CHAPTER V

INDIA AND THE 'INDIAN TAMIL' PROBLEM UP TO 1964
The citizenship problem of the Indian Tamils loomed large as a major irritant in Indo-Lanka relations ever since the twenties. The crux of the issue, as will be discussed below, was that India maintained that such Indians were entitled to enjoy rights, privileges and obligations of local citizenship on equal terms in Sri Lanka owing to their long stay in the island and contribution to the economic buoyancy of the country, while Sri Lanka argued that they were mere 'birds of passage' and 'transient population' having no abiding interest in the country. After the enactment of citizenship laws in 1948-49, Sri Lanka held the view that those Indians who could not pass certain tests for citizenship were the sole responsibility of India.

Although the citizenship problem triggered off unofficial discussions as well as inter-governmental negotiations during the colonial period which, however, proved abortive, the issue attained highly emotive and manifold dimensions in Indo-Lanka relations since 1947. In this chapter an attempt is made to analyse India's policy towards the Indian Tamil problem by making an appraisal of various inter-governmental efforts e.g., the inter-governmental negotiations during 1940-41, the Nehru-Senanayake Talks and Correspondence during 1947, the Nehru-Senanayake Talks (1953), Nehru-Kotelawala Pact of February 1954, Indo-Ceylon Agreement of October 1954 and finally, the Sirimavo-Shastri Pact of 1964.

II

GENESIS OF THE INDIAN TAMIL PROBLEM

Prior to the emergence of the citizenship issue, the major problem of the Indian Tamils was the acquisition of franchise rights. Most of the Sinhalese leaders were reluctant to acquiesce to the Donoughmore Commission's (1927) recommendation to enfranchise all those Indian Tamils who had a 'residence of five years and an abiding interest in Sri Lanka'.

on the ground that they were undomiciled and did not assimilate with the indigenous population of the island. Instead, they wanted the British colonial administration to prescribe strict qualifications for the State Council franchise. Under the Sinhalese pressure, the Colonial Secretary incorporated in the Ceylon State Council (Election) Order in Council (1931) the following modified qualifications: domicile of origin or choice (domicile of choice to be dependent on five years residence); literacy and property or income qualifications; possession of a certificate of permanent settlement.2

The Sinhalese opposition to the enfranchisement of the Indian Tamils under the original recommendation of the Donoughmore Commission was influenced by the upsurge of political and economic nationalisms—the former emphasised the control of the legislature by the Sinhalese and the latter advocated the Sri Lankanisation of employment. Added to it was the fact that the Indian Tamil problem was basically conditioned by the political context in which it arose. As the Donoughmore Constitution had set Sri Lanka on the path towards self-government, the Sinhalese leaders defined Sri Lankan nationality wherein the Indian Tamils were regarded as a pre-dominantly 'alien community'.3

The political rights of the Indian Tamils were progressively whittled down ever since the Sinhalese obtained a majority in the State Council. Several measures undertaken by the government affecting their political and economic interests drew the serious attention of the Indian government. However, no bilateral initiative was taken either by India or Sri Lanka to


arrive at some working compromise on 'the status and rights of the Indian community' in the island until a crisis like situation was developed in 1939 when nearly 6,400 daily paid Indian workers were dismissed from service. The Indian government viewed their dismissal seriously and took retaliatory action by withdrawing an earlier Indian offer to enter into trade negotiations with Sri Lanka and prohibiting further emigration of unskilled labour to the island (under the Indian Emigration Act, 1922). To avoid any further confrontation, it was proposed to take up the question at the Indo-Ceylon Relations Exploratory Conference scheduled to be held in Delhi in November 1940. It was actually convened to discuss trade matters between the two countries.

III

INTER-GOVERNMENTAL NEGOTIATIONS DURING 1940-41

Indo-Ceylon Exploratory Conference, November 1940

The conference of the representatives of the Indian government and Ministers from Sri Lanka was primarily concerned with the question of the future status of the Indian Tamils in Sri Lanka: By what principle their status, their economic and political rights were to be regulated? How could they be absorbed as Sri Lankan citizens? What would be the status of the Indians who would remain in the island for all time Indian nationals?5

Discussions on these questions reflected a crystallization and articulation of the divergent approaches between India and Sri Lanka on the Indian Tamil problem. Sri Lanka maintained that it would recognise claims to full rights and privileges of citizenship of those Indians who have no connection with India and have an abiding and permanent interest in Sri Lanka.6 At the same time, the Indian delegation considered the Indian Tamil problem as a part of the larger Overseas Indians' problems. As such, in


tune with India's policy that the Indians settled in different parts of the British Empire should get 'equal rights', it demanded that full citizenship should be conferred on all Indians who could furnish proof of five years residence in Sri Lanka, and of a permanent interest in the island. As regards the Indians who did not qualify for citizenship as defined above, it was suggested that they should be entitled to engage or continue to engage in any lawful avocation without discrimination.

The basic difference between the Sri Lankan and the Indian proposals was that while the former emphasised that people who had a domicile of origin should be conferred the Sri Lankan citizenship, the latter insisted that people who had domicile of choice should also be granted the same citizenship. The approach of the two delegations was so divergent that there was no basis for continuing the exploratory talks. Thus, except for a frank appraisal of the issues involved in the question, the Conference came to naught.

*Indo-Ceylon Relations Conference, September 1941*

The introduction in the State Council of an Immigration Bill with a view to control immigration between India and Sri Lanka paved the way for the resumption of talks between the two countries in September 1941. The fundamental task of the conference was to work out a definition of "non Sri Lankans" (or as to what classes of Indians in the island should be treated as Sri Lankans).

The Conference hammered out a Joint Report on a wider gamut of issues related to the Indian emigration to Sri Lanka. In essence, the agreed conclusions classified the rights of different classes of Indian resident in the Island: Those with domicile of origin were accorded equal treatment

9. See Kodikara, n.2, pp.95-100.
along with the permanent population. Those with domicile of choice or a literacy and property qualifications were given right to vote, but their right to work was to be prescribed by existing laws. Undomiciled Indians (barring assisted unskilled workers who were already covered by India's ban on emigration) were guaranteed rights of re-entry and employment under their former employers or in the same field of employment. ¹⁰

Significantly, the Joint Report evoked mixed response both in India and Sri Lanka. While the Indian Tamil opinion in the island was opposed to the Report, the Sri Lankan delegation strongly urged the Board of Ministers to adopt it because it endorsed the Sinhalese views on the Indian Tamil problem. On the other hand, the official Indian opinion was unfavourable. Under the influence of the INC, the Central Legislative Assembly advocated a new set of contrary principles to govern the status of the Indian residents in Sri Lanka. ¹¹ India, therefore, did not ratify the Report and finally, it was repudiated in 1943.

Thus, the pre-independence negotiations ended without agreement and therefore the Indian Tamil problem attained a new dimension in the wake of independence to India and Sri Lanka.

IV

INDIA AND THE CITIZENSHIP PROBLEM AFTER INDEPENDENCE

The Soulbury Commission (1945) on further constitutional reform in Sri Lanka did not include the controversial subjects of citizenship and immigration in its proposals. Instead, it suggested that these questions should be settled by the Sri Lankan government in consultation with the Government of India and thereby recognised the citizenship problem of the Indian Tamils as a bilateral issue between the two countries. As Sri Lanka


¹¹. See *India*, *The Legislative Assembly Debates*, fourteenth session, Vol.4, 14 November 1941, p.933.
approached towards independence, the Sinhalese leaders realised the need to sort out all outstanding issues with India. In December 1947, therefore, discussions took place between Prime Minister Jawaharlal Nehru and the Prime Minister of Sri Lanka, D.S. Senanayake, during the latter's visit to New Delhi, on the broad principles which should govern the citizenship status of the Indian Tamils.

The Nehru-Senanayake Talks, 1947

The talks between the two Prime Ministers were aimed at deciding the qualifications and procedure which would enable around 800,000 Indian settlers in the island to acquire Sri Lankan citizenship. The qualifications suggested by Senanayake formed the basis for discussion and the clauses were considered one by one. Finally, an agreement was worked out on general principles regarding the acquisition of citizenship after the slight modification made on the original Sri Lankan proposals at the instance of the Indian Prime Minister.

The outcome of the talks satisfied both the Prime Ministers. Senanayake, on his part, declared that "there would be no more Indo-Ceylon problem". This, however, was proved a rash surmise when the agreement ran into rough weather in the course of its implementation, because both the governments interpreted the principles envisaged in the agreement differently. Finally, both the Prime Ministers decided to clarify their positions through correspondence.

