

# SIRIMAVO—SHASTRI PACT

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SIRIMAVO-SHASTRI PACT

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P R E F A C E

## PREFACE

The Sirimavo-Shastri Pact signed on 30 October 1964 is a landmark in India-Sri Lanka relations as it marked the beginning of the end of the problem of the persons of Indian origin in the island. Though studies on Indo-Sri Lanka relations as well as on the problem of stateless persons for earlier period have been made, there has not been a full-length study of the problem of Indian settlers in Sri Lanka since 1964. This dissertation is a modest attempt to fill this gap.

This study is divided into six chapters. Chapter I takes into account the socio-economic as well as geopolitical factors conditioning the issue. The second chapter traces the historical background of the problem. The third chapter deals with the Sirimavo-Shastri Pact which actually forms the nucleus of this study. The fourth and fifth chapters describe the processes of the implementation of the Pact under two different Prime Ministers - Dudley Senanayake and Mrs Bandaranaike. And the last chapter is an attempt to underline the constraints which may obstruct the full implementation of the Pact in future.

I will be failing in my duty if I do not acknowledge my due gratitude to atleast some of the persons who were concerned with this study from the beginning. I am greatly

Obliged to the Chairman of the Division Dr Bimal Prasad for his encouragement throughout the duration of my study. I am deeply indebted to my supervisor Dr Urmila Phadnis, who gave me an insight into the subject and her thought-provoking comments gave me an incentive to probe deeper into the subject. I sincerely thank the staff of the Sapru House Library, especially Mrs Andrade, for the cooperation extended to me while making use of the material available in the library.

Finally, I would like to acknowledge my responsibility for the views expressed and whatever shortcomings that may be.

15 March 1975

*Lalit Kumar*  
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Chapter I

THE SETTING

## Chapter I

### THE SETTING

#### Introduction

Situated on the Southern tip of the Indian sub-continent, the little mango-shaped tropical island of Sri Lanka covers 25,332 square miles in area, almost the size of Greece or about one half the area of England and Wales and little over the size of the Indian States of Meghalaya and Nagaland. 270 miles at its longest from North to South and 140 miles at its broadest from West to East, it is separated from the Indian sub-continent by a narrow stretch of water,<sup>1</sup> the Palk strait.

India being the nearest country with the population of 547,949,809 (1971 census) and an area of 1,226,596 sq. miles or 32,80,483 sq. k.m., and with immense natural resources and industrial potentiality, the basic power relationship between the two countries is determined largely by the awful disparity in their size and resources.<sup>2</sup> From the geo-political point of view thus, Sri Lanka lies within the periphery of a country, which, in relation to her, indeed by Asian standards, is a "Big Power."

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1. Sri Lanka's population in 1972 was 14,07,200. Far Eastern Economic Review, Asia Year Book, 1973 (Hongkong, 1973), p. 275.
  2. Figures are given in ibid., and Government of India, India 1974 (New Delhi, 1974), p. 8.



Geo-Political Factors in India-  
Sri Lanka Relations

In this context Ceylon is to India what Madagascar is to Africa. Ceylon with her excellent harbours - Colombo and Trincomalee and Madagascar with Diego Squares, are so close to the mainlands that they are part of the respective continental defence system. Ceylon is the natural focus of the Indian Ocean and therefore of the sub-continental defence system.<sup>3</sup> India has extensive sea-coast, which is open and defenceless and can be bombed by Carrier-based aircraft. The Japanese action against Colombo and Trincomalee in 1942 is a case in point. "Thus Ceylon is the fulcrum of the Indian Ocean; in the geography of an air-age, Ceylon's oceanic and aerial nodality is of decisive importance."<sup>4</sup>

It will not be out of place to mention that the strategists of seventeenth century were also alive to Ceylon's fundamental importance in the schemes of Indian Ocean defence, as were the British.<sup>5</sup> Referring to the strategic value of

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3. P.R. Ramachandra Rao, India and Ceylon: A Study (Bombay, 1954), p. 7.

4. Ibid.

5. The Dutchman Boschhower spoke of it with prescience and the Portuguese empire-builder Albuquerque's grand strategy of the Indian Ocean - the guiding pattern through the centuries - had its coping-stone in Ceylon. The French Statesman Colbert's original idea was to establish French authority in Ceylon as the Springboard for maritime conquests. French Admiral Suffren wrote, "The importance

Ceylon in relation to India, the Younger Pitt told the British Parliament in 1802 that its acquisition was "to us the most valuable colonial possession on the globe, giving to our Indian empire a security which it had not enjoyed from its first establishment."<sup>6</sup> For the British, not only was Ceylon integral to the defence of India, but was a vital link in Britain's sea communications.

