sri Lanka 1947-1973 (London, 1974), p.12. The concept of "elite" is the one employed by these and other authors utilised in the discussion in this section, and is therefore the one used by me in this section.


Other scholars finding this popular emphasis on Western education as a crucial determinant in the evolution of forces opposed to the British, over-drawn, turn to two other factors which, according to them, exerted a more powerful influence on the process of elite formation in its earlier stages: (i) The inherited advantages of those individuals and families who were chief headmen and principal landholders in the late eighteenth and early nineteenth centuries, that is, the traditional elite, and (ii) The accumulation of wealth by investments and entrepreneurships in new avenues offered by the growing capitalist sector by some traditional elites and other non-elite families.7

Again, the role of low-country Sinhalese upper classes has been pinpointed in the context of Ceylon.

This control over resources allowed in turn further consolidation by the access to status, authority and advantage in any other new avenues offered. The limited involvement of the Kandyans, due to various factors to take up these opportunities had momentous repercussions. The pro-British sectionalist stance of the Kandyan elite during the 1920s was prompted both by firstly, the feeling that they were an underprivileged "minority" as well as, secondly, the frustration induced by their failure to win several territorial seats in the Kandyan districts under a franchise demanding educational and property qualifications in force till 1931.5

However, noting the entirely elite character of the national movement and the consequent stand of Ceylonese nationalism before independence there is a need to look for factors inherent in the structure of the interests of the Ceylonese elite in relation to the colonial power. The few studies in this


8. Ibid., pp.44-45.
direction suggest a strong, positive relationship between the muted character of the Ceylonese national movement and the limited conflict of economic interests between the British bourgeoisie and the Ceylonese bourgeoisie. This conflict was less pronounced than its counterpart on the Indian sub-continent. Unlike the Indian indigenous capitalism, Ceylonese capitalism focused on the export market hand-in-hand and largely subordinate to the British interests on the island. As such, due to its comprador nature which was examined in the last chapter, it did not enter into any serious competition with the latter regarding either the exports or the major imports. Ceylonese economic nationalism, therefore, concentrated its fire on the banking and the credit system, on government budgetary favouritism towards European mercantile interests and on the role of Indian money-lenders and traders. Significantly, nationalist opinion sought the goal of "national economic independence" more in the diversification of the economy through industrialisation and improvement of peasant agriculture, so as to make the island less dependent on imported goods than in a disinheritance of the British from their economic possessions.

Thus, while the aforementioned conflict of interests provided the rational for demands towards self-government, the much larger similarity of interests


10. "The Ceylonese interests, now within the Ceylon Chamber of Commerce; in 1939 proudly accepted the collective reference to themselves as the gosling of the British-goose that laid the golden eggs": Ceylon Chamber of Commerce, "125 years of service 1830-1964" (1964), quoted by the Sri Lanka, Report of the Commission on the Agency Houses and Brokering Firms (Colombo, Sessional Paper No.12, 1974).

in the plantation export economy resulted in the identification with the economic interests, the social culture, ethos and the political values of the ruling power. 12

In view of the structural disparities within the dominant and the subordinate classes, clearly the demand for independence in Sri Lanka was linked to factors and to an ethos with which the mass of the Ceylonese population could not identify and by which, therefore, they remained relatively untouched.

The elitist consensus reflected through associations and then the Ceylon National Congress, which was to dominate the nationalist movement, upheld the views of the English-educated emerging class of entrepreneurs and professionals who perceived themselves at a relative disadvantage in the colonial setup. These individuals were multi-communal in composition and relatively cosmopolitan in outlook. English formed the common bond between the members from different ethnic groups. The high-water mark of Sinhalese-Tamil elite cohesiveness was 1912-1919 when the Tamil Ponnambalam brothers were elected as representatives of the group in different contexts. 13 The national independence movement therefore, remained muted and constitutional in accordance with imperial theories of evolving to self-government by stages. At independence, the economic interests of the British remained undisturbed, their foreign, military and administrative interests in Ceylon accommodated, their political structure and philosophy of government adopted and the whole process of the

12. The extraordinary degree of dependence on the colonial power internalised by this elite was expressed as late as 1955 by a UNP leader thus: "It is difficult for Ceylon to do away with the Englishman completely. We simply cannot live without them because of the fact that we will be utterly helpless the moment we do so. The day Ceylon did away with the English it would go under India" -- Sir John Kotelawala quoted in Times of Ceylon (Colombo), 25 May 1955.

13. In 1912, Sir Ponnambalam Ramanathan, a Tamil was elected by the "educated Ceylonese" as their representative and on the formation, in 1919, of the Ceylon National Congress, Sir Ponnambalam Arunachalam was elected its first President.
transfer of power so smooth that Sri Lanka in 1948 could be described as "an oasis of stability, peace and order".14

Evolution Towards Self-Government

In its precise mechanics, constitutional revisions came rapidly in the years following the founding of the Ceylon National Congress in 1915. But, as late as the reforms of 1924 permitting limited popular representation to the Legislative Council for the first time,15 only about 4 percent of the population had the right to the ballot. But, while politics continued to remain a monopoly of the English-speaking, higher-income classes; the elective all-island focus worked to the disadvantage of the numerically smaller Ceylon Tamil and backward Kandyan sections of the elite. Consequently while the minorities in a switch from their earlier stand made the "regressive" demand that communal representation be maintained; the Sinhalese, especially the low-country politicians asked for the introduction of the territorial principle.16

a. The Donoughmore Constitution: A major transition in the political evolution of Sri Lanka came with the adoption in 1931 of the Donoughmore Constitution which was intended to lead to internal government under the authority of the British Governor. Not only did this Constitution establish "non-communal representative government", with a few reservations for nominees of minority communities, but also introduced universal adult suffrage. It is


15. In the Legislative Council of 49 members 34 were elected, 3 nominated by the Governor to represent special interests and 12 officials appointed: Jennings, n.1, p.76.

significant to note that the last was introduced inspite of the fact that most of the island's leaders were not prepared to accept the implications of political equality and political participation by the masses. The notable exception was A.E. Goonesinghe, the founder of the left-inclined Labour Party, who alone had agitated in the preceding period in open support of universal suffrage as well as the need for far-reaching reform as the concomitant of the advance towards self-government.

Fearing the appearance of parties along communal lines, the Donoughmore Constitution instituted an experimental executive-committee system in which firm control remained in the hand of the colonial authorities. By the new system after a general election, the State Council divided itself into seven executive committees, each in charge of a group of government departments. Each Committee had an elected Chairman while the three English Officers-of-State controlled the vital portfolios of administration, law and finance. These ten Members constituted a Board of Ministers. The Board, however, was not in the overall charge of a chief minister nor did it adhere to any principles of collective responsibility save in respect to the annual budget.

This liberal parliamentary model particularly suited the dominant oligarchic interests. It notably encouraged individualism among the Ministers and an emphasis on each Member of the State Council servicing their constituencies. To characterise it merely as Wilson has done as "a kind of authoritarian but paternalistic form of administration" prevalent from pre-colonial times in Sri Lanka misses a vital democratic ingredient this system contained. Each Councillor was by virtue of the system already one-seventh a Minister and in the effort to cater to his constituency through the subject in his control, each Committee worked out schemes for general welfare which were far ahead of

17. Wilson, n.3, p.127.
their times but were viable in the context of a prosperous export economy of the pre-independence years. For a larger section of his electorate he grew to figure as "their MP". Due to a specific provision in the Constitution, the English-speaking, higher-income Ceylonese continued to monopolise the seats in the Legislative Council and were therefore well-placed to safeguard and develop their class's interests in the negotiations towards self-government in the forties.

The system could not, however, prevent fissures developing in the Council reflecting wider socio-economic differences. The two LSSP members elected to the Council in 1936 used the opportunities offered to serve the organised labour in urban areas. At the same time, as earlier mentioned, the strength of the rural constituencies and rural vote led to the Westernised leadership at the national level making use of wide-ranging patronage systems and networks of influence dependent to a large extent in such an unevenly developed society on ascriptive social and cultural appeals. This trend was accentuated further by the emerging petty-bourgeoisie, already described, making its presence felt on the state structures through communal organisations in the post-1935 period.

16. Besides provisions made earlier, free primary education and a health program was instituted in the thirties. By 1945 education "from kindergarten to university" was declared free and the anti-malaria program was well-established. Further, the subsidisation of the price of wheat flour and rice was started to keep down the cost of living during World War II and continued thereafter due to political exigency.