Nehru-Senanayake Correspondence (1948)

Much of the divergence of interpretation was on the agreed principles of residence test, means test and compliance with the laws of Sri Lanka.


Regarding the residence test, the disagreement was due to the issue of the duration of residence as well as on the date from which it should be reckoned. Contradicting his earlier stand at the Delhi talks that he would consider Nehru's suggestion on residential qualification (seven years preceding 1 January 1948 for both married and unmarried persons), Senanayake stipulated seven years for married persons and ten years for others. This period should be reckoned backward from 31 December 1945.

Later, Senanayake prescribed in the draft citizenship law a requirement of continuous residence of seven years for married persons, and ten years for others at the time when application for citizenship was made. This period, Nehru stated, "was far longer than that was common in the naturalisation laws of other countries and seemed particularly harsh when was applied to persons with the background of Indian emigrants to Sri Lanka". He was, however, was prepared to agree to the criteria of continuous residence of eight years for all persons, irrespective of the marital status of the applicants, provided it was reckoned from 1 January 1948. Senanayake declined to agree to a reduction in the period of residence, and replied to Nehru that "the naturalisation laws of other countries had no doubt shorter periods of residence as the grant of citizenship by them was occasional and they had not the same problems to face as Ceylon had".

The concept of 'means' test appeared to be the same at the outset for both the Prime Ministers, but actually differed very much. Senanayake preferred to define it in a positive way for the simple reason that Sri Lanka did not want to assume responsibility for, if it became necessary, a

14. The citizenship law was embodied in two separate draft Bills -- the Ceylon Citizenship Bill and the Indian and Pakistani Residents' Citizenship Bill. Both the bills were sent to Nehru at his request.

15. Letter from Nehru to Senanayake, 17 July 1948, Correspondence Relating to... n.12, p.57

16. Letter from Senanayake to Nehru, 17 August 1948, Ibid., p.46
large body of persons who were Sri Lanka's liability from the beginning, while Nehru sought to put a negative construction on the means test. The former defined it in terms of "adequate means of livelihood" or "an assured income of a reasonable amount"; the latter wanted the means test to "disqualify only destitutes or vagrants or those without means of subsistence through physical disability". 17

Further, Nehru sought that the scope of the provision regarding the compliance with the laws and customs of Sri Lanka should be limited to include only the people with certain actual disability or incapacity under Sri Lankan laws. He was afraid that prospective Indian applicants for Sri Lankan citizenship might be penalised on the ground that their marriages were invalid under Sri Lankan law and therefore desired exemption on this count for these applicants. Senanayake refused to accept for Sri Lankan citizenship those persons whose marriages might be considered "invalid as being bigamous or within the prohibited degrees of kinship if (they) had been contracted in Ceylon", 18 and disliked any individual exceptions to the Criminal Law of the land. 19 However, he dropped the insistence on compliance with customs finally.

No consensus emerged from the Nehru-Senanayake correspondence on the nature of the proposed tests to be applied for granting Sri Lankan citizenship to the Indian Tamils. Despite Nehru's disagreement, Senanayake went ahead to produce a draft citizenship law which embodied his own views, modified as described above, of the tests which should govern the grant of citizenship to the Indians. 20

17. Letters from Nehru to Senanayake, 17 July 1948 and Senanayake to Nehru, 17 August 1948, Ibid., pp.37-38 and 46
19. Letter from Senanayake to Nehru, 17 August 1948, Ibid., p.47
20. For the draft bills see Ibid., pp.25-30
Nehru opposed the draft legislation for retaining the earlier, objectionable provisions with regard to tests for citizenship. To him, Citizenship Bill seemed to be excessively restrictive, made in tune with the Sinhalese nationalists' demands. Senanayake, on the other hand, emphatically argued that 'the qualifications prescribed in the citizenship law were the minimum to ensure the genuine desire of the Indians to settle down in Sri Lanka'. He also declared that he had gone as far in meeting the Indian Prime Minister's wishes as was consistent with the interests of the permanent population of Sri Lanka, and it was impossible for him to agree to any further modification in the qualification or procedure for admission to Sri Lankan citizenship. He, however, assured Nehru that the Sri Lankan government did not wish to deny the right of citizenship to any Indian who could justly claim it. He went on further: "If I refuse to accept modification of any proposal, it is because the grant of citizenship is mandatory, and because we attach the greatest importance to the rights and status of a citizen of Sri Lanka - a status of which we are justly proud and rights of which are naturally jealous".

Senanayake's assurances did not convince Nehru. The correspondence had therefore been terminated on a bitter note. Finding Senanayake adamant on the question of tests, Nehru was reported to have told him: "If you do not want these Indians, we will take them back. What difference will seven or

21. Senanayake's letter to Nehru, 17 August 1948, Ibid., p.47
22. Ibid.
23. Ibid.
24. Ibid., p.46. But Senanayake was constrained to admit that though no such discrimination was contemplated in future, he did not propose to remove any legal restrictions in certain ordinances which were operated against certain classes of citizens by registration. Letter from Senanayake to Nehru, 19 August 1948, Ibid., p.48
25. Senanayake's letter to Nehru, 17 August 1948, Ibid., p.46
eight lakhs make in a country of four hundred million people. These words revealed Nehru's discontentment about the entire gamut of approach adopted by the Sri Lanka government towards the Indian Tamil problem.

**Citizenship Acts**

After the breakdown of correspondence between the two Prime Ministers, the UNP government under Senanayake enacted the Ceylon Citizenship Act No. 18 of 1948. The Act provided for two types of citizenship: citizenship by descent and citizenship by registration.

The provisions embodied in the 1948 Act were deliberately made rigid and restrictive so as to deny citizenship to all those who were not indisputably indigenous. Most of the Indian Tamils found it difficult to prove that their respective fathers were born in Sri Lanka. It was even more difficult for them to produce the birth certificate of their paternal grand father and paternal great grand father. This was due to the Registration of Birth Ordinance of Ceylon which came into force only after 1895 and arrangements for registration were not made till 1897. Nor did the birth registers mention the name of the child till 1908 and birth registers prior to 1920 were not available in many parts of the island.

Under such difficult circumstances, the enactment of Indian and Pakistani Residents' (Citizenship) Act of 1949 had facilitated the Indian

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28. D.S. Senanayake himself stated that the Citizenship Acts were intended to reduce the number of Indians in Sri Lanka and that "those qualified (under these Acts) would be a small number". Ceylon, *Parliamentary Debates, House of Representatives* (PDHR), vol.10, 25 July 1951, col. 1600.

Tamils to seek Sri Lankan citizenship through domicile. The Act laid down somewhat less restrictive conditions for the grant of citizenship. The primary qualification prescribed under the Act was "an uninterrupted residence" in Sri Lanka of ten years for the unmarried, widowed and divorced and seven years for married persons. In the case of first category, the period would include 1 January 1936 to 31 December 1945. For the other category, it would begin on 1 January 1939 and end on 1 January 1946. 30

Besides this special 'residential qualification', the Act sought the applicant to satisfy certain other qualifications such as an assured income of a reasonable amount, or some business, or some gainful employment to support himself as well his family. In case of married persons, sufficient evidence was needed to prove that his wife and minor children were "dependent" on him and had been "uninterruptedly resident" with him. 31

Finally, the Act prescribed a two year period reckoned from 15 August 1949 to 14 August 1951 for the filling of applications.