In the 1940s the leaders of the Indian National Congress such as Jawaharlal Nehru<sup>7</sup> and Pattabhi Sitaramayya<sup>8</sup>

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of Ceylon is such that if English troops captured that island; its recapture would be more important than all other conquests wherewith one could begin a war in India." Quoted in Sydney Bailey, Ceylon (New York, 1952), p. 10.

6. Quoted in Colvin R. de Silva, Ceylon under the British Occupation, 1795-1833 (Colombo, 1941), vol. I, p. 20.
7. Writing in the "Discovery of India" Nehru maintained "the small national state is doomed. It may survive as a culturally autonomous area but not as an independent political unit." Consequently he concluded that states like Ceylon would inevitably be drawn into a closer union with India presumably as an autonomous unit of Indian federation. Jawaharlal Nehru, The Discovery of India (Calcutta, 1945), p. 653.
8. Dr. Pattabhi Sitaramayya, the then Congress President commented, "India and Ceylon must have a common strategy and common defence strength and common defence resources. It cannot be that Ceylon is in friendship with a group with which India is not in friendship - not that Ceylon has no right to make its own alignments and declare its own affiliations - but if there are two hostile groups in the world, and Ceylon and India are with one or the other of them and not with the same group, it will be a bad day for both." Ceylon Daily News (Colombo), 23 April 1949.

and authors like Panikkar<sup>9</sup> had advocated the close union of Sri Lanka with India, "presumably as an autonomous unit of Indian federation".<sup>10</sup> However, once Sri Lanka attained independence such declarations were viewed with tremendous anxiety and concern on the part of the Ceylonese leadership leading to the repudiation of such a stand.<sup>11</sup> To assuage the feelings of the leadership of Sri Lanka Nehru sent a special message assuring the island of India's good intentions and of non-interference in her sovereign existence.<sup>12</sup> Again, in Colombo on the occasion of the Commonwealth Foreign Ministers' Conference in January 1950, Nehru said: "some people fear that the great country India might want to develop or sort of absorb Ceylon. I assure you that if any people have any such idea it is completely wrong."<sup>13</sup> He later characterized as

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9. K.M. Panikkar, India and the Indian Ocean (London, 1945), p. 95.

10. Nehru, n. 7, p. 653.

11. The Hindu (Madras), 7 May 1949. In the revised edition of his study on the Indian Ocean, Panikkar omitted a passage in which he had considered "integral organization of India on a firm and stable bases with Burma and Ceylon" as one of the pre-requisites of a "realistic policy of India." K.M. Panikkar, India and the Indian Ocean (London, 1951),

12. The Hindu (Madras), 27 May 1949.

13. Ceylon Daily News, 16 January 1950.

"fantastic non-sense" the fear of some Ceylonese that India might invade or absorb Ceylon.<sup>14</sup>

Despite such assurances although D.S. Senanayake, the first Prime Minister of Sri Lanka had always regarded India as the mother country - the country from which had come both his people, the Sinhalese, and the Buddhist religion - "he was well aware of the dangers implicit in having nearby a population of 350 million people pressed outward by a standard of living much lower than that in Ceylon and capable, under the wrong leadership of becoming aggressive."<sup>15</sup>

Speaking in similar vein in 1955, maintained John Kotelawala, "The day Ceylon dispensed with Englishmen completely, the island will go under India."<sup>16</sup> This however, was a virtual reversal in his attitude in barely two months. For him, not long back, the very fact that Ceylon's two immediate neighbours were also fellow members of the Commonwealth served "as her first insurance against any possibility of aggression from quarters closer home."<sup>17</sup>

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14. The Hindu, 20 May 1957.

15. Ivor Jennings, "Crown and Commonwealth in Asia", International Affairs (London), vol. 32, n. 2, April 1956, p. 138.

16. The Times (London), 26 May 1955.

17. John Kotelawala, "Ceylon as Switzerland in Asia", The New Commonwealth, vol. 29, 4 April 1955, pp. 315-16.

On 7 September 1954, in Ceylon Parliament, John Kotelawala said that he was "worried" about several statements in one of (Panikkar's) book that "India must have Trincomalee for the safety". "I have also heard that Mr Panikkar is supposed to speak for Pandit Nehru. He is supposed to know Pandit Nehru's thought and has said that India, Ceylon and Burma must have a "Monroe Doctrine that India will be the father of the two children Burma and Ceylon. We do not want that fatherly advice nor their protection."<sup>18</sup>

Panikkar denied having made any such statement in any of his books.<sup>19</sup> Nehru too dismissed the suggestion that Panikkar spoke on his behalf.<sup>20</sup>

Despite these denials the UNF leadership continued to express its undue apprehensions from time to time. Thus even as late as October 1956 J.R. Jayewardene, an eminent UNP leader, attacked the Prime Minister as a "puppet following Nehru's foreign policy" and alleged that the leading Indians were saying that India should occupy Trincomalee when the British moved out. He asked what was there to prevent a future Indian government from occupying Trincomalee to protect Indian citizens in Ceylon?<sup>21</sup>

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18. Ceylon, Parliamentary Debates, House of Representatives (hereafter referred to as Ceylon, PDHR), vol. 20, cols.51-52.
  19. The Hindu, 10 September 1954.
  20. Ibid.
  21. The Times, 2 October 1956.