20. Notably, the Sinhala Maha Sabha was formed by S.W.R.D. Bandaranaike in 1937 and the All Ceylon Tamil Congress in 1944. Others such as All Ceylon Moors' Association (1935), the Burgher Political Association (1933), and the Ceylon Indian Congress (1939) also made their appearance.
The abolition of communal representation worked to the disadvantage of minority upper classes who struggled to preserve their position by demanding various constitutional safeguards the most famous being the "fifty-fifty" demand of G.G. Ponnambalam. The pan-Sinhalese Board of Ministers elected in 1936 was the Sinhalese response to this growing minority insistence, as also a manifestation of the hardening attitude of the majority community. Following a succession of threatening LSSP-sponsored strikes by the plantation workers in 1939-40 in opposition to the war, a controversy grew regarding the grant of the electoral franchise to the "Indian Tamils". The statements of some of the Sinhalese leaders reflected not only Sinhalese doubts about the national loyalty of the Tamil segment of the population but was also indicative of their resentment towards the estate Tamils in economic terms as well.\(^{21}\)

The strains in the Donoughmore system on all these counts and the inability to determine either policy or responsibility\(^{22}\) led to its displacement by the Soulbury Constitution in 1946. The internal self-government instituted by the latter was transformed into total independence in 1948 by certain modifications made in the 1946 document.

b. Introduction of the Soulbury Constitution and the transfer of power:
The transfer of power as already commented on, was remarkable for its smoothness. Ceylon is often said to have gained independence as a by-product of the Indian independence struggle. As de Silva points out, the common fear in the British and the Ceylonese moderates led by Senanayake of the leadership of the

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\(^{21}\) For instance, as early as 1940-41, S.W.R.D. Bandaranaike had referred to prospects of the Indian Tamils over-shadowing all prospects of the Sinhalese to advance politically or economically, if they continued and multiplied in Ceylon: Ceylon State Council, Indo-Ceylon Relations Exploratory Conference, December 1940 (Colombo, Sessional Paper No.C, 1941), pp.8-9.

\(^{22}\) Conclusion in Sir Andrew Caldecott's, Reforms Despatch of 1932 (Colombo, Sessional Paper No.28, 1933).
independence movement passing into the hands of the more precipitate nationalist forces of the Ceylon National Congress or the left-wing forces, made restricted negotiations of independence mutually beneficial for both the parties concerned. The Second World War had stimulated an explosive awakening of nationalism in the Asian colonies. Prolonged labour unrest, culminating in the general strike in the years 1946-47 as also the anti-British posture adopted by the LSSP during the war strengthened the position of the Marxist opposition, as the 1947 elections were to show.

In regard to the restricted origins of the Soulbury document, while it is true that the 1946 Constitution was based on the Draft Scheme of 1946 framed by the Ceylonese Board of Ministers, it is relevant to remember that nobody outside the Board of Ministers, not even members of the State Council, had been invited to participate in the preparation of the Draft Constitution. This was one of the criticisms levelled at the document by the Tamil representatives, resulting in the incorporation of Clause 29(2) at the time of Independ-

23. See K.H. de Silva, "The Transfer of Power in Sri Lanka: A Review of British Perspectives, 1938-1947", in Roberts, n.6, pp.432-35. It has recently been revealed that the controversially insisted upon Defence and External Affairs agreements between Britain and Sri Lanka, as a condition prior to the transfer of power were first proposed by Senanayake in September 1945 as a pragmatic solution to the "complex problem" of a quick transfer of power: ibid., p.435.

Of more concrete importance is the fact that the preservation of British economic interests were constitutionally guaranteed. Section 32(1) of the Soulbury Constitution, guaranteed that, "Any Law which has been assented to by the Governor-General [that is, passed by the Parliament] and which appears to His Majesty's Government in the United Kingdom (a) to alter, to the injury of the stockholder, any of the provisions relating to any Ceylon Government stock specified in the Second Schedule to this Order; or

(b) to involve a departure from the original contract in respect of any of the said stock may be disallowed by His Majesty through a Secretary of State"!.
dence protecting the rights of the minorities by its anti-discriminatory intent. Also, at Independence a Senate was instituted -- something which had been left an open question by the Draft Constitution. Further, as the left parties pointed out it was a Board of Ministers drawn from a State Council which had completed its tenure of office four years earlier. To top it all, the final phase in the transfer of power 1942-47 was dominated, so far as Sri Lanka was concerned, by one man, D.S. Senanayake, whose stamp of influence is borne not only by the 1944 document but by the subsequent ones as well.

Hence, as de Silva cogently puts it, "If the political leadership in Sri Lanka took pride in the smoothness of the transfer of power they seemed oblivious to the political perils involved in making the process so bland as to be virtually imperceptible to those not directly involved." Ceylon's constitutional and legal status as dominion rested on several documents largely passed by the British Parliament and acceded to by its counterpart in Ceylon. These in turn were based on other statutes and understood

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24. Clause 29(2) stated that no law passed by Parliament "...shall
(a) prohibit or restrict the free exercise of any religion; or
(b) make persons of any community or religion liable to disabilities or restrictions to which persons of other communities or religions are not made liable; or
(c) confer on persons of any community or religion any privilege or advantage which is not conferred on persons of other communities or religions;
(d) alter the constitution of any religious body;" etc.


26. de Silva, n.14, p.3.

27. The 1943 Constitution constituted of three sets of documents:
(ii) Ceylon Independence Act 1947, and
(iii) Three agreements signed on behalf of the U.K. and Ceylon governments pertaining to external affairs, defence, and transitional matters.
conventions. As a result of these, the British Queen remained Queen of Ceylon till 1972 and the first two Governors-General of independent Ceylon were two distinguished Britishers, Sir Henry Moore and Viscount Soulbury. The Union Jack and the British anthem continued to be used at official ceremonies till the end of October 1953. The leadership thus exposed themselves to the gibe of "fake" independence from the left-wing critics of the Government who immediately demanded the scrapping of the Constitution and the formulation of a new one by a popularly elected constituent assembly. It also led to the suspicions in the minds of the non-participants in the deliberations for Independence regarding collaboration with British interests and negotiation of a secret treaty compromising Sri Lanka's Independence.

28. A title she assumed under the Royal Title Act No.1 of 1953 which declared her to be "Queen of Ceylon and of her other Realms and Territories", "Head of Commonwealth": see Jacob, ibid., pp.33-34.

29. Ibid., p.35.


31. See for instance Ceylon Communist Party, Parliamentary Elections: Colombo South, H.G. Hendis (Colombo, 1947), and Lanka Sama Samaja Party, To the Voters of Colombo South: Vote for the Sama Samajist Candidate, Bernard Zoysa (Colombo, 1952), p.6. Therefore, Senanayake has been criticised not merely for the employment of such a "bland" process to attain independence as de Silva seems to understand but for the exclusion of other sections of the population for the reasons given above.

As a cogent indicator of the close degree of identification experienced by the colonial elite with the metropolitan ethos is the fact that the adapted Independence Constitution was strikingly closer to the non-republican Westminster model than those adopted by most other Commonwealth countries. Like most others, it provided for a cabinet form of government adhering to the principles of collective responsibility, a bi-cameral legislature and a Governor-General as head of state. Unlike most others, however, it was a unitary constitution and flexible in practice despite its apparent rigidity (as later events were to prove) and contained no bill of rights or "directive principles" of state policy. In being so, it contained the "rational-legal" approach of the original model more closely than did other Commonwealth constitutions. In such a different environment, however, the 1948 Constitution in effect betrayed an elitist, liberal but bureaucratic approach -- one strongly reminiscent of the colonial order.

Significant to note, therefore, is the fact that in real terms the Soulbury Constitution instituted a structure and mode of government eminently suited to the interests of the Sri Lankan oligarchic power bloc.

**Voluntary Metropolitan Subordination**

The subordination of Ceylon to the metropolitan system continued to be entertained by the legatees of the British in the formal position of Ceylon continuing to be considered a "territory" of the British monarch. More concretely, the Constitution guaranteed that any legislation passed by the Ceylonese government and perceived by Britain as injuring the economic interests of British nationals locally could be "disallowed" by the British Secretary of State. Likewise, it was perceived to be in Sri Lanka's interests

33. See n.23.
to enter into a defence and external affairs agreement with Britain and to station British forces on the island. The Privy Council in Britain, furthermore, could be appealed to in out-of-the-ordinary situations in a manner best described as a "supra-Supreme Court". 34 Even its "opinions" were so valued as to be given precedence over the sovereign right of another people in legislating in their own affairs, as events were to demonstrate.