Factors for the Denial of Citizenship to the Indian Tamils

Several factors attributed to the enactment of the citizenship laws to decitizenise the Indian Tamils:

First, the Sinhalese leaders alleged that the Indian Tamil community, instead of assimilating with the indigenous population, retained its


31. Ibid., p.82. The provision for the 'uninterrupted residence' of an applicant's wife and dependents was introduced by the Indian and Pakistani Residents' (Citizenship) Amendment Act No.45 of 1952. According to the 1949 Act, an applicant was required to prove only 'ordinary residence' of his wife and dependents. See Kodikara, n.2, pp.118-9.
exclusiveness in 'religion, language, social tradition and occupation'\textsuperscript{32}

Second, the UNP leadership pointed out that the Indian Tamils kept alive their social as well as personal contacts by visiting India almost every year and remitting part of their salary to their near relatives in India. In the light of this, the Sri Lankan government maintained that the Indian Tamils had neither forgotten nor forsaken their home country, that most of them did not have the intention of making Sri Lanka their permanent home and, as such, were the 'residents' but not 'domiciles' of the island. Consequently, the Sri Lankan leaders concluded that most of them had reasons to be loyal to India and were, therefore, its nationals.\textsuperscript{33}

Third, the socio-cultural linkage of the Indian Tamils with India gave rise to fear in the Sinhalese mind. It influenced Kotelawala to describe the Indian Tamil problem as a matter of 'life and death for the Sinhalese'.\textsuperscript{34} The Sinhalese also expressed their apprehension that the future Indian leaders would use the Indian Tamils as a fifth column in the island.\textsuperscript{35}

Fourth, the Sinhalese leaders believed that decitizenisation of the Indian Tamils would solve the unemployment problem among the Sinhalese population. In this context, Kotelawala observed that "it was impossible to make nine lakh Indian Tamils without the risk of reducing the Sinhalese to begging and losing their identity as Ceylonese".\textsuperscript{36}


\textsuperscript{33} See the statement by Ratnayake, the Minister of Home Affairs, \textit{PDHR}, vol.14, no.6, 16 July 1953, Col.576.

\textsuperscript{34} Kotelawala, n.32., p.99.

\textsuperscript{35} See Kodikara, n.2, pp.36 and 40.

\textsuperscript{36} Kotelawala, n.32, p.99.
Fifth, the Sri Lankan leaders expressed the fear that citizenisation of the Indian Tamils would swamp the Sinhalese and destroy their identity as nationals of Sri Lanka. 37

Sixth, the primary factor for decitizenisation of the Indian Tamils was political. The UNP leadership perceived that citizenisation and enfranchisement of the Indian Tamils would swamp the Kandyan electorate and dilute the electoral strength of the UNP. Its fear got accentuated when the Indian Tamils won seven seats in the 1947 General elections (held on the basis of the 1931 electoral register) and helped the election of nearly fourteen leftist candidates in constituencies which had plantation population. As a whole, the CIC representing the Indian Tamils influenced the result in one-fifth of all the constituencies of Sri Lanka. 38

The accusation that the Indian Tamils did not assimilate with the indigenous population was an excuse for the Sri Lankan leadership to undertake drastic action such as decitizenisation. It is pertinent to ask here what the term "assimilation" implied, the more so since the UNP leadership did not define it. As a radical process, assimilation rules out all diversities between the groups. Its end-product is complete conformity at all levels of life. This is not an amalgam of all groups, but assimilation to the culture of the dominant group. It implies the disappearance of minorities as distinct units in the society.

For the Indian Tamils, assimilation was inconceivable. With their bias for pluralism, they desired peaceful co-existence with other communities. They wished to maintain their identity and cherish certain distinctive characteristics which they considered important for preserving their identity. They were not prepared to abandon their ancient culture and way of life as the price of survival.

37. Ibid.
38. Kotelawala, n.32. p.103.
Also, given the ethnic polarisation in the island, assimilation was difficult to achieve.

With regard to the allegation that the Indian Tamils had no intention to make Sri Lanka their permanent home, we can state that such an allegation was not born by facts even during the thirties. The Donoughmore Commission concluded in 1928 that about 40-50 per cent of the Indian plantation workers were permanent settlers in Sri Lanka. In 1938 the Jackson Report used a figure of approximately 60 per cent as illustrative of the permanent population, while the Soulbury Commission estimated their number at 80 per cent. Between 1944 and 1950, it was estimated that some 55,000 estate labourers on average travelled to and fro each year. This accounted for one-seventh of the adult estate population. The conclusion that could be drawn from the data is that the estate population visited India once every seven years; perhaps 50 per cent of the labourers had not been to India, and that the 55,000 annual average represented the mobile population who travelled back and forth every two years. The remainder were considered as "permanent residents".

The Indian Tamils' abiding permanent interest in the island may also be substantiated by the fact that while almost the entire estate population had applied for Sri Lankan citizenship under the Citizenship Act of 1949 by


41. Bastiampillai, n.39.

42. Howard W. Wriggins, Ceylon: the Dilemmas of a New Nation (Princeton, 1960), pp.219-20. Also see Immigration and emigration statistics given in Appendix III.

Kodikara however contended that these estimates were made on the basis of a residential test which, in respect of the Indian emigrants in Ceylon, would be a misleading index of permanent settlement. Kodikara, n.2, pp.11-12.
the deadline i.e. 4 August 1951, the number of people registered at the Indian High Commission was rather small. 43

Regarding the allegation that the Indian Tamils repatriated capital from Sri Lanka, it was proved by the statistics that the Indian traders (who were mostly Indian citizens in temporary residence in Sri Lanka) remitted more money than the estate labourers. In 1948, the Finance Minister of Sri Lanka announced that 150,000 non-estate urban Indians remitted Rs.54 million a year to India. At the same time, about six lakhs Indian estate labourers remitted Rs.17 lakhs a year. This worked out to be a remittance of Rs.1.50 per month by a worker. 44 As such, the amount could hardly be considered as a big sum to cause serious drain of the country's economy.

Finally, the Sinhalese leaders' contention that the decitizenisation of the Indian Tamils would generate employment opportunities for the Sinhalese was wrong. Because the Indian Tamil labourers were predominantly employed only in the plantation sector, 45 for which the Sinhalese had a distaste in the past and, to a certain extent, in the post-independence period too. The Sri Lankan leaders were also aware of the fact that the Indian estate worker was indispensable for the economic life of the country and their wholesale substitution on estates by Sinhalese was impracticable. 46 For this reason, at one point of time, D.S. Senanayake

43. For figures see the following pages.
45. Perhaps, the Indians' presence outside the estates was not less significance to the economic life of the Sinhalese. But their number was much less than the Indian estate labourers.
46. One of the reasons for the slow rate of repatriation of the Indian Tamils to India under the 1964 and 1974 Agreements was that the plantation management was unable to replace the Indian labourers by the Sinhalese, especially in high-elevation estates. See for details Chapter VIII.
intended to retain the immigrant labourers without providing citizenship right to all of them. At the same time, S.W.R.D. Bandaranaike suggested for the application of the principle of "absorbable maximum", i.e. Sri Lanka absorbing a certain number of Indians and repatriating the rest. 47

Given these facts, it will not be wrong to conclude that the underlying factor which influenced the UNP government to enact citizenship laws, which were deliberately made rigid and restrictive so as to exclude from its ambit all those who were not indisputably indigenous, was political.

**Public Opinion on the Citizenship Acts**

As the citizenship legislation were an indigenous product of the UNP government, they came under severe indictment by the Opposition parties of Sri Lanka. 48 Also, the Supreme Court and Privy Council indicted several provisions of the 1949 Act. 49

In India, public opinion felt as much concerned with the citizenship problem of the Indian Tamils as the Indian government itself. Both the official and unofficial opinion unanimously denounced the citizenship Acts. 50

**India and the Operation of Citizenship Acts**

The Indian government continued to maintain that the Indian Tamils were

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48. See for details Phadnis, n.29, p.374-5, Kodikara, n.2, pp.110-12, Kumar, n.44, pp.34-35.


50. A detailed discussion is available in Kodikara, n.2, pp.110-11, 220-22
no longer Indian nationals but the residents of Sri Lanka who ought to be Sri Lankan citizens. It justified its argument on two grounds: first, after decades of their residence in the island, the Indian Tamils made that country their home. Second, most of them were born in Sri Lanka; some of them had no roots in India, and naturally most of them wanted to become Sri Lankan citizens. Nehru also stated that "any suggestion that Indian labour proceeded to Sri Lanka solely for temporary employment in that country would be contrary to the facts of history". He further added that India always stressed that "an emigrant labour should be given facilities to settle in the country to which he emigrated on equal terms with members of the indigenous population". "The so-called special privileges sanctioned by the Sri Lankan government", he remarked, "were benefits considered necessary to attract immigrant labour....".