Historical Traditions in  
Bilateral Relations

Besides geographical proximity as well as the disparities in the size of the two countries, historical traditions as much as shared legacies have also played their role in such a sceptical attitude of Sri Lanka's leadership. To begin with, according to the Sinhalese, who comprise 70 per cent of the population, the ancestor of the Sinhalese Prince Vijaya is believed to have come from Bengal in the sixth century B.C. Buddhism, the dominant religion of Ceylon, was transplanted in the third century B.C. by King Asoka, who sent his son Mahendra to propagate Buddhism in Ceylon. Not long thereafter however, the Tamil King Elara invaded the island and ruled it for some time, to be ultimately killed by the Sinhalese hero Duttugemunu in 161 B.C. During the second to the tenth century A.D. sporadic invasions from South Indian kingdoms towards the South continued. From eleventh to fifteenth century, however, Hindu influences emanating from South India became dominant. In the thirteenth century a Tamil kingdom came into being in the Jaffna peninsula which became an exclusive habitat of the Tamil community.

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22. S. Arasratnam, Ceylon (Colombo, 1964), pp. 98-110.

In the process, Sri Lanka emerged as a plural society with a strong minority of Ceylon Tamils. Added to this, was the migration of a large number of persons of Indian origin (entitled as 'Indian Tamils') during the British period to work on its plantation in the heart of the island.<sup>23</sup> And it was the issue of the political status of this category which tended to be a major irritant in India-Sri Lanka relations for quite some time.

Such historical and geopolitical factors have affected Ceylon's attitude towards India to a considerable extent. Whether the Ceylonese Government takes a pessimistic or optimistic view of the bilateral relations, the feeling of the existence within close proximity of a giant neighbour is ever present in the Ceylonese mind. The presence on the Ceylonese soil, of Ceylon and Indian Tamils has made the posture of an average Sinhalese even more sceptic. The fear of being "swamped" by South India, from where the majority of Ceylon's "alien" and unassimable elements migrated, appears to have been a matter of great concern to the Sinhalese leadership in the past.

Indian 'Elements' in India-  
Sri Lanka Relations

The Indian question has assumed a special significance in Sri Lanka as a result of its electoral politics in the 1920s

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23. See Appendix A and B.

and thereafter. To have given large numbers of Indians the vote, as the Donoughmore Commission recommended in 1928, would from the Sinhalese point of view, have meant (a) a dilution of the electoral strength of the Kandyan Sinhalese in most of the constituencies in the Kandyan areas; (b) the possibility of Indian Tamils being returned as representatives of Kandyan Sinhalese constituencies in the event of the splitting of Kandyan Sinhalese vote between rival candidates; and (c) the likelihood, especially at the time of the Donoughmore reforms, of British planters, and/or Indian estate Kanganies (overseers) herding the Indian vote in favour of the candidate of their choice.

Apart from these calculations, the impact of the economic dominance of Indian "elements" in plantation as well as urban sectors (as money-lenders and businessmen) was also viewed with certain misgivings. It was argued by the Sinhalese leaders that the Tamil hold on the economy of Ceylon was becoming "a stark question of survival". S.W.R.D. Bandaranaike spoke of the "complete political and economic extermination of the Ceylonese, primarily the Sinhalese", should Indians in large number continue to reside (and multiply) in Ceylon.<sup>24</sup>

Refuting Bajpai's argument that one million Indians could not possibly have threatened to dominate five million

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24. Ceylon, Indo-Ceylon Relations Exploratory Conference  
December 1940, Report of Proceedings, pp. 8-9.



Ceylonese, Bandaranaike commented thus, "This five million is divided into a number of minorities. One-sixth of the population (including urban as well as plantation workers), with the economic predominance which they now have, can very easily and quickly convert that position into one of political dominance," if they were given full rights.<sup>25</sup>

The so-called political power in the hands of Tamils, too invited the attention of the Sinhalese to put a ceiling to their expectations in the elections. And yet, about 135,000 of the 825,000 "immigrants" Tamils, mostly estate workers, who managed to secure Ceylon citizenship under a restrictive 1948 law, could influence the outcome of the elections in as many as 22 constituencies in the plantation area of the up-<sup>26</sup>country.