Continuing the colonial nomenclature, the Queen's local representative was the Governor-General. He was appointed on the advice of "her Ceylonese Prime Minister" and was given a certain discretion to act under this Constitution in a manner provided to the English monarch by convention. 35

The State Structure: Centralised and Conservative

The Constitution instituted a more streamlined and more centralised mode of politics and decision-making than the Donoughmore Constitution. It provided for a cabinet form of government operating under the rules of collective responsibility and a bi-cameral parliamentary system. Executive authority and control of administration was vested in the Prime Minister, the leader of the majority party/coalition in the Parliament and his hand-picked team of ministers along the Westminster pattern. The electoral system, as we shall see below, ensured the fact that legislators continued to be drawn, by and large,

34. The Privy Council in one instance at a later date held that, "The peculiar nature of the jurisdiction and the importance in the public interest of securing at an early date a final determination of the matter and ... make it clear that it was not the intention of the Order-in-Council to create a Tribunal with the ordinary incident of an appeal to the Crown" [emphasis added]: E.L. Senanayake v. H.I. Navaratne et al, in C.T. Olegaseram, ed., The New Law Reports (henceforth NLR) (Colombo), vol. 56 part 1, 1954, pp. 5-11.

from the upper business, landed and professional classes.\textsuperscript{36}

The institution of the Senate underlined the elitist nature of government. As the Soulbury Commission pointed out, there were a number of eminent individuals of high educational and intellectual attainments, possessing notable professional or administrative qualifications and a wide experience of affairs who were averse to entering political life through the "hurly-burly of a parliamentary election".\textsuperscript{37} They could thus offer their services to the nation without feeling constrained to consider possible political repercussions. Moreover, disgruntled minorities who felt at a disadvantage in the elected Lower House could be mollified through a more substantial representation in the Upper Chamber. Likewise, the provision for six appointed members in the House of Representatives was used by the majority party to appoint members from the influential European and Burgher communities who could never hope to secure representation through the electoral process and at various times from the Indian Tamil and Muslim (Ceylon Moors and Ilalay) groups. Occasionally, the more well-to-do from the lower caste groups of the Sinhalese and Ceylon Tamils were also co-opted.

The Courts added a further element of conservatism in that -- unlike those in the British political system -- they could review the constitutionality of

\textsuperscript{36} James Jupp, in a detailed study of this aspect, comments "...there has been a marked change in the symbolism of politics but less in the sources from which politicians are drawn": for details see J. Jupp, "Political Leadership in Sri Lanka", in B.N. Pandey, ed., Leadership in South Asia (Delhi, 1977), p.484.

Worthy of note is the fact that till 1973 only two paid wage-workers had sat in Parliament, one a postale peon and follower of Philip Gunawardena (1956-1960) and the other a former waiter, bus-driver and union official who became a Senator for the LSSP in 1969. The established Marxist leadership, as a rule, came from upper middle-class, urban backgrounds, indicating one of the reasons for the weakness of the established left movement in rural areas: Jupp, ibid., p.486. Also see Singer, n.5.

\textsuperscript{37} Cooray, n.27, pp.66-67.
legislation passed by the people's elected representatives and the legitimacy of the use of power.  

The minister of justice had to necessarily be one of the two ministers appointed from the Senate, to ensure that he would be a person not directly involved in the heat and dust of politics.

The continued use of English (till such a time when Sinhalese and Tamil gradually replaced it as official languages) excluded a large majority of the population from central positions in the state apparatus.  

At the same time, the liberal structure of a parliamentary-democracy provided also an ideal framework for a dualistic system of values inherent in the uneven acceptance of secular, universal norms in the society. Accordingly, traditional Kandyan, Thesavamalai (Tamil), Muslim and such other customary codes of personal law were accommodated within the broader adherence to Roman-Dutch law. In the subsequent period, as Coomaraswamy points out, the texture of these sub-legal systems remained resistant to change so that disputes with regard to socialist measures of land reform co-existed with Supreme Court judgements in cases of Islamic conversions for the purpose of bigamous marriage.

Representation and Dominance

The new system encouraged and resulted in the coalescence of Sri Lanka's political life along party lines and the gradual emergence of an area of functional consensus especially evident after 1956 among the parliamentary parties.


39. The select committee of the State Council, under the chairmanship of J.R. Jayawardene, recommended a ten-year transition period: see Ceylon, Sinhalese and Tamil as Official Languages (Sessional Paper No.22, 1946), p.12.

However, implementation of the above remained laggardly till the 1955-58 upsurge.

The organisation and funds required to be successful in the party electoral system ensured the fact that legislators continued to be drawn, barring a few exceptions, from the upper classes. Likewise, only wealth offered an abundance of leisure for political work and wide-ranging patronage systems or networks of influence so important in a relatively backward society such as Sri Lanka's. Patronage dispensed along ascriptive lines offered the surest possible political base particularly in the context of limited resources in the post-1956 period. Religion, caste, kinship and family ties were consolidated with the result that even left parties had to, perforce, often take caste considerations into account.41

With the establishment of two dominant parties in 1956 between which power effectively alternated at each election thereafter, a central dominant value system was created. Any non-adherence or challenge posed to it resulted either in non-acceptance, illegitimacy and therefore, impotence of such a challenge or to the extent that it succeeded in being accepted -- the achievement of a marginal position. The position first of isolation of the left parties when adhering to their particular class-secular perspective in the fifties and then the gradual subordination to the major two parties in a search for an effective role by the adoption of the dominant ascriptive overtones is especially meaningful in this regard.42 As a reflection of this state of affairs, they


42. In order to prevent the splitting of the "anti-UWP" vote as in 1952, the LSSP and CP entered into "no-contest pacts" with the MEP coalition in 1956 and over time grew to adopt the dominant communal overtones: Kearney, n.41, pp.121-122. This line of action was further confirmed by the experience of the left in the March 1960 and July 1960 elections: for details see Calvin A. Woodward, The Growth of a Party System in Ceylon (Providence, 1969).
laid aside their desire for the abrogation of the Constitution and instead, reiterated the view of the dominant SLFP, of the need to transform Sri Lanka into a republic and to revise the Constitution "to suit the needs of the country".43

Thus, while the parliamentary system encouraged political participation on the part of the people, it did not allow its more vehement critics to effectively intervene to fundamentally alter the system in their favour.

Most importantly, the Soulbury Constitution incorporated a form of constituency representation biased in favour of the majority community and conservatism. Though based on the more progressive territorial rather than communal principle, the Constitution provided weightage to benefit minority groups and to backward sparsely-populated areas in deference to their fears of total subordination to the majority community.44

Inclusion of an area weightage initially secured a measure of additional representation for the Ceylon Tamils and Muslims, resident in the thinly populated Northern and Eastern Provinces. Multi-member electoral districts improved the prospects of minority ethnic, religious and social groups living in Sinhalese areas in securing representation. The weightage awarded by the Soulbury Commissioners was such as would give the four larger communities a representation in Parliament in rough accordance to their proportion in the population.45 The influence of the British Constitution, relying more on unwritten conventions and precedents was so great, however, that despite the

43. The SLFP election manifesto in 1965 which had the endorsement of the LSSP and CP: de Silva, n.31, p.315.


45. The new proposals were expected to yield for the minorities 27 seats out of 95 elected representatives (a proportion of 40 : 60). The numbers actually returned in 1947 elections were, however, fewer than anticipated.
apparent and deepening rift between the Sinhalese and the Tamil leadership, 
this informal numerical relationship was not written into the Constitution but 
left vulnerable to jerrymandering of subsequent Sinhalese-dominated 
governments in successive territorial delimitations.\textsuperscript{46}

As importantly, area weightage distorted the representation of the low-
country and the Kandyan Sinhalese areas. The low-country which would have got 
34 seats both on the population and the territorial principle in contrast to 
the 25 of 27 that would have been due to the Kandyan area on the respective 
principles was reversed to 32 for the low-country areas and 36 for the 
Kandyans on the basis of area weightage.\textsuperscript{47} Populous areas of the South and 
West were under-represented as a result, to the disadvantage of Marxist 
parties based chiefly in the urban coastal areas in this region. In sum, in 
the initial years, while the UNP lost some of its advantage in the Westernised 
urban areas in the low-country it gained in the rural up-country areas. Later, 
this weightage worked to the advantage of the SLFP.

This bias was further exaggerated in a more blatant and deliberate manner 
by the disenfranchisement of the majority of the Indian estate workers, 
"transient" or resident, soon after independence. In contrast to his accomoda-
ting approach to metropolitan interests and the rights of the minorities, D.S. 
Senanayake argued in 1948 that the Indian estate workers in Ceylon were "birds

\textsuperscript{46} Accordingly, in retrospect, it seems an obvious tactical error of the 
Tamil leaders of the time led by G.G. Ponnambalam not to have accepted the 
formal relationship of 57 percent to 43 percent between the Sinhalese and 
the other communities in the legislature which the Sinhalese Board of 
Ministers had been willing to concede in answer to the "fifty-fifty" 
demand of the Tamils: see S. Arasaratnam, "Nationalism in Sri Lanka and 
the Tamils", in Roberts, n.7, pp.505-506.

\textsuperscript{47} Woodward, n.42, p.264.
of passage" with no legitimate interest in the island. The UNP government defined the basis on which citizenship would or would not granted in a series of legislations. These effectively rendered it impossible for the vast majority of the Indian Tamil population to aspire to citizenship. By doing so, the dominant Sinhalese elite prevented the Indian Tamil vote deciding the fate of some 15 to 25 plantation constituencies in the interior by voting en bloc for their own or left-party candidates as they had in the 1947 elections.