When the two-year deadline had expired on 5 August 1951, there were 824,430 persons who had applied for Sri Lankan citizenship under the Act of 1949. Of which, during 1949-53, 8087 applicants were granted citizenship, 10,319 applications of 26359 persons were rejected and action was pending on the rest. For nine months from December 1953 to September 1954, around

54. Nehru's letter to Senanayake dated 17 July 1949. Correspondence Relating to... n.12, n.36-37
55. Ibid.,
56. Ibid.,
Indian Tamils were registered as Sri Lankan citizens. The number of persons whose applications were rejected were 45,236. The proportion of registration to rejection was very small: 7,500 to 45,000 in nine months. Between October 1954 and January 1955, only 21 persons were absorbed as Sri Lankan citizens and the total number of applications rejected was 36,260.58 What is discernible from the figures is that while not many applications were rejected in the beginning, very few persons were accepted as Sri Lankan citizens subsequently.59

Under the citizenship provisions of the Indian Constitution, during 1949-53, 182,292 persons applied, of which 155,292 were granted Indian citizenship and only 27,000 applications were pending.60

The working of the Citizenship Acts raised several questions: What would be the political status of those Indians who had applied for, but were not granted, Sri Lankan citizenship? What would be the fate of those who failed to apply for either Sri Lankan citizenship within the stipulated time or Indian citizenship? Was it India's or Sri Lanka's responsibility to absorb all those Indians who had been unsuccessful in establishing their claim for Sri Lankan citizenship?

The Government of Sri Lanka considered that those persons whose applications had been rejected were to be repatriated to India as they were ab-initio its citizens.61 Rejecting the Sri Lankan view, the Indian government declared that it would accept only those who wished to become Indian nationals of their "own free will"62 under Article 8 of the Indian Constitution.

59. Reasons for the rejection of applications are given by Kodikara, n.2, pp.112-18.
60. Data supplied by the Indian High Commission in Colombo.
Constitution. All others, according to India, should be given Sri Lankan nationality. India also declared that it did not have any legal or constitutional responsibility for the Indian Tamils. But it did not deny its "sentimental interests" in them because their "country of origin was India". Nehru's speech reflected this Indian sentiment:

There is a history behind this...Because of that history, the Government of Ceylon can not dispose of it merely by saying that it is just their lookout and nobody else's, or by throwing out 100,000 or 200,000 persons and making them stateless.

For the reasons connected with India's sentimental interest, Nehru expressed his willingness to find a solution to the stateless problem. As such, further negotiations were conducted on this issue between the two governments in 1953.

**Nehru-Senanayake Talks in London, 1953**

The long-drawn-out 'Indian Tamil problem' was thought to be settled by the renewed negotiations between the Prime Ministers of India and Sri Lanka in June 1953. Dudley Senanayake explicitly spelt out a numerical formula which formed the basis for discussions between the two Prime Ministers: Out of an estimated 950,000 Indian settlers, 400,000 persons were expected to be registered as Sri Lankan citizens, 300,000 could be accepted as Indian citizens and compulsorily repatriated to India; the rest (250,000 persons) should be granted permanent residence permits and their future status was to be reviewed after ten years, when they could opt for the citizenship of either India or Sri Lanka. All these steps, it was stated,


65. Nehru, n.63.
were to be a part of a single scheme of settlement of the 'Indo-Ceylon problem'.

Although the proposal appeared attractive to Nehru, he found himself unable to agree to the principle of any form of compulsory repatriation of Indian residents. Nor did he agree to the Sri Lankan Prime Minister's estimate of the number of Indian settlers in the island who could properly be regarded as Indian nationals: Nehru was prepared to absorb only 150,000 persons as Indian nationals. He also desired that the total number of citizens registered under the Indian and Pakistani Residents' (Citizenship) Act and the number of persons granted permanent residence permits should be increased to 7,00,000. Sri Lanka, however, felt that the entire scheme was depending upon India agreeing to the principle of compulsory repatriation. Thus, the discussions between Nehru and Dudley Senanayake were inconclusive.

**Nehru-Kotelawala Agreement, January 1954.**

With the change of government in Sri Lanka in October 1953, Premier Nehru extended an invitation to John Kotelawala, the Prime Minister of Sri Lanka, to resume his talks on outstanding matters relating to the citizenship question. Kotelawala accepted the invitation. His discussions with Nehru led to the conclusion of a new agreement.

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67. India declined to endorse the principle of compulsory repatriation specifically for the reason that, as Nehru explained to S.W.R.D. Bandaranaike, 'it would set a precedence for other countries in which about 12 million Indians Overseas settled'. *The Hindu* (Madras), 4 March 1958.


70. For the text of the Agreement see *India, Lok Sabha Secretariat, Foreign Policy of India: Texts of Documents 1947-64*, (New Delhi, 1966) edn.3, pp.189-91.
The main features of the Agreement were: (i) Sri Lanka agreed for the expeditious registration of citizens under the Indian and Pakistani (Citizenship) Act. (ii) All persons registered under this Act were to be placed on a separate electoral register initially for an interim period of ten years. Such Indian Tamils were entitled to elect a certain number of members to the House of Representatives, the number being determined after consultation with the Prime Minister of India. (iii) Those Indians who were not registered as Sri Lankan citizens were to be allowed, if they so desired, to register themselves as Indian citizens in accordance with the provisions of Article 8 of the Constitution of India. Sri Lanka agreed to offer special inducements to encourage such registration, while the Government of India proposed to extend administrative and similar facilities for the same purpose and give publicity to the availability of such facilities.

Significantly, the Agreement, for the first time, considered the question of 'illicit immigration' as a part of the Indian Tamil problem. It envisaged certain measures to be taken by both the countries to suppress such immigration.

The most significant clause in the Agreement was that India withdrew her objection to an amendment of the Immigrants and Emigrants Amendment Bill casting the burden of proof on the accused that he was not an illegal immigrant. However, the Agreement envisaged that the Indian High Commissioner in Sri Lanka was to be given an opportunity to satisfy himself that a prima facie case existed for the prosecution of an illegal immigrant, while the final decision being that of the Government of Sri Lanka. Consultation with the Indian High Commissioner in respect of

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71. Under the previous law, it was difficult to convict an illegal immigrant unless he was caught in the very act of arriving in Sri Lanka.
prosecution had been agreed to both as a matter of courtesy and as a matter of some necessity. Because Kotelawala thought that the Indian government could decline to arrange for the transport to India of an illicit immigrant convicted in a prosecution. 72

The Agreement was viewed as a genuine attempt at compromise on the part of both India and Sri Lanka. Altering his earlier stand, Nehru endorsed the principle of separate electorate for the Indian Tamils who were to be registered as Sri Lankan citizens. He explained that he had agreed to this provision at the "insistence of the Sri Lankan delegation", and because otherwise "the political fortunes of certain parties in Sri Lanka were likely to be affected". 73 Later, Nehru gave altogether a different explanation. He admitted in the Lok Sabha that "he neither objected to the provision for the separate electoral register nor commented on it partly because it was", he thought, "an interim measure and partly because the manner in which a particular class of Sri Lankan citizens should be represented in the legislature was of domestic concern to the people and government of Ceylon". 74

From the Sri Lankan point of view, the objective of the separate electoral register was to ensure that the political interests of the country were not "injuriously affected until the new citizens had assimilated themselves in some degree into their environment". 75

India also recognised the question of illicit immigration as the cardinal importance in Sri Lanka's approach to the citizenship problem of the Indian Tamils. On Sri Lanka's part, Kotelawala did not insist for

74. LSD, second series, vol.27, no.21, 6 March 1959, cols.4753-4.
75. Kotelawala's statement in PDHR, n.66, col.2650.
specifications in the agreement, of the exact number of Indians to be absorbed as Sri Lankan and Indian citizens. Asked why the earlier numerical formula devised by Dudley Senanayake in 1953 had been given up, he stated: "There is a law to be administered. It is a sieve and the people have to pass through it. Only then would the number eligible for Ceylon citizenship be known. It might be four lakhs, two lakhs or six lakhs".  

Reactions to the Agreement

At the outset, the Sri Lankan government regarded the Agreement as just a 'proposal' to move forward in the direction of resolving the citizenship problem. Kotelawala declared that his government would interpret the provisions of the proposal in its own way.

The Agreement was debated in the Sri Lankan Parliament. Most of the Opposition in the House of Representatives were critical of provisions relating to the system of separate electoral register and the consultation of India on matters such as prosecution of illegal immigrants and fixing the number of members to be elected from the separate electoral register.

The Indian government also considered the Agreement not as a solution, but an understanding to reach a solution. Significantly, the national political opinion by and large favoured the Agreement as was evident from the absence of any widespread adverse political reactions to it. However,


78. Ibid.


the political opinion in Tamil Nadu was critical of the Central government's failure to consult the State government before the conclusion of the Agreement.81

By concluding the Agreement, Nehru took a flexible stand to accommodate the views of Sri Lanka because he wanted to resolve the vexed citizenship problem without, at the same time, compromising the basic interest of the Indian settlers in the island. Although, a large scale repatriation of Indians Overseas was repugnant to India's basic principles, Nehru, in the case of Sri Lanka, agreed to absorb only 'those Indians who qualified under the relevant provisions of the Indian Constitution'. As such, the entire Agreement revolved around the principle of voluntary scheme of registration of people for Indian and Sri Lankan citizenships. Nehru anticipated that under the proposed arrangement, a good number of Indian residents would register as Sri Lankan citizens and only a small number would opt for Indian citizenship because their natural desire was to settle down in the island. The Sri Lankan government's expectation, however, was just the opposite to India's anticipation.