Indian and Ceylon Tamils in the  
Context of the Nation-Building  
Process of Sri Lanka

In the contemporary politics of the island, the Sinhalese Buddhists, politically and socially divided, and unsure of their own strength and cohesion do not rule out the possibility of a united move of the Ceylon and Indian Tamils which might impede the processes of nation-building in the country.

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25. Ibid., p. 16.

26. Times of India (New Delhi), 3 November 1969.

In a sense, therefore, there are two nationalisms in Sri Lanka, a Sinhalese nationalism and a Tamil nationalism which vacillates, depending on the degree of intensity of Sinhalese Buddhist political consciousness, between a terminal loyalty to the Tamil nation and an overriding loyalty to a Ceylonese nation. And a further inhibiting factor in the geographical isolation of the Ceylon Tamils in the northern and eastern parts of the island.<sup>27</sup>

The psychological barriers are just as great. The Sinhalese, tend on occasion to group the indigenous Tamils with the Tamils of South India and view them in their entirety as "the Dravidian peril". It is in this context that not only the issue regarding the 'abiding interest' of the persons of Indian origin in the island but even their political bonafides as Ceylon citizens continue to remain controversial in the domestic politics of Sri Lanka.

The 'Indian' question thus has ramifications for the domestic politics of the island as much for its relations with its next door neighbour. If the social structure has given the issue a significant domestic dimension, the go-political, historical and economic patterns of India-Sri Lanka relations have tended to make it the major irritant in

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27. For details refer to A. Jeyaratnam Wilson, Politics in Sri Lanka 1947-1973 (MacMillan, 1974).

bilateral relationship, making it a major issue of negotiation and bargaining between the governments of both the countries for almost a quarter of a century as will be discussed in the following chapters.

Chapter II

THE PROBLEM

## Chapter II

### THE PROBLEM

#### Introduction

The major irritant in Indo-Sri Lanka relations has been the "problem of statelessness" of the people of Indian origin in Ceylon. This vexed problem has eluded solution for a long time. As India, unlike China, did not subscribe to the view of double nationality, it could not effectively respond towards the people of Indian origin scattered all over the world in the same manner as China has done. Further, no preparation appears to have been envisaged on the part of the Indian Government in the past to regulate and manage the eventual exodus of Indians from various countries. India, for instance, was taken unawares when Burma decided to evict the persons of Indian origin from its territory in 1964. The expulsion of Indians from Uganda during 1972 gives further credence to such observations. Nevertheless, it can be safely said that India "has never been guilty anywhere of using Indian settlers for any chauvinistic purposes."<sup>1</sup> Whether in Ceylon, Burma, Malaya or in East Africa, Indian settlers have been asked to choose their nationality if the choice is offered by the host countries of adoption.

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1. "India and Ceylon" (editorial), United Asia (Bombay), vol. 15, no. 2, February 1963, p. 85.

This seems to be in consonance with the traditions set during the Indian nationalist movement. Thus, when Gandhi visited Ceylon in 1927 he told the Indians:

I would ask you to live as sugar lives in milk. Even as a cup of milk, which is filled up to the brim, does not overflow when sugar is added to it, but the sugar accommodates itself to the milk and enriches its taste, even so I would like you to live in this island, so as not to become interlopers, and so as to enrich the life of the people amongst whom you are living.... 2

Emphasizing upon the human aspect of the issue, Prime Minister Nehru speaking before the Lok Sabha in 1958, said:

The problem is, in the main, that of the Ceylon Government, because these people, according to our showing, are not Indian nationals. Whether registered or not, we feel they are or ought to be Ceylon nationals... It is unfortunate that the issue has dragged on for so long. The Ceylon Government have their difficulties, but they should realize our position just as we are prepared to consider their difficulties. It is obvious that we cannot ask a large number of people who have been born in Ceylon and have lived there to walk across to India or accept them as our nationals. 3

Immigration of the Persons of  
Indian Origin in Ceylon

However, the story of Ceylon is quite different. Here, the problem has been not only of eviction but of the socio-

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2. Quoted in D.G. Tendulkar, Mahatma: Life of Mohandas Karamchand Gandhi, vol. 2 (1920-29) (New Delhi, 1961), p. 301.

3. Jawaharlal Nehru, India's Foreign Policy (New Delhi, 1961), p. 301.

political and economic survival of some one million people of Indian origin who migrated to the Island at the behest of the then British colonial government and effected a rapid advancement in the Ceylonese plantation economy in the past.<sup>4</sup> The changed politico-economic situations of the twentieth century Sri Lanka have however added new dimensions to their presence on the island as much as to their future political prospects.