More fundamentally, it deprived the most vulnerable and productive section of its labour force of their basic political and civil rights. The clean-cut surgical removal of the only legitimate political weapon that they could use to exert effective political pressure -- their vote -- undercut their attraction to any political party in the ensuing parliamentary contest. By defining their exclusion from the political nation along ethnic lines, the Sinhalese ruling class (as a whole) changed the complexion of the estate worker problem from a class to a national one. In the dominant ideological milieu therefore, any attempt on the part of the left thereafter to ignore this difference and to change it back to the first by linking the question of the plantation


Seemingly, the immediate provocation had been provided by the two Indian Tamil representatives in the State Council who had voted against the Soulbury proposals on a discreet instruction from the official Indian representative sitting in the Gallery of the Parliament: K.M. de Silva in conversation, Peradeniya, 3 September 1991.

The sharpness of the reaction, however, displayed a deep-seated suspicion which had perhaps led to the insistence by D.S. Senanayake during negotiations for independence in 1946, that problems relating to citizenship must remain within Sri Lanka's control in the future.


Ceylon was the only country in South Asia to mark its independence by restricting the franchise enjoyed under colonial rule.
workers with that of the rest of the working class was doomed to failure, being met by resistance and suspicion by all the parties concerned.

At the next delimitation of constituencies in 1959, the number of seats allocated to each province continued to be calculated on the basis of resident population with the net effect that the Kandyan Sinhalese, with 26 percent of the total island's population were allotted 44 percent of the seats, exaggerating the bias still further.

"Reserve" Powers

Underlining this institutionalisation of power favouring the ruling classes, the Public Security Act of 1947 and the Industrial Disputes Act of 1950 were promulgated to effectively deal with any challenge to the social order, especially from the left. The first Act gave the Governor-General wide-ranging powers in an emergency, reminiscent of the "reserve" powers of the colonial Governor in the pre-independence period. The second Act laid out a procedure of arbitration as mandatory for the resolution of industrial disputes to avoid the recurrence of long drawn-out strikes. In a situation, however, in which the large proportion of the local working class were state employees and organised, the arbitrator and the industrial court were enjoined to make such award as appeared to be "just and equitable". 50

In sum, the nature of the consensus thus sought to be institutionalised by the ruling elite in the post-independence period was status quoist in nature. Corresponding to the dependent social order prevailing in Sri Lanka, the consensus embodied in the 1948 Constitution had strong links with that of the preceding period. It conformed to the narrow, paternalistic domination by the oligarchic power bloc and due to their strong comprador character had definite colonial overtones.

The impact of the changing socio-economic parameters, both external and internal, in the post-independence period, however, set in motion a certain shift in the balance of social forces in favour of various indigenous elements. This shift served effectively to shatter forever, the hitherto complacent domination of power by the westernised, oligarchic power bloc exercised through the UNP, and brought the intermediate classes onto the national political stage for the first time. In line with certain structural imperatives, outlined in the last chapter, the new and broader coalition of forces ought to institute changes at all levels -- economic, political and ideological -- to accommodate their interests. Since the coalition was a heterogenous one, consisting of disparate classes and strata of town and country -- the level that was dominant was the ideological one. Though the central contradiction revolved around the question of the development of a national capital as against the continued primacy of comprador forms and structures, the mobilisation of a wider popular base required the projection of a pool of symbols familiar to the public. In keeping with the central contradiction, it had to be a more manifestly "nationalist" set of counter-values. To attract the wide section of the petty-bourgeois classes, it had to offer hope for an economic and status advancement. Last but not least, to draw out a majority of the impoverished lower classes, both rural and urban from the patronage networks in which they were enmeshed, it had to offer a vision of a system which would work to overtly benefit them.

It was this congeries of interest that the MEP's populist ideology was geared to cater to. The militant nationalism drawing within its ambit the propagation of Buddhism, the institution of Sinhala as the official language
and socialism (of a non-revolutionary kind) created a populist melange of symbols which became the rallying point for the respective appealed sections.

The NEP's attack on all things foreign -- be it goods, clothes, religion or language -- served not only to challenge the metropolitan dominance but also in the Sri Lankan situation to spurn the dependent and elitist value consensus espoused by the UNP-led comprador interests.

**Sinhalese-Buddhist Nationalism**

In the revivalist atmosphere of the mid-1950s, with the millenial expectations of the Buddha Jayanti and the nativistic urge to guard and preserve Sinhalese language and culture at the fore, various steps were taken to restore the balance in this direction by the NEP regime soon after assumption of power. Despite intensified pressure for a closer association of the State with Buddhism, legislation for the declaration of Buddhism as the state religion was rendered impossible by the formidable and almost insuperable obstacle of Section 29(2)(b) of the Constitution. Even had S.W.R.D. Bandaranaike been willing to accede to these pressures, it was far from likely that the legislature would have provided the requisite special majority necessary for a constitutional amendment. Short of that, however, all other measures were taken to satisfy the nationalist resurgence. A Ministry of Cultural Affairs and a separate department of official language affairs was established. The College of Indigenous Medicine was reorganised and a Central Institute of Ayurveda was set up to rehabilitate the indigenous systems of medical treatment. The two premier Sinhalese seats of Buddhist learning, the Vidyalankara and Vidyodaya Pirivenas were granted university status. A Buddha Sasana Commission was appointed in February 1957 to make recommendations for the reform of the Sangha (Buddhist clergy) and for "according Buddhism its rightful place in the country". Not all sections of the Buddhist establishment
consequently were happy with this turn of events. There was opposition, for instance, from the influential Siyam Nikaya.\footnote{Urmila Phadnis, Religion and Politics in Sri Lanka (New Delhi, 1976), pp.127, 162-164, 214-216.} Though Dandaranaik, for both personal and political reasons perhaps, opposed the pressure of the Buddhist groups to takeover the elitist Roman Catholic Schools, his wife had no such compunctions and the takeover was effected in 1961 much to the opposition of the Roman Catholic minority.

Since the linguistic nationalism of the Sinhalese was so closely interwoven with the Buddhist resurgence, it was inevitable that the Sinhala language was declared by legislation to be the only official language throughout the island in 1956. Besides its emotive value, this step was infused with hard politico-economic calculations. In a restricted economy in which the State was the largest employer, this step held out the prospect of providing a steadily increasing number of the Sinhala-educated (with its preference for white-collar jobs) better chances for employment and promotion in public and other governmental services.

** Petty-Bourgeois Socialism  

Although this nationalist renaissance was led by the sangha (clergy), veda (doctor), and guru (teacher) backed by the vernacular-educated groups which derived immediate gains, as seen above, these groups were not averse to "socialism" so long as their own economic interests were not affected. Every extension of state control over trade and industry could be justified on the grounds that it helped to curtail the disproportionate influence of foreigners, minorities and the English-speaking Sinhalese elite. The result was as K.H. de Silva observes that "...the Sri Lanka Freedom Party has been able to reconcile a commitment to socialism with an advocacy of the interests of a section of the indigenous capitalist class -- namely its Sinhalese
Buddhist section.\textsuperscript{52}

As related in the last chapter, in the post-1956 period the SLFP-dominated regimes moved in the direction of state control of the mercantile and production sectors. The restrictions on the repatriation of capital affected the metropolitan interests and induced them to change their tactics of operation, as also seen in the last chapter.

Likewise, other measures directly affected some of the most affluent interests linked to the UNP. The port of Colombo and bus transport was nationalised by the NEP government in 1950. Taking bolder measures in this direction, Mrs. Bandaranaike's regime nationalised the biggest commercial bank in the island in 1961 and petroleum and insurance in 1962. The nationalisation of the petroleum companies without compensation incurred the displeasure and withdrawal of aid by vested American interests. Dispossession of the schools of the Christian missions in 1960-61 hurt another important support base of the UNP.

However, by the strength of the alignment of forces: the entrenched nature of the comprador economic establishment combined with the contradictions in the purposes of the forces embodied by the intermediate bloc, the extent of these measures could only be partial. No effort was made to take-over the foreign-owned or even the bigger plantations. Nor was any effort made to control the marketing and export of the plantation products with serious consequences for the availability of resources for development as noted already. Likewise, despite the prompt declaration of the new official language all necessary steps to implement this decision were not taken which would have meant virtually handing over the administration to the Sinhalese intelligentsia.

\textsuperscript{52} K.M. de Silva, \textit{A History of Sri Lanka} (New Delhi, 1951), p.518.
These measures required a degree of ideological cohesiveness overlying a set of consistent economic interests within a national protest movement as were missing from the IEP combination. Fear of the arousal of the class-consciousness of the poor peasant and landless workers which such a mobilisation would have demanded and thus providing the conditions for a later challenge to their own hegemony, dictated the maintenance of the "middle-path" of the new combination of forces. The cleavages and contradictions in the IEP coalition were thrown open in the issue of the passage and implementation of the Paddy Lands Act 1956.