Divergent Interpretation of the Agreement

The ink on the Agreement was scarcely dry, when differences of opinion regarding certain clauses of the Pact cropped up to create impasse in the process of its implementation. The Sri Lankan government envisaged that only two categories of citizens would emerge as a result of the Agreement viz., Indian citizens and Sri Lankan citizens.82 The Indian government, on the other hand, was apprehensive of the emergence of a third category of

81. For a non-official resolution and debate on the Agreement see Madras Legislative Assembly Debates (MLAD), vol.15, 13 May 1954, pp.731-75.

stateless persons whose status would be decided after ten years, whom the Sri Lankan government refused to recognise. 83

Besides, Sri Lanka interpreted the term "inducements" for its own convenience. It included not only compensation and offer of passage back to India to those Indians who opted for Indian nationality, but also withdrawal of remittance facilities, denial of documents for travel abroad and even withdrawal of ration cards for government subsidised rice from all those Indian Tamils who had not registered themselves either as Sri Lankan or Indian citizens. 84 All these measures were meant to pressurize the stateless P10 to move out of the island. Such an act violated the letter and spirit of the Agreement. 85

The Indian High Commissioner, C.C. Desai, took the stand that since the applications for Indian citizenship would be made under duress, they could not be entertained. The Sri Lankan government alleged that far from being helpful, the Indian High Commissioner not only stopped providing facilities to persons seeking Indian citizenship, but was 'adding to the number of stateless persons by destroying the Indian passports of Indian nationals. 86

The Indian High Commissioner accused the Sri Lankan government of 'dishonourable' action in violating the letter and spirit of the Agreement by not only pressurizing the Indians, but also severely restricting the number of those who were to be absorbed as Sri Lankan citizens. 87

84. See Kodikara, n.2, pp.128-9; Phadnis, n.29, pp.378-9.
85. See Bains, n.49, pp.103-106.
86. Quoted in Kodikara, n.2, p.130.
87. Ibid, pp.131-2. The rejection of application for Sri Lankan citizenship had increased since January 1954. A set of comparative figures available indicates that the number of persons granted Sri Contd ...
Furthermore, when Sri Lanka suspended the renewal of temporary residence permits and the issue of identity certificates to the Indian Tamils, the Indian government, as a retaliation, introduced a visa system for travel between India and Sri Lanka. It also tightened the travel regulations so that the Indian residents in Sri Lanka would be precluded from returning to the island after a visit to India unless they possessed Sri Lankan travel documents. 88

Other measures which Sri Lanka undertook to violate the Agreement were: Separate electorates had been provided for 12 years, instead of 10 years as envisaged in the Pact. Also, without consulting the Indian Prime Minister, it fixed four seats in the House of Representatives for the Indian Tamils who were registered as Sri Lanka citizens. 89

To conclude, the Indian stand on the Agreement had evolved as a response to the Sri Lankan government's own interpretation and violation of the Agreement, while Sri Lanka's attitude was partly shaped by the working of the Agreement 90 and partly dictated by the Indian government's attitude.

Contd. F/n. 87

Lankan citizenship during August-December 1953 was much more than the number absorbed during January-December 1954. It means that the total number of applications rejected during August-December 1953 was (50 per cent) less than the total number during January-April 1954 (150 per cent). PDR vol.18, no.2, 9 July 1954, cols. 160-1.

88. The Hindu, 6 May and 27 July 1954.


90. From Sri Lanka's point of view, the raison d'être of the whole Agreement rested on the pre-supposition that the number of Indians opting for Indian citizenship would be comparatively substantial. John Kotelawala expected the consolidated figure of 350,000 for such citizenship. The working of the Agreement, however, for a brief period came to disappoint the Sri Lankan authorities. Contrary to their expectation, during the calendar year 1954, only 6163 persons applied for Indian citizenship under Article 8 of the Indian Constitution. Of these, 5618 applications were accepted and 2545 applications were pending scrutiny, The Hindu, 17 April 1955. For details see the following pages.
Indo-Ceylon Agreement, October 1954

Thus, gradually, a stage was reached where each government criticized the other for not honouring the January 1954 Pact. A second conference between the two countries was called in October 1954 to break the stalemate. It concentrated much on putting the Nehru-Kotelawala Agreement back on the rails. The outcome of the talks, published in a joint statement on 10 October 1954, spotlighted the 'new and fundamental differences' that had arisen between the two governments, but left it 'unsettled'.

India refused to countenance the Sri Lankan proposal that the PIO in the island continued to be citizens of India unless and until they were accepted as Sri Lankan citizens. It stuck to the stand that only those PIO who were already in possession of Indian passports or passes, or who had been registered at the Indian High Commission under Article 8 of the Constitution of India were Indian citizens. Other persons who were not either Sri Lankan citizens or Indian citizens were, therefore, regarded as "stateless".

Sri Lanka, however, declined to recognise the category of "stateless Indians". India, on the other hand, refused to adhere to the view that there could be automatic conferment of Indian nationality on persons belonging to the stateless category. On this point, therefore, both the countries agreed to disagree but decided to proceed as rapidly as possible with the twin processes of registration as Sri Lankan citizens or Indian citizens. Also, both the governments agreed to review at a later date the status of those who were left without citizenship.

Implementation of the October 1954 Agreement

The October Agreement, which intended basically to clarify ambiguities and nullify misinterpretations and misunderstanding, developed its own

91. For text of the Joint Statement see Foreign Policy of India... n.70, pp.192-5.
hurdles in the process of its implementation. Both the governments lacked willingness to cooperate each other to implement the Pact fairly as the spate of memoranda, notes containing allegations and counter-allegations and mutual recriminations grew. The Indian complaint was that Sri Lanka continued to slow down the process of registration and reject applications for its citizenship on flimsy grounds so as to really "limit the number of Indians acceptable, to a pre-determined figures". 92

Sri Lanka, on the other hand, accused India of not fairly carrying out its obligations to register all those Indian Tamils who sought to become Indian citizens. Divergence also arose on the question of composition of the Adult Register, interpretation of Articles 2 and 3 of the Immigration and Emigration Amendment Act of 1954 and guarantee of employment to the Indian Tamils. 93 To break the deadlock, Nehru suggested that the controversial clauses of the Agreement be referred to an eminent authority agreeable to both the countries for "arbitration". 94 But Premier S.W.R.D. Bandaranaike did not endorse the suggestion as he sought to resolve the entire question through mutual consultation and bilateral dialogue. 95

India's Stand on the Stateless Problem during the Post-1954 Agreements Period:

Despite the divergent interpretation of the provisions of the Agreements by India and Sri Lanka, both the countries continued to register

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92. Sukhibir Choudhary, "Problems of Citizenship Rights for People of Indian Origin in Ceylon - the Background and the Issue", Foreign Affairs Reports (New Delhi), vol.5, no.11, November 1956, p.125.

93. For details see Kodikara, n.2, pp.135-7.


the stateless people as their nationals. But the number of people who were registered as Sri Lankan citizens was less than the number of persons who were granted Indian nationality as the Sri Lankan government continued to reject a large number of applications for its citizenship.

For instance, during January-November 1954, only 6,636 persons were granted Sri Lankan citizenship and 41,548 persons were rejected. In the month of November 1954 alone, about 2,477 applications were rejected and only one person was granted Sri Lankan citizenship. All these rejections were purely on "technical" and often "flimsy" and "metaphysical" grounds. Prime Minister Nehru repeatedly expressed his concern at the mode of disposal of the applications of stateless Indian Tamils. Referring to the progress of processing the applications during the post-1954 Agreements period, Nehru stated:

\[\text{It is obvious that while previously not many were registered and a large number rejected, now we have arrived at a stage when hardly any person was accepted; thirty-six thousand rejections in four months (October 1954-January 1955) and twenty-one registered, which comes to about five and a quarter a month.}\]

The large scale rejection of the applications did not change the Indian stand on the citizenship problem. Nehru continued to hold the view that


98. Such as the Justice of Peace before whom the applicants had sworn affidavits had not taken themselves the oaths of allegiance. *Ibid.*, col.784.