Immigration of persons of Indian origin to work on the plantation estates began in 1830s which contributed to the rapid growth in Ceylon's population in the nineteenth century. Between 1871-1881 - during the coffee boom - 24,000 new immigrants arrived each year, and again between 1891 and 1900 - when the planting expanded rapidly - 34,000 more came annually. These migrants added ten per cent to the total population during these decades, exceeding the natural increase by a large number. From 1901 to 1911, 18,000 new immigrants, each year, added five per cent to the population, less than the natural increase.<sup>5</sup> Between 1923 and 1928 the booming rubber plantation lured some 60,000 new labourers each year. However, with the economic crisis of the thirties, there was a net

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4. Howard W. Wriggins, Ceylon: Dilemma of a New Nation (Princeton, 1960), pp. 51-58.

5. Ceylon. Department of Census and Statistics, Statistical Abstract of Ceylon 1956 (Colombo, 1956), Table 37, p. 51.

outflow of Indians; 9,000 more returning to India each year between 1931 and 1940 than those who went to Ceylon. The table given below will show that the greatest decline in the number of immigrants from India was in the year 1933 when incidentally the economic crisis was at its peak.

Table I<sup>6</sup>  
Average Annual migration of Indian  
Estate Labour

Period	Immigration	Emigration	Balance of Immigration
1843 - 1850	47,028	19,693	27,335
1851 - 1860	57,464	31,443	26,021
1861 - 1870	68,415	53,185	15,230
1871 - 1880	102,511	82,471	20,040
1881 - 1890	57,856	52,752	5,105
1891 - 1900	121,484	85,057	36,427
1901 - 1910	95,324	67,975	27,349
1911 - 1920	87,388	47,917	39,421
1921 - 1930	106,080	67,043	39,037
1931 - 1940	51,784	54,981	3,197
1941 - 1950	47,252	54,994	7,742

6. Cited in S.U. Kodikara, Indo-Ceylon Relations Since Independence (Colombo, 1965), p. 14.



Table II<sup>7</sup>

Year	Ex-Labourers Returning	New Recruits	Total
1929	59,404	45,691	105,095
1930	56,639	34,783	91,422
1931	45,389	22,948	68,337
1932	37,837	13,032	50,869
1933	26,926	5,972	32,896

Wriggins has maintained that in the pre-independent Sri Lanka, the ebb and flow of Indians largely depended on their near-starvation condition compelling them to cross over to prosperous Ceylon. "It is held that the Indians in Ceylon are primarily birds of passage who come when times are good and flee back to India when times are hard. The ebb and flow of movement ... dependent as it has been, to some extent, upon prosperity and depression in the estate industry."<sup>8</sup>

The 'Indian' Issue in Ceylonese Politics  
During the 20's and 30's

In the late twenties, the Sinhalese people began to agitate for further constitutional privileges and responsible

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7. Ceylon. Report of a Commission on Immigration in Ceylon, Sessional Paper 3 of 1938, Table VI.

8. Wriggins, n. 4, pp. 218-19.

government. Thus came the Donoughmore Commission in November 1927. It recommended adult suffrage which would have increased the number of electorate from 204,997 to 1,200,000.<sup>9</sup> The adult franchise was to be subject to five years' residential qualifications (allowing for temporary absence not exceeding eight months in all during the five year period) and registration restricted to those who applied for it. These conditions were stipulated in order to restrict the voting rights to those having an abiding interest in the country and to effect a gradual, rather than sudden, increase in the number of voters from .2 to 1.2 million.

Aware of the Sinhalese susceptibilities on this issue, the Donoughmore Commission had recommended that "the privilege of voting should be confined to those who have an abiding interest in the country, or who may be regarded as permanently settled in the island", this being "of particular importance in its application to the Indian immigrant population."<sup>10</sup>

However, the Sinhalese leaders were not willing to acquiesce in any scheme of constitutional reform which would result in the enfranchisement of 'undomiciled' Indians in the

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9. C. Kondapi, Indians Overseas, 1839-1949 (New Delhi, 1951), p. 397.

10. Ceylon. Report of the Special Commission on the Constitution (Colombo, 1928), p. 82. On the question of retaining two Indian members of the Legislative Council, the Commission decided to do away with it for, the grant of universal adult suffrage and communal representation looked anomalous.

island. They could not accept the Donoughmore view that five years' residence was a sufficient test for this purpose, and argued that such residence should be supported in addition, by some reasonable indication of an applicant's intention to remain in the Island. The Governor of Ceylon, thereupon, proposed that the Donoughmore scheme should be modified by making domicile the standard test of the franchise, subject to special provisions for the undomiciled. The Governor's recommendations were meant as a device "to afford to Indian labourers and others ... an easy and inexpensive method of satisfying the test of an animus manendi as a qualification<sup>11</sup> for enfranchisement in the territorial electorate."