Indeed, as Herring points out, opposition to land reform within the coalition figured heavily in the formulation of the Act itself. The 1956 coalition was marked by a range of political ideologies, from rural populist left to conservative landed interests with no coherent economic or agrarian policy. The tenurial structure based on a high man-land ration produced a sum of forces which offered very little support for a land-to-the-tiller policy -- forces which were, most importantly, dominating the IEP coalition. The radical Minister of Agriculture, Philip Gunawardena and his associates prepared a draft of the Bill which sought to assure security of tenure and reduced rents to tenants along with provision for institutional bodies such as elected Cultivation Committees and a Department of Agrarian Services to ensure the implementation of the Act and provide subsidiary facilities to the tenant for cultivation, now provided by the landlord. Conservative pressure led to certain changes in the draft which reversed the presumption that had been made in favour of the tenant in the case of eviction and provided representation to landowners on the Cultivation Committees. The cabinet crisis and expulsion of Gunawardena, a Marxist in a non-marxist coalition government, left the Act with an unstable political base. Lacking popular pressure from the potential
beneficiaries of the Act, despite alterations made to the main document in 1961 and again in 1964, the propertied interests were protected by the extant legal system weighted in favour of property. 53

Limits to Decentralization and Accomodation

Meanwhile, as earlier mentioned, in reaction to the assertion by the Sinhalese intermediate classes, the Federal Party in turn based among the Tamil petty-bourgeois and small landed interests in the North and East, 54 became the dominant party for the Ceylon Tamils. The fears aroused by the disenfranchisement of the Indian Tamils in 1948 in the unitary constitutional set-up put an end to the politics of numbers between the minorities. Instead, the demand was raised for "the establishment of an autonomous Tamil linguistic state within the framework of a Federal Union of Ceylon." 55

This demand gathered momentum in the post-1956 period in close reaction to the Sinhalese resurgence at the national level. The economic implications of the "Sinhala only" policy of the Sinhalese pressure groups in the Center hit the Tamils hard. In a situation where public services constituted the chief avenue of advancement and, as an outcome of the colonial education policy, the larger masses were educated in the vernacular language, Sinhala or Tamil (as applicable), the consequences of such a sectional policy were only too well understood. It would push a minority community which was already at a political disadvantage in the post-independence set-up into a prescribed economically marginal role too. The status of language became a central issue between the two communities in the ensuing period.

54. Kearney, n.41, p.117.
55. Ilankai-Tamil Arasu Kadchi, The Case for a Federal Constitution for Ceylon as Embodied in the Resolutions passed at the First National Convention, held on the 13th, 14th, 15th April 1951 at Trincomalee (Colombo, n.d.).
The demand for parity of status was significantly given up in the course of the negotiations between Bandaranaike and Chelvanayagam soon after. Though abrogated due to Sinhalese pressure, elements of this comprehensive Pact have provided the basis for negotiation between the two communities since. It was agreed that Tamil would be recognised as the language of a national minority, as the language of administration in the Northern and Eastern Provinces with due protection given to non-Tamil-speaking interests. The Pact also provided for regional councils with power in agriculture, education and selection of candidates for colonisation schemes. Under the terms of the Pact, a rough draft of the Regional Councils Bill was to be amended so that inter alia the Northern Province was to form one regional area and the Eastern was to be divided into two or more regional areas. Subject to ratification by Parliament, a region could subdivide itself further, or amalgamate with others, even beyond provincial boundaries for collaboration for specific purposes of common interest. 56 The Pact provided therefore for a voluntary form of federalism which would remain subject to the Center. The Prime Minister also gave a promise to give "early consideration" to the revision of the Citizenship Act that disenfranchised the estate workers. 57

In the maelstrom of communal emotions and disturbances that followed and in a desperate attempt at a compromise, the Tamil Language (Special Provisions) Act No.28 of 1958 was pushed through by the Prime Minister which provided for the "reasonable use" of Tamil in education, public service


Sinhalese-Buddhist demagogues leave out this important qualificatory clause on the possibility of Ceylon being "carved" into two parts by the Agreement and Tamil ill-intentions.

entrance examinations and administration in the Northern and Eastern provinces. In the prevailing milieu however, seven years were to pass before any regulations were drafted -- and that too as part of an electoral package deal between the UNP and FP in 1965. Even these were however, never fully applied and the Act remained virtually a dead letter.

Thus, it can be seen that the intensification of the Sinhalese-Tamil conflict was closely related to the assertion of the majority intermediate classes on the national plane for a greater share of a shrinking economic cake. The fact that the indigenous nationalist assertion came ten years after independence upset all political calculations on which the post-independence consensus embodied in the Constitution, with its faults, was based. Historical unevennesses in development put a sharp edge to the dominance of the majority accomplished through the ballot-box. The consequent mobilisation of counter-values and demand for safeguards by the minority against a further deterioration in their status were viewed by the majority as nothing less "than the thin-end of the wedge of a separatist movement." Attempts to arrest the process without taking minority fears into account could only exacerbate the situation further creating wide divergence in the perception of what constituted safely permissible limits to decentralization.

Politics of Representation: Congruence and Cleavages

The mobilisation of forces along both class and communal lines had their simultaneous repercussions in the format of representation at the national level. The socio-economic and political levels in their integral connection in the participant parliamentary-democratic system acted and reacted on each other leading to an increasingly sharper polarisation of forces.

53. de Silva, n.56, p.10.
In the competitive two-party dominant electoral system, certain characteristics and trends became discernible in the post-1956 period. The two parties, along with their allies alternated in power from one election to the next. Although the UNP outpolled the SLFP by a small margin in all post-1956 elections, the popular vote of the two parties remained fairly close and the proportion of vote won by each of the major contenders remained remarkably stable. The UNP proportion held between 37 and 40 percent of the voting population while the SLFP proportion varied by the only slightly wider margin of 30 to 37 percent. However, the number of seats won in Parliament fluctuated widely from one election to the next.

In view of the relatively consistent showing popular votes, this fluctuation can be largely explained by the mechanics of a first-past-the-post system or the simple-majority system in which a small shift in votes in a number of constituencies from one election to another could result in a substantial gain or loss for the parties concerned.

While the two larger parties usually divided more than two-thirds of the seats in Parliament between themselves, the four smaller parties; the LSSP, CP, FP and TC (Tamil Congress) showed a resilience by having core bases and areas of support for their programmes which compelled the two dominant parties at the national level to be take them into account. The number of independent candidates elected showed a consistent decline over the years while the percentage of the electorate voting at each election showed, by and large, a consistent rise from 69 percent in 1956 to 65.2 percent in 197059 -- thereby indicating a high and rising degree of politicisation of the masses along issue and party lines.

59. For details and further figures see Kearney, n.41, pp.50 ff.
Underlying this issue-dominated party system was a process of interaction between the socio-economic and political level. The expanding role of the state in the deteriorating economic parameters of the post-1956 period highlighted the importance of access to political power. The state itself became a worthwhile prize. The Member of Parliament of the victorious party emerged as a focal figure and representative of state power in his constituency. The close competition between the parties, especially of the two major parties, to net the maximum votes of the Sinhalese majority provided a situation in which the UNP maneuvered to hold the support of the local petty-bourgeois elements by attempting to fulfil their socio-economic and status aspirations. In the process, important sections of the above group aligned along factional lines and manipulating caste and kinship networks, stabilised the party system by their alignment with one party or the other.

In this connection, it is worthy of note that any in-depth study into the differing attributes of the factional support base of one or the other major party at the rural village level is lacking and therefore any definite statement in this regard difficult. However, it has been generally observed that in the ensuing period the Sinhalese petty-bourgeoisie demonstrated two tendencies within the boundaries of the post-1956 consensus -- its older generations and more conservative sections began to drift towards the UNP. The poorer sections and the younger generation especially became increasingly radicalised. The limited employment opportunities in a relatively stagnant economy engendered a rising degree of frustration, alienation and sense of deprivation among the swabasha-educated youth which in turn heightened their potential for political violence.60

It became axiomatic in the context of Ceylon's perilous economic situation that even governments swept into office with the greatest amount of electoral goodwill foundered in the "economic morass". Along with the implications of chronic adverse terms of trade, the model welfare policies adopted previously constituted a strain on governmental resources. By the onset of the seventies approximately 35 percent of total government expenditure was made on welfare. The most substantial of these, the rice subsidies, were also the most difficult to tamper with due to the certain political repercussions that followed and were thus avoided as far as possible.

It is interesting in Sri Lanka's context that the fear of losing even a marginal percentage of votes which would swing the scales to the disadvantage of the ruling coalition worked to preserve the extensive welfare system for the masses and thus probably to cushion the Sri Lankan two-party democracy from the impact of the harsher economic realities.

In a situation in which there was a low percentage of "floating voters", the closely-competitive system increased the importance of inducements thrown by the two major parties to marginal social groupings and thus directly contributed to an increase in populism. Both the major parties acceded to the dominant value consensus, albeit with their individual variations in emphasis, and escalated their rhetoric in promising the millenium if returned to power. Both the SLFP and the UNP in this period therefore made extravagant promises

61. A.J. Wilson, "Politics and Political Development since 1948", in de Silva, p.306. This constituted a figure greater than the revenues of the government in this period due to heavy deficit financing and substantial foreign aid at this time.