99. The estate worker was refused citizenship if he did not display a knowledge of the niceties of grammar or if he gave impression to the official concerned that he would not be able to maintain his dependents in future as he had done in the past. *The Hindu* (editorial), (Madras), 7 November 1954.

100. The applicant's alleged failure to comprehend the full implications of securing the Sri Lankan citizenship also led to the rejection of his application. *Ibid*.

India would take back any person who satisfied the constitutional provisions for Indian citizenship and opted for it without any compulsion. He also declared that the refusal of Sri Lanka to confer citizenship on the Indian Tamils did not "absolve that government of its legal and constitutional liabilities towards them as its nationals". Given this fact, the initiative for any discussion regarding their political status rested "with the Ceylonese government and not with India in regard to their own citizens".

In tune with his view that the problem should be resolved amicably, Nehru neither wanted to condemn the Sri Lankan government for its failure to solve the problem, nor intended to put pressure on it because any pressure tactics, according to Nehru, would tend to "increase the Sri Lankans' fear of India swallowing them up, thereby making the solution to the problem a little more difficult". But the Parliamentary Opposition in India wanted the Indian government to deal with Sri Lanka politely, without resorting to any coercive method and, at the same time, firmly, without sacrificing the interests of the Indian Tamil community.


104. Ibid., col.11.

105. See his statement in the Lok Sabha, Ibid., Part II, vol.1, no.8, 23 February 1956, col.816.


Notably, Nehru was even prepared to accept any settlement arrived at between the Sri Lankan government and the Indian Tamil leaders. 109

In 1962, the pressing need for a new approach to settle the issue arose as the Sri Lankan government completed the process of registration as its citizens of those who applied under the 1949 Citizenship Act. However, no diplomatic initiative was undertaken immediately because both the governments continued to hold fundamentally divergent points of view similar to the disagreement between Nehru and Kotelawala with regard to the recognition of the "stateless category". 110 Numerically, the stateless persons were three times (9,71,073) the number of people who were granted citizenship by the two countries (374,673) as is evident from the table below.

TABLE 5.1
NUMBER OF PERSONS GRANTED INDIAN AND SRI LANKAN CITIZENSHIP, 1949 - 30 NOVEMBER 1964

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<table>
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<tr>
<td>1. No. of Indian residents in 1953</td>
<td>- 1003,757</td>
</tr>
<tr>
<td>2. No. of persons granted Sri Lankan citizenship (under Indian and Pakistani Residents' Citizenship Act and Ceylon Citizenship Act)</td>
<td>- 140,185</td>
</tr>
<tr>
<td>3. No. of persons granted Indian citizenship</td>
<td>- 234,488</td>
</tr>
<tr>
<td>4. No. of stateless people in 1964</td>
<td>- 971,073</td>
</tr>
</tbody>
</table>

Source: Data supplied by the Indian High Commission in Sri Lanka.

The table shows that the number of stateless persons by the end of 1964 was slightly less than the total Indian Tamil population in 1953, but almost equalled the total number of Indians in 1949. This was largely due to a huge volume of natural increase in the Indian Tamil population.


In a letter to Nehru in June 1963, Mrs. Bandaranaike expressed her anxiety over the stateless question and suggested an early meeting between them to find out a solution to the problem. Responding to her letter, Nehru put forward a proposal implicitly underlying a formula which stipulated that the PIO should be given two years to opt for Indian citizenship; if the option was not exercised, they would automatically become Sri Lankan citizens. This proposal seeking an unilateral conferment of citizenship automatically on the Indian Tamils, was not acceptable to Mrs. Bandaranaike. She rejected Nehru's proposal "on the ground that discussion on the basis of the proposal would be useless without an overall view of all the ramifications of the problem at the highest level." 111

However, both the leaders kept alive the spirit to reconcile their different viewpoints so as to resolve ultimately the stateless problem. Nehru invited Mrs. Bandaranaike to New Delhi in April 1964, but she could not come at that time. He died in the next month and Lal Bahadur Shastri became his successor.

V

STATELESS QUESTION DURING THE PERIOD OF LAL BAHADUR SHASTRI

Lal Bahadur Shastri and Mrs. Bandaranaike tackled the stateless problem afresh. Official delegations at various levels were exchanged between the two countries from time to time to evolve a common formula for the settlement of the problem. In September 1964 the Indian delegation led by Swaran Singh, Minister of External Affairs, held informal talks with the Sri Lankan officials and non-officials. It suggested a tentative 'quota formula' as the basis of discussion between the Prime Ministers of India and Sri Lanka in October 1964 on the 'stateless question'. 112 Before we discuss the Agreement, it is essential to highlight the political context

111. The Hindu, 23 June 1963.
112. Mrs. Bandaranaike's statement in the Senate, PDS, vol.20, no.20, 10 November 1964, col. 204A.
of bilateral negotiations on the stateless issue.

**Background Factors of the 1964 Negotiations**

The inter-governmental negotiations on the stateless problem should be viewed against the following background:

First, the emergence of certain new elements in the internal politics of both India and Sri Lanka favoured the leaders of both the countries to adopt a new approach to the issue. In Sri Lanka, Mrs. Bandaranaike’s hands were strengthened by the Sri Lanka Freedom Party’s (SLFP) coalition with the LSSP in the mid-1964. She was assured of the LSSP’s support in the event of conclusion of an agreement between the two countries. The LSSP leaders were interested in the Indian Tamil problem almost since their party’s birth in 1935 and any solution which could be worked out while they were in the government would obviously redound to their credit. Since 1964 was almost the last year of her five-year tenure in office, Mrs. Bandaranaike felt that a popular solution of the issue was bound to influence the 1965 General elections. In India, the new Premier Lal Bahadur Shastri was not a party to any earlier Indian stand or commitment on the citizenship problem. This facilitated him to view the issue afresh. Besides, his determination to solve the problem, coupled with his mild, conciliatory and accommodative posture, helped the smooth conducting of the negotiations leading to the conclusion of an agreement.

Second, India’s defeat in the Sino-Indian War of 1962 and the responses of India’s neighbours to the conflict necessitated the Indian


114. This was evident from the concession which he made to the Sri Lankan delegation in order to avoid the break down of negotiations. See *Ibid.*, pp.254-6.

government to give a new thrust to its neighbourhood diplomacy aimed at removing the stigma of intransigence which it had acquired unwittingly or otherwise in its relations to the countries in the sub-continent. Lal Bahadur Shastri felt the desperate need to maintain a good neighbourly relations with Sri Lanka which, on the other hand, had been very close and cordial to China. Emphasizing Sri Lanka's eagerness to solve the intricate citizenship problem, Mrs. Bandaranaike categorically told the Indian Prime Minister that the "pre-requisite for the improvement of Indo-Lanka relations was the settlement of the stateless question". Lal Bahadur Shastri, in the words of Mrs. Bandaranaike, "accepted her point of view".

Third, the large scale forced exodus of Indians from Burma during the sixties was cited an example for the failure of Indian diplomacy on the issue of the Overseas Indians. In this context, an impression was created in the Indian Premier's mind by his advisors that Mrs. Bandaranaike, influenced by the Burmese way of dealing with the Indians Overseas, might expel the stateless Indians in case India failed to arrive at a settlement with Sri Lanka. This proved to be a false impression as Mrs. Bandaranaike herself refuted the contention that she was intending to

116. In its editorial of 27 September 1964, Ceylon Observer (Colombo) stated: "However small we are India can no longer take us for granted. It needs in its own interest our positive friendship".

117. Based on Mrs. Bandaranaike's interview with the author on 6 August 1990.

118. Ibid.

119. Phadnis and Kumar, n.113, p.252.

120. The CWC leader, S. Thondaman told the author in an interview held on 24 July 1990.

121. In January 1964 Mrs. Bandaranaike told a press conference in London: "We want the Indian government to take back as many as possible. They have agreed to take 300,000 (sic) from Burma". The Times (London), 30 October 1964. The Sri Lankan press also noted that the Burmese example was not "unmeaningful for Ceylon". The editorial of Ceylon Observer, n.118.
follow the Burmese way in dealing with the citizenship issue.  

In sum, both the countries felt a pressing need for the settlement of the stateless problem. As such, both the leaders displayed their determination to arrive at a settlement.