Accordingly, undeterred by allegations of racial discrimination from the Government of India, the Colonial Secretary substantially incorporated the Governor's proposals in the Ceylon State Council (Elections) Order in Council, 1931, by which the vote was given to all British subjects over 21 who had the following qualifications:

- (a) Ceylon domicile of origin or choice (domicile of choice to be dependent on five years' residence. (Article 7), or
- (b) Literacy and property or income qualification (Article 8), or

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11. Ceylon. Correspondence Regarding the Constitution of Ceylon, Cmd. 3419, 1929, Despatch of 2.6.1929 from the Governor of Ceylon to the Secretary of State for the Colonies. Cited in Kodikara, n. 6, p. 77.

- (c) Possession of a certificate of permanent settlement granted by a duly appointed officer on the condition of five years' continuous residence in Ceylon (exclusive of temporary absence not exceeding 8 months during the five-year period, and subject to a declaration that the applicant "is permanently settled in Ceylon or residing in the island with intent to settle therein; provided that during such time as any holder of a certificate of permanent settlement may be registered as a voter by reason of the possession of such certificate, he shall not be entitled to claim any rights, privileges, or exemptions which under the law of Ceylon are not common to all British subjects resident in the island." These certificates were liable to cancellation if proved to have been fraudulently obtained, or if "at any time since the granting of the certificate the person to whom it relates has been absent from Ceylon for a continuous period exceeding twelve months." (Article 9)

The Sinhalese leaders accepted the Donoughmore recommendations as modified by the Governor on the assumption that the stricter tests embodied in Article 9 would meet their fears about indiscriminate enfranchisement of the island's Indian community. But, when the new election law was put into operation, it was found that hardly any Indians applied for registration under Article 9 and in practice, this Article became a dead letter.<sup>12</sup> The large majority of Indians applied for registration, and were admitted to the electoral register (in the view of Sinhalese leaders without sufficient proof of domicile) under Article 8, principally under the Ceylon domicile

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12. Kodikara, n. 6, p. 77.

of choice qualification.<sup>13</sup> The Indian electorate, which had stood at 100,000 in 1931, rose to 145,000 in 1936, and the figure had exceeded 225,000 in 1939.<sup>14</sup>

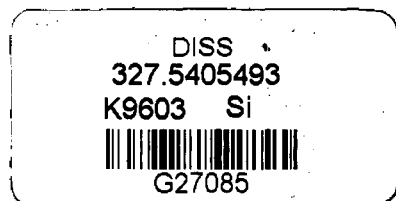
The above mentioned recommendations caused concern in the Sinhalese circle. This was baffling in the light of their cultural ethos and enlightened religion. The restriction on the Indian's political rights became their chief aim. The Donoughmore constitution, which gave wide political power to a legislature elected on the basis of universal adult suffrage, became the source of trouble which grew out of proportion paving the way for the enactments of the Acts of 1948 and 1949. To many Sinhalese, giving the right to vote to Indian estate labourers was tantamount to giving franchise to a transient population so numerous in certain districts as to threaten to "overwhelm" the local Sinhalese population. The franchise was, no doubt, contingent upon a residence of five years and a "test" of abiding interest in the country but the Sinhalese feared that this would enfranchise a large number of Indian estate workers.

The Sinhalese at first wanted to reject the proposals, but the attraction of universal suffrage was irresistible for,

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13. Great Britain, Colonial Office, Ceylon. Report of the Commission on Constitutional Reform, Cmd. 6677 (London, 1945), p. 58.

14. Ibid.



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the logical beneficiary would have been the majority community. So they accepted the Donoughmore proposals in December 1929 by a bare majority of two while registering<sup>15</sup> their protest against the similar grant to Indians.

In 1940 the revision of electoral registers indicated a definite drop in the number of Indians in the electoral districts other than Colombo.<sup>16</sup> In a despatch, the legal Secretary to the Government of Ceylon in 1940 stated that the number of Indians in the electoral districts (other than Colombo) whose name appeared in the preliminary tests, 41 per cent of the male and 24.5 per cent of the female did not turn<sup>17</sup> up before the Registration Officers for oral examination. This clearly suggests the cause of the drop in the number of Indian voters. The reason given by the Registration Officers for the apathetic attitude of the Indian settlers itself proved the restrictive nature of the procedure. They were: (a) lack of interests; (b) lack of knowledge of enquiry's purpose; (c) apprehension of the real purpose of enquiry and fear of consequence of attendance; (d) journey involved; and (e) loss of a day's pay. While it was true that the registration was

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15. Ibid.