62. Dudley Senanayake paid the price twice, once in 1965, when the first-ever day long hartal in reaction to the rice-cut compelled him to resign and again in 1970 for a similar decision in December 1966 to reduce the weekly ration of 4 lbs of rice per person at Rs.0.50 per lb. to a free weekly ration of 2 lbs, which in the prevailing inflation worked out to the disadvantage of the consumer.
to the two communities, but especially the majority, to net the maximum votes,\(^6\) back-tracked and retracted from electoral promises later,\(^6\) and exploited passions when in opposition for their own ends.\(^6\) This had the result of leading to a widespread exacerbation of hopes and passions among the populace and confusion, suspicion and disillusionment over their non-fulfilment. This had its impact at two levels. In the background of the patently uneven impact of development in the sixties benefitting the Sinhalese rural and urban capitalist classes at the cost of the Sinhalese lower classes and the Tamil minority community, the vote at each election was delivered with an increasing telling effect. The Sinhalese electorate not only rejected the ruling party regularly but grew to do so cohesively so as to reduce it to a humbling, almost punitive minority. The Tamils, likewise, rallied behind the FP and to a lesser extent, the TC and the importance of independent candidates decreased. This latter situation was, however, weakest in the backward Eastern province where Tamil-speaking Muslims continued to vote Independent candidates which allied as it suited them best.

The above corpus of developments served to consistently push the initiative to the left.

\(^6\) Such as the declarations made by both UNP and SLFP in mid-fifties to institute Sinhala as the only official language (so as to please the majority) with a reasonable use of Tamil (to placate the Tamils), as also the declaration by the National Government led by the UNP in 1965 election to make all four Poya days public-holidays to the Opposition's promise of one Poya day.

\(^6\) Witness the fate of Kotelawala's promise in Jaffna in 1954 to amend the Constitution so as to provide parity for Sinhala and Tamil, the Chandranaike-Chelvanayagam Pact 1957, Tamil Language (Special Provisions) Act 1958 and the UNP-FP Agreement in 1965 to devolve authority to regional councils.

\(^6\) A writer who was close to Prime Minister Kotelawala state that the change in language policy of the UNP in February 1956 was expected to "spike the guns of the SLFP opposition": J.L. Fernando, Three Prime Ministers of Ceylon: An Inside Story (Colombo, 1963), p.25.
As importantly, the competitive issue-oriented system dominated by the intermediate classes eroded the value of the secular perspective held by the two left parties and therefore, forced them onto the electoral stage if they aspired to any meaningful role within the parliamentary system. The no-contest pact of 1956 and July 1960 was changed into a programmatic alliance with the SLFP in 1964 by the largest of the left parties. While the representation of the lower classes and working class directly within the ruling coalition injected a new force into the radical aspect of the intermediate classes led by the SLFP, it is debatable whether it strategically succeeded in merely postponing the process of a rightist realignment of forces that asserted itself after 1975. The two left parties lost not only their credibility as an independent alternative in the eyes of the larger masses in the longer run but also the potential radical youth base which came increasingly into evidence in the post-1964 years after the break of the United Left Front.

Be that as it may, in view of the dominant Sinhalese chauvinist overtones of the SLFP-led coalition, and conservative nature of their own leadership, parties of the minority community found greater compatibility in dealing or aligning with the UNP as only too obvious in 1965.66

In sum, the developments in the post-1956 period served to heighten the class contradictions in the Center and push the minority to the peripheral position.

**Concentration and Centralization**

The concentration of political and economic power in the State had implications for the various branches of the state apparatus.

In the transitional conjuncture that this period represented, despite the

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66. Both the FP and CWC, however, attempted to reach some agreement with the intermediate bloc of the SLFP initially, till mid-1960 and 1964 respectively.
assertion of the intermediate bloc at the national representative level, the influence of the preceding bloc continued to be entrenched in the formal executive apparatuses of the state -- the Governor-General, the judiciary, the administrative and the armed and police forces. Therefore, broadly-speaking, as has been pertinently observed:

The influence of the former colonial elite continued to be felt within the NEP government, both as a dilution and retardation of the urges towards radical political and economic changes, and liberally as a harmonising influence between the different sectional chauvinisms.67

More specifically, the conflict of interests between the two blocs was manifested in other ways.

As already mentioned, the MP came to constitute the focal figure of state power at the district level and there arose a tendency to intervene in routine administrative activities. Ministries and departments at the Center and Ministers themselves tended quite often to pay more attention to individual requests of MPs than to resolutions passed by District Co-ordinating Committees.68 The extent of penetration of the bureaucracy by political pressures and influences rose sharply during the sixties, even in matters relating to appointment, transfer and dismissal though these were supposed to lie in the hands of the independent Public Service Commission. In 1965 a number of permanent secretaries were appointed from outside the public service for the first time. In the face of the recognised politicisation of the bureaucracy, there arose the anomalous position of higher public servants responsive to the wishes of Ministers and MPs with neither the PM nor the Cabinet being accountable to Parliament on this score, since formally all such decisions lay within the jurisdiction of the independent Public Service Commission.


68. See de Silva, n.56, p.8.
In contrast to the public services, the judiciary jealously maintained its area of jurisdiction against all encroachments by the legislature and executive. Though the appointment of three judges of the Supreme Court to head the independent Judicial Service Commission was a political act, similar to that found in most Western democracies, the judiciary continued to hold its own in all other matters. When a Bench of three judges was nominated by the late Sam P.C. Fernando, Minister of Justice, the Supreme Court refused to hear the first coup case on the grounds that they should have been nominated by the Chief Justice. It sought to guard its jurisdiction against executive encroachment, when in the next year it ruled that a Bribery Commissioner appointed by the minister could come to a finding of fact but could not impose sentences which was held to be a judicial prerogative. This ruling was modified further when it sought to regulate executive action itself by its ruling in a similar case that a Commissioner appointed by the minister had no jurisdiction to hear a bribery case. It also struck down attempts by the executive to adopt extraordinary procedures for administration of justice when it ruled as ultra vires a special legislation passed by the SLFP government to try named coup conspirators for treason. This had the result of placing the judiciary in direct confrontation with the forces that had been on the ascendant since 1956.

The position of the judiciary was reinforced by the British Privy Council on numerous occasions when its pronouncements had crucial political implications. The "opinion" of the Judicial Committee of the Privy Council in London in regard to Section 29 of the Soulbury Constitution caused a stir in govern-

ment circles. The Privy Council, in an obiter dictum given in 1964\textsuperscript{72} held that this clause, regarding the position of the minorities, was an entrenched provision which could not be amended by any revision of the Constitution.\textsuperscript{73} Objecting to this, a representation made by the Buddhist Commission stated that the entrenched sections of the Constitution militated against Buddhism obtaining the rightful place it occupied as a religion of the majority of the people.\textsuperscript{74} Likewise, on an earlier occasion, the Privy Council had held as retrospective and invalid legislation framed by Mrs. Bandaranaike's government which would have imposed the death penalty in a case of murder. In the same case it upheld its right to award decisions in matters (including criminal cases) appealed to it; and emphasised the judicial nature of such action which was allowed it by the Constitution.\textsuperscript{75} In 1962, the Privy Council upheld the judgement of the Supreme Court that a commission appointed by the Minister of Justice to try officers involved in the 1962 coup against Mrs. Bandaranaike's government was illegally constituted. They held that the doctrine of separation of powers was entrenched in the Constitution.\textsuperscript{76} The fact that the involvement of certain top UNP leaders had been confirmed in these two incidents added grist to the mill of the momentum of partisan party politics in Sri Lanka in the sixties.

Thus in effect, due to its refusal to change the judiciary, backed by the Privy Council, continued to protect an outmoded consensus manifested in two

\textsuperscript{72} The Bribery Commissioner v. P. Ranasinghe, NLR, vol.66 part 4, 1964, p.78.

\textsuperscript{73} Emphasis added.

\textsuperscript{74} Maithripala Senanayake, in Sri Lanka, Birth of a Republic (Colombo, 1972?), p.24.

\textsuperscript{75} Ibralebbe v. the Queen, NLR, vol.65, 1964, pp.433-435, 470.

\textsuperscript{76} Certain labour tribunals underlined this by declaring that the judiciary is independent of the legislature: Senanayake, n.74, p.26.
directions. On the one hand, it sought valiantly to preserve the rights of the minorities guaranteed by Section 29 (2)(b) of the Soulbury Constitution. In doing so it drew the indignation of the Sinhalese nationalist sentiment to itself;77 and a demand that the judiciary be made responsive to the popular will.