The Sirimavo-Shastri Pact of 1964

After a long series of wrangles and haggling over figures, endless arguments over facts and principles, the Prime Ministers of India and Sri Lanka concluded an agreement on 30 October 1964. The letters exchanged between Mrs. Bandaranaike and Lal Bahadur Shastri stipulated that out of 975,000 stateless persons in the island, Sri Lanka agreed to grant citizenship to 300,000 along with the natural increase, while India agreed to accept repatriation to India of 525,000 stateless persons together with the natural increase and to confer citizenship on them. The future status of the remaining 150,000 stateless persons, it was agreed, was to be the subject of a separate agreement between the two governments. The Agreement also stipulated that the grant of Sri Lankan citizenship and the process of repatriation to India should as far as possible keep pace with each other in proportion to the relative numbers i.e. the ratio of 4:7. It also laid down that both the processes should be completed in 15 years and should be evenly phased as possible.

Apart from the 'numerical quota' formula, the Pact also spelt out certain beneficial economic measures, but not a 'direct inducement scheme' as provided in the 1954 Agreements for those stateless persons who opted for Indian citizenship. The Government of Sri Lanka agreed, subject to the

122. Her interview with the author on 6 August 1990.

123. For details on the process of negotiation see Phadnis and Kumar, n.113, pp.254-60. Also see "Indo-Ceylon Accord", Mainstream, (New Delhi), vol.3, no.10, 7 November 1964, pp. 8-9, 21. 125.

124. For the text of the Agreement see Foreign Policy of India... n.70, pp.196-97.
Exchange Control Regulations, to permit the repatriates to carry all their assets, including their provident fund and gratuity, at the time of their final departure to India. It assured that maximum permitted to be repatriated by a family would not be reduced to less than Rs. 4,000. This was what India insisted on at the final stage of negotiation.

The Pact also maintained that persons to be repatriated to India were to be assured of the same facilities (except facilities for remittances) by the Sri Lankan government as was enjoyed by citizens of other States during the period of their residence in the island. It was also assured on the part of Sri Lanka that such persons who were gainfully employed on the date of this Agreement would be allowed to continue in employment until the date of their repatriation in accordance with the requirements of the phased programme, or until they attained the age of 55 years, whichever was earlier.

As regards certain procedural arrangements, the two governments agreed to prepare as early as possible, two registers containing the names of persons who would be granted Sri Lankan citizenship and those to be repatriated to India. The completion of these registers, however, was not a condition to commence the granting of Sri Lankan citizenship and the process of repatriation.

Significantly, the Pact imposed obligations on the two governments under international law to confer citizenship on a specific number of people. For India, the Agreement was significant in the sense that it was a major step towards reaching a durable solution to an irritant in its

125. See J.S. Bains, "Indo-Ceylonese Agreement: A Legal Analysis", Indian Journal of International Law, (New Delhi), vol.4, no.4, October 1964, p. 523. This was contrary to the 1954 Agreements which did not create any internationally binding obligations as the persons concerned were entitled to apply for the citizenship of the respective countries even without such agreements.
relations with one of its neighbours. For Sri Lanka, the Pact marked a great advance over the previous negotiations on the stateless issue. In her statement, Mrs. Bandaranaike spelt out the following merits of the Agreement from the Sri Lankan point of view: (a) for the first time, the Indian government had recognised the obligations towards the stateless people in the island, irrespective of their wishes; (b) the process of repatriation to India and granting of Sri Lankan citizenship was made mutual; (c) no inducements for repatriation were to be offered under the terms of the Pact, besides the fact that there was no necessity to hold up repatriation until a person attained the age of 55.

Reactions to the Agreement in Sri Lanka

The non-official reaction in Sri Lanka on the Sirimavo-Shastri Pact appeared to be mixed. The UNP could not take an anti-Pact stand because its leader, Dudley Senanayake, had been consulted by Mrs. Bandaranaike before signing the Agreement. Besides the Sri Lankan press, the LSSP and the Communist Party (CP) also supported the Pact.

At the same time, some of the Sinhalese political parties rejected the Pact as a "complete betrayal of the Ceylonese interest to the Indian interest".


128. Ibid.

129. PDS, n.112, cols. 2062-4.

130. See the editorial of Ceylon Daily News, 31 October 1964; Times of Ceylon's editorial reported in the Hindu, 1 November 1964.

131. Refer to the CP leader, Pieter Keunaman's speech in the House of Representatives, PDHR, vol.60, no.3, 19 April 1965, cols. 272-82.

132. See the Jatika Vimukti Peramuna (JVP) - Mahajana Eksath Peramuna (MEP) amendment to the Throne Speech of 1964, quoted by Pieter Keunaman in his speech. Ibid, col. 274.
The Tamil parties rejected the Pact for different reasons: "the principle underlying the Pact was a shameless horse-deal, which callously sacrificed fundamental human rights and liberties of more than half a million Tamil workers". 133

The CWC and the DWC seemed to have taken a mid-way position on the Agreement. While accepting the numerical formula in principle 134 and welcoming the Pact as a 'first step towards the removal of the stigma of statelessness', 135 the CWC leader, Thondaman, criticised the Agreement on the ground that both the governments did not ascertain the views of the representatives of the people concerned prior to its conclusion. 136

Rather, he stated, they sought to settle the stateless issue on the basis that the stateless people were "merchandise to be divided and disposed of in such a manner as suited the convenience of both India and Ceylon". 137 He termed such an attitude as "arrogant". 138 The CWC demanded that the twin-process of implementation should be spread over a maximum period of two years, instead 15 long years as stipulated in the Pact, and the granting of Sri Lankan citizenship should not be dependent on the repatriation of stateless people to India after the grant of Indian citizenship. 139


134. Ibid., vol.71, no.8, 21 February 1967, col.1021.

135. Ibid., col.1016.

136. Ibid., col.1014. Mrs. Bandaranaike told the author on 6 August 1990 that "Thondaman's inclusion in the talks would not have helped the Sri Lankan delegation to conclude the Pact".

137. PDHR, n.134, col.1016

138. Ibid.

139. Ibid., col.1023.
While criticising the signatories of the Agreement for treating the stateless people as a "commodity",\textsuperscript{140} the DWC passed a resolution on 27 November 1964 asking the Governments of India and Sri Lanka to rectify the shortcomings in the Pact so as to enable the people concerned to realise 'the positive aspects of the Agreement'.\textsuperscript{141}

In sum, the political parties representing the Indian Tamils in Sri Lanka did not accept the Pact wholeheartedly. At the same time, they did not reject the Pact either. When the author pointed out the CWC's failure to adopt a clear stand on the Agreement, Thondaman stated that the CWC did not reject the Pact because 'India had already signed the Agreement'.\textsuperscript{142} But Sellasamy, the CWC General Secretary, had a different answer: 'the CWC left it to the choice of the stateless people to either accept or reject the Pact'.\textsuperscript{143} The President of the Congress Labour Foundation (CLF), P. Devaraja stated: 'the CWC's stand on the Pact, albeit contradictory, was designed by the political thinking in the country at the time of signing the Agreement'.\textsuperscript{144}

Reactions to the Agreement in India

Defending the Agreement, Premier Lal Bahadur Shastri declared that the main purpose of the Pact was not only to end the statelessness of the Indian Tamils,\textsuperscript{145} but also build up a better relationship with Sri Lanka.\textsuperscript{146} However, he conceded that the solution which the Pact found

\textsuperscript{140.} Asian Recorder, vol. 10, no.50, 9-15 December 1964, p. 6184.
\textsuperscript{141.} Ibid.
\textsuperscript{142.} Based on Thondaman's interview with the author on 24 July 1990.
\textsuperscript{143.} Sellasamy's interview with the author on 24 August 1990.
\textsuperscript{144.} P. Devaraja's interview with the author dated 24 July 1990.
\textsuperscript{145.} The Hindu, 9 November 1964.
\textsuperscript{146.} LSD, third series, vol.47, no.9, 16 November 1965, col.2282.
"was totally satisfactory to India", nor did it "satisfy all the people concerned". 147

It was mostly the External Affairs Minister, Swaran Singh who defended the Agreement in the Lok Sabha when the leaders of the Opposition made a scathing criticism against the government's attitude towards the stateless problem of the Indian Tamils. Stating that the Agreement was concluded in the spirit of "give and take" 148 , he spelt out the following reasons which governed the Indian government's decision to conclude the Pact: First, a good percentage of the stateless persons indicated to the Indian High Commission in Sri Lanka their "willingness to come" to India. 149 Even the representatives of the Indian Tamils strongly urged both the Governments of India and Sri Lanka to find out a durable solution to the stateless question. 150 Second, Mrs. Bandaranaike refused to accept the Indian stand that all the stateless people should be conferred Sri Lankan citizenship. Instead, she regarded them as Indian nationals. 151 Since India did not want these people to remain in an uncertain position of statelessness and it intended to establish friendly relations between the two countries, 152 Prime Minister Lal Bahadur Shastri agreed to a numerical formula to settle the stateless question.