16. Wriggins, n. 4, p. 221.

17. Government of Ceylon, Revision of the Electoral Registers 1940; Interim Report by the Legal Secretary (Domicile Qualification, 1941), p. 3, para 5(1).

refused in a small number of cases for the reason that the person had not attained 21 years of age or did not fulfil the condition in regard to residence, registration was refused in the great majority of cases for reason that intention to make Ceylon a permanent home was not established."<sup>18</sup>

Besides, certain legislations symbolized the emergence of Sinhalese economic nationalism during this period which again was in the main directed against the lurking shadow of the Tamil increase posing a threat to "swamp" the local population. Hence, we see scores of discriminatory ordinances by the Ceylonese Government especially the Fisheries Ordinance No. 24 of 1940 which prohibited any one except the Ceylonese from fishing for profit in Ceylon waters without an authorized licence.<sup>19</sup> Ordinances such as the Omnibus Services Licensing Ordinance No. 47 of 1942 providing licence issued to a company unless at least eighty per cent of its share capital was held by Ceylonese; and the Land Development Ordinance No. 19 of 1935 which was a supposed improvement on a very discriminatory village Communities Ordinance No. 9 of 1924<sup>20</sup> were to the disadvantage of the people of Indian origin in Ceylon.

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18. Kondapi, n. 9, pp. 405-6.

19. See ibid., p. 411; and P.R. Ramachandra Rao, India and Ceylon: A Study (Bombay, 1954), pp. 56-57.

20. Ibid.

No doubt, where competition for coveted and scarce jobs exists and wherever there are also identifiable minorities, distinguishing themselves from the majority community in ethnic, racial and religious terms, group consciousness and inter-group tension are bound to surface. But in Ceylon this has been "accentuated", because the Indians had not been assimilated into the nation's life and were isolated in their estate enclaves living in "company towns".<sup>21</sup>

For such a situation the Sinhalese have had their share too. They consider themselves to be of Aryan descent from North India and look down upon the Dravidian Tamils. Again, the Sinhalese still consider the historical events as an axiom that Tamils had always been a threat to the Ceylonese State. In the ancient past "they" invaded and destroyed Ceylon and more recently they were the ones who regularly resisted constitutional reforms except those which prescribed their preferential position gained during the British period.

We have noted that the gravest years of economic crisis of the 1930s coupled with a resurgent nationalism brought this Indian question to the forefront as a national issue, and an instant slogan arose for substitution of the Sinhalese on Indian dominated occupation. It is interesting to see that in the beginning Sinhalese had rejected to work on

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21. Wriggins, n. 4, p. 218.



the estates because the "racial pride and personal dignity" kept them away from the manual jobs for which the Indian immigrants were striving.<sup>22</sup> Secondly, the estate required a type of workers easily amenable to discipline and routine of the ordered life on a plantation, and the Sinhalese, tied to their village settlement, were not interested. The answer was cheap and good labour from India. Hence we see the immigration - a legacy of the British imperialism - beginning in 1837<sup>23</sup> and continuing for over a hundred years.

The allegations against Tamils, that they are mere "birds of passage", "transient population" having no "abiding interest" in Ceylon, does not seem to be borne by facts even during 1930s so far as Indian estate labourers were concerned.<sup>24</sup> "It is a fact that only one-fourth of those who passed back and forth between India and Ceylon were estate labourers."<sup>25</sup> Obviously,

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22. Ramachandra Rao, n. 19, p. 30. Once a Ceylonese remarked: "Do you want our boys to become toddy-tappers and tea pluckers?"
23. Ibid., p. 43. The report of the Registrar-General of the Government of Ceylon (1931) bears testimony to these points: "when Europeans began to open up the jungles and plant coffee there and later tea and rubber, local labour was not available on the spot and was unwilling to move to and work on the estates. In the Madras presidency, however, there was surplus labour. From about 1825 the Ceylon planters drew on this labour reservoir and there has been a large movement of Indian estate labour between Ceylon and India."
24. In 1939, 156,000 individuals left the island while 130,000 entered. In 1946, 283,000 came to the island and 226,000 departed.
25. Wriggins, n. 4, pp. 219-20.

the other three-fourths belonged to the middle and upper middle classes of the Ceylon Tamils and business community in Colombo. From the years 1944 to 1950, it is estimated that some 55,000 estate labourers on average travelled to and fro each year. This is about one-seventh of the adult estate population. Taking cue from this data it can be assumed that the estate population visited India once every seven years. Others, closer to the estates testify that perhaps 50 per cent of the labourers hardly ever went to India and that the 55,000 annual average represents the mobile persons who do travel back and forth every two years; the remainder being considered as "permanent residents."<sup>26</sup> Even as early as 1938, the Jackson Report used a figure of approximately 60 per cent "as illustrative" of the population who were permanent residents and there is little evidence to suggest that mobility<sup>27</sup> increased since then.