At a less obvious plane, on the other hand, the judiciary served to uphold the status quo as also to provided protection to the propertied interests under challenge. Its rigid protection of its own areas of jurisdiction and its clinging to the letter of the law had a particularly pernicious impact on the implementation of the Paddy Lands Act and drained it of all vitality. For instance, despite the fact that landlords boycotted meetings and elections, the courts ruled invalid all Cultivation Committees which did not have exactly 12 members. It defined the term "eviction" narrowly as meaning to "forcibly and physically eject a tenant from the paddy field" rather than the refusal of permission to a tenant to till land he had been tilling in the past. While loopholes such as these were sealed by subsequent amendments of the Act, the narrow views of the courts dealt an early and debilitating blow to the Act from which it did not recover. Moreover, despite all amendments, the courts continued to insist that the Department of Agrarian Services and the Board of Review were not part of the judiciary and thus not empowered to make judicial decisions. Thus the Department was able to do very little as its findings in

77. See the judgements of the two judicial bodies on the Ranasinghe v. Dribery Commissioner, NLR, vol.64, 1962, p.449; and NLR, vol.66, 1964, p.73 (Privy Council judgement). Earlier though a district court had ruled against the Official Language Act of 1956 as violating Section 29 of the Constitution, the Court of Appeal and Privy Council had not commented on the constitutionality or otherwise of the Official Language Act, see Kodeeswaran v. Attorney-General, DC Colombo 1026/Z (District Court judgement); NLR, vol.70, 1968, p.121 (Supreme Court judgement); and NLR, vol.72, 1959, p.337 (Privy Council judgement).
favour of tenants in a number of cases had to face long drawn out court battles.\textsuperscript{78}

The politicisation of the milieu after the entry of the intermediate classes on the political arena at the national level and the ensuing conflict and contradictions in the ensuing period of change subjected not only the administrative and judicial branches of the state apparatus but also the coercive branches to the emerging pressures and pulls. The increasingly partisan nature of the milieu, the growing violence and conflict in political life in the late fifties and early sixties called forth an increasing use of police forces, armed contingents and declarations of emergency to manage situations until periods of "emergency" became as common as normal periods.\textsuperscript{79}

This contrasted sharply to the earlier situation where a day-long hartal in 1954 resulted in Prime Minister Dudley Senanayake's resignation. It is significant for our purposes to note certain changes closely associated with this explicit use of violence to contain political conflict.

At the more structural level, earlier the Governor-General and both the military and civil bureaucracy had maintained their distance from the political wing of the government, carrying out an "efficient and impartial" execution of their tasks on the colonial model. From the late fifties, this administrative-executive apparatus of state moved closer, as it were, to the political wing. In this, the Governor-General, though continuing to act in his own discretion, exercised it to conform more closely to the desires and

\textsuperscript{78} For an excellent discussion, see Herring, n.53, pp.60-73.

\textsuperscript{79} During the five years after the declaration of an emergency in April 1958, emergency rule spanned a total of 36 months. Half the fourteen-year period 1950-1972 was spent under "state of emergency". The 1970 UF election manifesto denounced the UNP-led government for ruling under emergency powers for 1,006 of 1,025 days in office: Kearney, n.41, pp.67, 196-198.
interests of his political chief -- the Prime Minister.60

The top military brass, likewise, on two occasions were implicated in partisan coups against the ruling party/coalition. The seriousness of the first, attempted in 1962, by manifesting deeply-embedded sympathies and identification with the preceding elitist order aroused a suspicious reaction on the part of the ruling party who thenceforth maintained a surveillance and control over the sympathies of its official rungs. Nor, in turn, was each ruling party free from the suspicion of protecting its partisan officials from retribution when it returned to power.

The dominance of the political was strengthened at the more formal level, through the tightening of emergency provisions to deal with future conflict situations. Whereas the subservience and acquiescence of the subordinate classes had been an important pillar on which the post-independence consensus had rested, the rise to awareness and assertion of their rights in the socio-political arena by the intermediate strata called forth an explicit delineation and use of preventive and coercive measures by the ruling classes. For instance, before the National Emergency of 1953 was officially brought to an end in March 1959, a legislation permitting the Government wide power to declare a regional emergency was passed. Politically-motivated strikes could henceforth be declared illegal.81

80. With the explosion of communal riots in 1956, Bandaranaike virtually abdicated to the Governor-General Goonetilleke the authority to deal with the island's most serious emergency in many decades. Goonetilleke assumed direct control over the military, police and civil administration in suppressing the violence and restoring law and order. Bandaranaike further obtained the assistance of the Governor-General in dealing with a series of strikes in 1956-59.

81. By a controversial amendment to the Public Security Ordinance in 1959, provision was made to declare essential services even when there was no state of public emergency. But important safeguards were included. In particular, the right to strike in furtherance of an industrial dispute was protected. However, according to the Civil Rights Movement (henceforth CRM) of Sri Lanka, this provision was not resorted to even once during the next 20 years when it was in force. See CRM, "The Essential Public Services Bill" (Colombo, 1979, mimeo), p.2.
In this connection, it can be said that whereas the earlier social and political consensus even after independence rested firstly, on the more homogeneous class interests of the wielders of political power and secondly, as a corollary to the stage of development reached by the society, to the more customary channels of subservience and obedience on the part of the dominated classes (in other words, a "subject political culture"); the post-1966 inculcation of the more assertive "participant political culture" called forth, in turn, a more explicit delineation and use of preventive legislation on the part of the ruling classes.

In view of the shift of the corpus of political development towards the left and the growing concentration and centralization of political power in the state apparatus, it is also no coincidence that a plan for a change to a more "stable" and "representative" political system was made by one of the astutest politicians of the right in Sri Lanka's political scene. Publicly argued as early as 1966, J.R. Jayawardene pleaded for an executive presidential system based on a system of proportional representation in which the executive president would be returned after election for a fixed period of five years.33

AN APPRAISAL

Thus we see that in the context of the close degree of identity of interests in the island between the British metropolitan power and the local

82. For the classification of political cultures and their characteristics, see Gabriel A. Almond and Sidney Verba, The Civic Culture: Political Attitudes and Democracy in Five Nations (Princeton, New Jersey, 1963), p.19.

83. See Chapter Seven of the present work for J.R. Jayawardene's arguments on this occasion.
dominant classes, the comprador and the landed, the demand for independence that emerged in the first half of the present century was one of a peaceful, constitutional nature. Due to the predominance and importance of the plantation export sector in the economy, it was the comprador elements directly or indirectly linked to the production and trade for the export and import sector which constituted the more powerful and "progressive" fraction of the indigenous dominant classes in that period. Multi-ethnic in character, they formed a "colonial elite" which cut across communal barriers and negotiated with the colonial authorities as representatives of the "Ceylonese nation".

In order to secure the eroding hegemony of the oligarchic power bloc, the British transferred power to their representatives so as to create conditions of political stability and institutional continuity within which not only the metropolitan and the comprador economic interests could continue to flourish. In that plantation-linked development was concentrated in a relatively limited area of Sri Lanka, and the concentrated colonial authority of the colonial power was being removed, the post-independence Soulbury ensemble of the state apparatuses provided for a greater exercise of control and responsibility by the local centralised executive over the legislature than had been done in the preceding Donoughmore period. In consonance with the central, elitist, westernised and liberal value system, any attempt by the minority factions to push for a less unitary form of representation or government which would ensure them a greater weightage were interpreted as "reactionary", regressive, and primordial demands.

The Independence Constitution was consequently an adapted version of the most recent colonial constitution patterned closely (though not completely)

after the Westminster model instituting a unitary, parliamentary form of government of a liberal-democratic nature. In the interests of the ruling classes, it however contained deviations from the Westminster model in, notably, the institution of a judiciary with the power to review legislation and a mode of constituency representation weighted in favour of the majority community and conservatism. As a continuation of the colonial set up, the Privy Council in Britain, continued to have the prerogative of pronouncing its judgement/opinion in cases affecting British interests or at dispute within Sri Lanka and referred to it. These deviations from the Westminster model were more explicitly supplemented within three years of Independence by the institution of provisions for arbitrary preventive detention and the disenfranchisement of the vast majority of the estate Tamil workers; both moves being to the disadvantage of any potential challenge posed from the minorities and from the left.

The influence of the rationalist British Constitution, relying on unwritten precedents was most apparent in the non-inclusion of a specific bill of rights or anti-discrimination provisions. Reliance was placed on the general wording of Article 29(2) which proved later to be ridden with loopholes. Reliance was also placed on implicit electoral weightage which was later tampered with.

Indeed, the differing attitude of the British colonial authorities to the settlement of the minority question in India and Sri Lanka provide a fascinating contrast in the colonial policy of "divide and rule". As noted by Arasaratnam, at the very time the Simon Commission and the Round Table Conference were deliberating on electoral and constitutional safeguards for the minorities in India, the Donoughmore Commissioners firmly rejected the
communal principle in Sri Lanka -- a course followed by the British with divergent consequences in the two countries. It is contended here that such a differing approach obviously evolved from the greater conflict of interests the British had vis a vis the Indian nationalist forces which colonial strategy sought to weaken through its communal policy. In contrast, in Sri Lanka, the colonial power actively sought to integrate Sri Lankan society behind the hegemony of the comprador Sinhalese interests dominating the UNP, so as to the better secure its own economic interests on the island.