Swaran Singh concluded: "the Agreement, if properly implemented, would yield rich dividends in friendship and good relations with Ceylon and in the happiness and contentment of the PIO in the island". 153

147. Ibid.
149. Ibid., col. 1225.
151. Lsd. n.148, col.1224.
152. Ibid., cols.1224-5.
153. Lsd, n.150, col.1672.
The External Affairs Minister's argument did not convince the Opposition parties. N.G. Ranga, the Swatantra Party leader, termed the Pact as a "shameful Agreement". Another leader of the party, M.R. Masani denounced the Agreement as being "unsound in principle and a violation of basic human rights". Nath Pai of Praja Socialist Party (PSP) maintained that the stateless people should not be treated as "chattles" to suit India's convenience. He also warned the government that the 'dangerous precedent' by India in Ceylon would be followed in many other parts of the world.

K. Manoharan of the Dravida Munnetra Kazhagam (DMK) described the Pact as a "criminal document". He stated: "we are completely fooled to go into this Agreement and we have proved ourselves to be little children in diplomacy". As such, he concluded that "Mrs. Bandaranaike was the victor and Lal Bahadur Shashtri was the vanquished".

The official reaction of Tamil Nadu was favourable to the Agreement for two reasons: First, the Congress Party was in power in the State. Second, the State government was represented by a Minister, V. Ramiah, in the official talks. Chief Minister M. Bhaktavatsalam, without whose cooperation the Agreement could not have materialised, expressed his happiness over the settlement of a long pending issue between India and Sri Lanka.

Prior to the signing of the Agreement, he had secured the consent of the Central government to consider the question of rehabilitation of the repatriates as a national responsibility.162

However, the unofficial opinion in the State was critical of the Agreement. The DMK leader, C.N. Annadurai described the Agreement as a "betrayal of the interests and human dignity of millions of PIO in Ceylon".163

The reaction of the Indian press to the Pact was mixed. The Hindu's editorial (31 October 1964) noted that 'much of the giving had taken place on the Indian side'. It also stated that the 'Indian government might be accused of weakness and indecision in yielding to pressures and succumbing to a policy of appeasement'. The Indian Express (31 October 1964) described the Pact as a "memorable bill" in which both the parties gained without a sense of defeat. The Times of India, Hindustan Times and Patriot dated 31 October 1964 endorsed the Pact as a document of goodwill and understanding.

VI

CONCLUSION

Three distinct phases in the Indian government's policy towards the 'Indian Tamil problem' can be identified from the foregoing appraisal of various inter-governmental negotiations to settle the citizenship issue: During the forties, India demanded that all those Indian Tamils who made Sri Lanka their permanent home should be given the right to acquire full citizenship; only those persons who wanted to become citizens of the independent India were the Indian government's responsibility. In the

161. The Hindu, 1 November 1964.


163. His speech in the Rajya Sabha, RSD, vol.50, no.26, 22 December 1964, col.4896. For other Tamil leaders' opinion see National Herald (New Delhi) and Indian Express, (New Delhi), 1 November 1964.
fifties, India was prepared to take back all those Indian Tamils who voluntarily opted for Indian citizenship under Article 8 of the Indian Constitution. During the sixties, India abandoned the legal principles as the basis of finding a solution to the citizenship problem in favour of political principles.

Unlike in Sri Lanka, the Indian Tamil problem was not a vital national issue in the Indian politics. Rather, it was an issue which intermittently dominated in the State politics of Tamil Nadu, from where most of the Indian Tamil labourers emigrated to Sri Lanka. As such, much of the public interest in the rights and political status of the Indian Tamils existed mainly in the State. The political opinion in the Tamil Nadu always demanded that the Indian government should adequately safeguard the Indian Tamils' interests while settling their citizenship problem with the Sri Lankan government. In this regard, the Opposition parties insisted that the Central government should consult the public opinion in the State prior to the conclusion of any agreement on this question.

Although the Central government was aware of the fact that the implementation of any bilateral settlement on the stateless problem required the cooperation of Tamil Nadu, India's policy on the Indian Tamil problem was not entirely influenced by the internal political factors. It was not the political pressure of Tamil Nadu which shaped Nehru's stand on the Indian Tamil problem, but his global perspective in which he viewed the citizenship issue in Sri Lanka. Nehru considered the entire gamut of the stateless question as a part of the larger Overseas Indians' problems. As such, he felt that any decision on the Indian Tamil issue would have a significant bearing on the problems of the other Overseas Indian communities. It was for this reason that Nehru strenuously resisted the Sri Lankan government's pressure to a large scale repatriation of the stateless Indian Tamils from the island. This was testified by Nehru's
close associate, V.K. Krishna Menon in the following words:

Nehru knew the burdens that we would have to carry (their absorption into Indian economy), but what worried him more was the impact on world opinion... He knew their (Indian Tamils) problem very well; he would not have made the Agreement.

Would Nehru, if alive, have agreed to the Pact? Although a definite answer is difficult, it is sure that, given the fact that he was prepared to grant citizenship to only 150,000 stateless Indian Tamils at the Nehru-Senanayake Talks in 1953 and drew up a proposal in 1963 to confer Sri Lankan citizenship unilaterally on the stateless people if they did not opt for Indian citizenship within two years, he would not have made a commitment to absorb a large number of (525,000) stateless persons as Indian nationals.

The Nehruvian approach on the Indian Tamil problem was abandoned by Prime Minister Lal Bahadur Shastri in favour of promoting India's bilateral relations with Sri Lanka. Perceiving the problem as a major irritant in bilateral contexts, he accommodated the pressures from the Sri Lankan government by acquiescing to take back a sizable number of the stateless Indian Tamils.

By concluding the 1964 Pact, both India and Sri Lanka instituted major changes in their respective policies towards the Indian Tamils. Deviating from their earlier stance, both the countries came to a conclusion that not all the stateless people were the responsibility exclusively of India or Sri Lanka. Rather, it was the joint responsibility of both the governments to absorb them as their citizens. They also tacitly accepted that a section of the Indian estate labourers were permanently settled in Sri Lanka, while another section of them did not have a permanent interest in

On Sri Lanka's side, its acceptance to confer citizenship on three lakh stateless persons was itself a tacit admission that the earlier citizenship laws were unjust.\(^{166}\)

Although both the governments drifted from their traditional or conventional way of looking at the issue, India made a bigger compromise than Sri Lanka. First, India abandoned its insistence to settle the problem on the basis of legal principles\(^{167}\) in favour of political principles or a 'number formula'.\(^{168}\) Second, while both India and Sri Lanka agreed to the specification of 'absorbable maximum', the former undertook to bear a 'heavy burden'. Third, contrary to the principles of the INC and the Nehruvian policy, India agreed for a large-scale repatriation of the Indians Overseas from the island. Significantly, Sri Lanka was the only country with which India entered into an agreement for the repatriation of the Indians Overseas.

To conclude, the 1964 Pact initiated only the process of settling the stateless issue in Sri Lanka. In other words, it was only the beginning of the end, rather than end itself of all the issues. The success of the Agreement was dependent upon its implementation in letter and spirit.

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165. This is just an inference that could be drawn from the 1964 Pact. But the conclusion that all those who sought to become Indian nationals under the Sirimavo-Shastri Pact did not have permanent abiding interest in Sri Lanka, seemed to be wrong. As discussed in Chapter VIII, the decision of a sizable number of Indian Tamils to apply for Indian citizenship was influenced by their uncertain future in the island. See Chapter VIII for details.

166. Based on Samugadasan's (a veteran Communist leader and the President of the Red Flag Union) interview with the author on 26 August 1990.

167. That is absorption of all the Indians settlers by Sri Lanka, except those who wanted to become Indian citizens in accordance with the provisions of the Constitution of India.

168. According to Lal Bahadur Shastri, the numerical approach was the only practical way of solving the stateless problem. "The alternative was", according to him, "to let the P10 suffer discrimination and economic hardships in Ceylon". The Hindu (Madras), 9 November 1964.