In contrast to the preceding value consensus, the populist one dominant in the post-1956 period incorporated the elements of popular nationalism, egalitarianism and particularism. These were presented as an antagonistic option to the rational, elitist, liberal and westernised values of the preceding power bloc. The broad appeal of the nationalist set of counter-values was such that due to the exigencies of parliamentary politics both the UNP and the left were compelled to modify their elitist and class-reductionist ideologies respectively in order to retain their popular support. Indeed, the erosion of the broader base of the two major left parties during the fifties was such that they were faced by the classic dilemma of radical parties functioning in a parliamentary milieu. In understanding their dilemma, the distinction made by the Western political scientist, Gamble, between the "politics of support" and the "politics of power" seems particularly appropriate. Gamble points out that in a parliamentary milieu the first has to necessarily be practised within the second and unless revolutionary socialist movements are prepared to accept the rules of the electoral game and the realities of political power; they remain, as were other left parties since the sixties in Sri Lanka, confined to electoral impotence and, in terms of parliamentary politics, to illegitimacy.  

Putting it somewhat differently, we find that the existence and assertion at the national level of a broad segment of intermediate petty-bourgeois interests created a fertile ground in which a democratic parliamentary order could flourish and which compelled an area of functional consensus to emerge between the major parties from the right to the left.

The concentration of functions in the state, and the greater need for arbitration of conflict between the emerging socio-economic forces led to a centralization of power in the representative wings of the state apparatus. Consequently, Parliament became increasingly a forum of negotiation and condensation of conflicting intermediate interests. By the fact that capitalist commodity relations were not established in the rural subsistence sector, there was an incomplete assertion of the rural labouring classes. Vertical alignments and cleavages characteristic of the populist stage welded the MPs and the major political parties active at the central level to their constituent support bases in informal ties of quasi-patronage. Though virtually no attempt was made by the intermediate classes to mobilise the masses to direct action pushing for structural change, the intra-class rivalry in the competitive simple-majority electoral system consistently pushed the extant consensus towards the left. As a result, not only was the dominant parliamentary milieu radicalised, but representatives of organised labour were formally co-opted into the ruling power bloc in 1964, and returned reinforced to power in the 1970 elections through the UF.

As the concentrated expression of the popularly-based ruling bloc and singularly responsible for maintaining the unity and cohesiveness of the State, the role of the Prime Minister, as the leader both of the Government and of the party grew disproportionately to overshadow the formal executive in the position of the Governor-General. The PM's capacity to enforce compliance from the conflicting interests was buttressed through the strengthening of the
emergency provisions in 1959 and their escalating use in the succeeding period.

The widely divergent social base and programmatic thrust of the intermediate classes in the representative structures led them to sharp differences with the orientation of the more tightly-knit and exclusive formal apparatuses of the state -- the administrative, the adjudicatory and the coercive -- constituted to uphold the preceding consensus. The character of these organs of the state were sought to be modified, and in the ensuing partisan milieu they grew increasingly faction-ridden, as dramatized by the two army coups in the sixties. Only the judiciary, as the most autonomously-constituted pillar upholding the preceding consensus, succeeded in maintaining its own domain of strength, and therefore came under special fire from the nationalist bloc.

Thus, on the one hand, the shift in state power at the popular level carried the inter-class struggle into the very heart of the state apparatus. The competing interests vied for power at all levels, resulting in a trend towards centralization of powers in the representative wings of the state apparatus. On the other hand, the particularistic anti-liberal specifics of the nationalist consensus, coincided with the identity of the majority community and led to formal and informal attempts to reinstate Buddhism and Sinhala at the state level. It excluded a recognition of the integral identity of the Tamil minority. In the deteriorating economic situation emerging from Sri Lanka's peripheral situation, this exclusion acquired the characteristics of a sectarian cutting edge sharply chiselling the relatively better-off but dependent position of the Tamil minority on the Center. The minority in turn reacted by demanding concrete structural safeguards in the direction of decentralisation. The Bandaranaike-Chelvanayagam Pact came to embody the closest to a model compromise possible between the two communities, providing as it did a voluntary form of federalism which would allow a greater role to the Tamils in relation to their language in administration and in agriculture, education,
colonisation and schemes for development in their regions. It also provided hope for an early consideration of the status of the disenfranchised estate Tamils.

The failure of the Center to assimilate the Tamil periphery was manifest in the limited legitimacy it could exercise in the Tamil areas in the post-1956 period, the reliance on ad hoc agreements and legislation and their consequent repudiation at the national level.

In closing, viewing the historic break that occurred in the post-1956 period, it could justifiably be expected in the circumstances that Sri Lanka would have departed very early from the system of government it had inherited and developed one more appropriate to the conditions of its society.

However, as seen, the comparative flexibility of the Constitution and the lack of a bill of fundamental rights enabled a series of far-reaching changes, mostly affecting ethnic and religious minorities, to be accommodated within the existing constitutional structure. As early as 1948, the Ceylon Citizenship Act had demonstrated that the constitutional obstacle of Section 29(2)(b) would not operate as long as legislation was so framed that there might be restrictions in fact, but not in legal form, if the restriction was made applicable to all sections of the community and not to a specific group.87 Instead, the lack of provision in the Constitution for just and

87. See the judgement of the Supreme Court in Mudanayake v. Sivagnanasunderam, NLR, vol.53, 1951, p.25, 44-46; upheld by the Judicial Committee of the Privy Council.

In 1963, in the light of these happenings Lord Soulbury himself would not endorse the comment made by Sir Charles Jeffries, a senior colonial office civil servant that "...the Soulbury Constitution had entrenched in it all the protective provisions that the wit of man could devise" (in Ceylon: Path to Independence, New York, 1963, pp.115-116). On the contrary, he felt that it was a pity the Soulbury Commission had not also recommended the entrenchment in the Constitution of the guarantees of "fundamental rights", on the lines enacted for instance in India and Malaya: in a foreword to B.H. Farmer, Ceylon: A Divided Nation (London, 1960).
expeditious payment of compensation and thus no constitutional protection for special economic interests and property rights in general facilitated the nationalisation of foreign and local business ventures.

As a consequence, constitutional reform as such received very low priority from the SLFP-led governments in the decade 1956-1965.

Besides, no major revision of the Constitution with the exception of the amendment relating to the law on delimitation of constituencies in 1959 could be carried out due to the fact that in the competitive parliamentary politics of Sri Lanka, no government in the period 1956-1970 had the necessary two-thirds majority in the House of Representatives to usher in a new constitution as formally required.68 At best, joint select committees of both Houses of Parliament were set up by the succeeding governments to recommend changes to the Constitution. In consonance with the prevalent concept of "socialism", the Joint Committee of 1959 provided for the right to property in accordance with the law and justiciable fundamental rights in their recommendations on the proposed Bill of Rights to be drafted for legislation.89

However, the various judgements by the judiciary, and supporting it the Privy Council, blocking crucial actions of SLFP-led intermediate regimes and even (in the case of the Privy Council) pronouncing particular provisions and principles as entrenched in the Constitution and therefore, unchangeable, aroused serious concern within the newly-forged UF advocating far-reaching structural changes and asserting an independent nationalist posture.90 It

88. The UNP had acquired the requisite two-thirds majority in the 1952 elections which might have been used for such a purpose had it been so inclined. Instead, as late as 1956, the UNP maintained that except on the question of language "...in all other respects we shall preserved intact our present constitution": UNP, Election Manifesto, 1956 (Colombo), p.1.

89. Cooray, n.27, p.68.

90. This front of the SLFP, LSSP and CP was forged in March 1956 on the basis of a specific Common Programme.
strengthened their convictions of the need for a clean break. Feelings had grown so strong that when the UNP initiated moves in 1966-67 to form a Select Committee to consider the revision of the Constitution to provide for a republic, the UF refused to serve on it on the grounds of not functioning "...under the authority of the Parliament and subject to the limitation that Parliament itself is subject to".91

As such, the UF now preferred not a revision of the Soulbury Constitution which derived its authority from the British Parliament, but a completely new constitution which would have its mandate from the people of the island. Such a constitution was to be made by a constituent assembly of representatives of the people who would purportedly be elected not under the provisions of the existing constitution but with the specific mandate to draft a new constitution,92 a process that was set in motion through the elections of 1970.

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92. The constituent assembly would consist of "...the elected representatives of the people, elected not on the basis of the Ceylon (Parliamentary Elections) Order-in-Council, seated together not on the basis of members of Parliament, not under the authority of the statute but as elected representatives of the respective constituencies to draft a constitution": Ceylon Daily News (henceforth CDN), Parliament of Ceylon, 1970 (Colombo), p.173.