The Sinhalese also complained that Indians were exploiting Ceylon and looked to the North as their natural home. To substantiate this argument they maintained that estate labourers remitted money to India for meeting their family obligations, thereby causing serious drain of the foreign exchange. Thus, according to the Finance Minister of Sri Lanka

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26. Ibid., p. 220.

27. Ceylon. Report of a Commission on Immigration in Ceylon, Sessional Paper 3, 1938, n. 7, p. 26.

in 1948, 150,000 non-estate urban Indians remitted Rs. 54 million a year, that is about Rs.340 a year or Rs.28 a month. Such an amount could have hardly met the needs of even a single dependent in India in normal times. The position was certainly worse with regard to the six lakhs odd Indian estate labourers whose remittances to their dependents in India amounted to Rs.17 lakhs a year. This works out to a remittance of Rs.1½ a month. Besides, through its stringent exchange control regulations of 1949 Sri Lanka could check any form of capital transfer affecting Ceylonese economy; actually, however, conditions were created during this period making it impossible for the Indians to remain in Ceylon and simultaneously support their dependents in India. They were thus in no way severe economic burden bent on squeezing capital out of Ceylon.

Moreover, complete substitution of Indian estate labourers by the Ceylonese labourers was ruled out by the Colonial government as was evident from the response on a State Council resolution mooted by S.W.R.D. Bandaranaike on September 22, 1941 calling for immediate steps "in view of the serious and increasing unemployment among the Ceylonese Workers", to direct and efficiently control the emigration of

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28. Kondapi, n. 9, p. 367.

29. "Far from causing economic injury to the permanent population", stated the Jackson report, "immigrant Indian Workers made possible an economic and general advance which could not have taken place without them and in the benefits of which the great majority of the population, directly or indirectly, share today". Ibid., p. 32.

workers from other countries (obviously from India). The Chief Secretary to the Ceylon Government ruled out any substitution of Indian labour on estates by Sinhalese as quite "impracticable". It was maintained that to prohibit the importation of such a labour was to strike a "fatal blow at the chief agricultural industries on which the prosperity of the island depends."<sup>30</sup>

The insistence of the colonial government to retain the Indian estate labourers in Ceylon and the demand of the Sinhalese leaders for the immediate adoption of measures to check and restrict such an inflow led to the necessity to arrive at some working compromise on the status and rights of the Indian community in the island. This resulted in two inter-governmental conferences, which, however, proved to be "infructuous".<sup>31</sup> These were the Indo-Ceylon Relations Exploratory Conference of November 1940 and the Indo-Ceylon Relations Conference, held at Colombo in September 1941.

#### Inter-governmental Negotiations 1940-41

The 1940 Conference, entirely informal and exploratory in character, intended to secure "a satisfactory basis for formal negotiations at a later date on all problems of common

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30. Quoted in Ramachandra Rao, n. 19, pp. 53-54.

31. Ibid., p. 50.

interest which require adjustment."<sup>32</sup> The conference, however, was largely devoted to the 'Indian' issue.

The Ceylon delegation expressed its readiness, despite the island's economic difficulties, to "recognize claims to full rights and privileges of citizenships of those Indians who have no connection with India and have a genuine and abiding interest in Ceylon."<sup>33</sup> The proposals advanced by the Ceylon delegation contemplated the division of Indians in Ceylon into three categories:

- (1) Persons of Indian origin who possessed a Ceylon domicile of origin who could be entitled to all the rights and privileges as Ceylon citizens.
- (2) Persons of Indian origin who possess a Ceylon domicile of choice.
- (3) And undomiciled Indian residents (those with less than 5 years residence) would be entitled to earn their living, but would have no citizenship rights.<sup>34</sup>

The Indian delegation did not find these proposals acceptable. It suggested that full citizenship should be conferred on all Indians in Ceylon who could prove (a) 5 years residence, (b) a permanent interest in Ceylon, "both tests to be satisfied by a set of easily ascertainable facts."<sup>35</sup> Other

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32. Government of Ceylon, Indo-Ceylon Relations Exploratory Conference; Report of the Ceylon Delegation. Sessional Paper 8 of 1941.

33. Ibid.

34. Ibid.

35. Sessional Paper 10 of 1941.

Indians, not qualified for Ceylon citizenship, were to be allowed to continue in their lawful vocations without discrimination.

The Indian counter-proposals differed in principle from the Ceylonese proposals and would have involved the amendment of Ordinances in force in Ceylon. Besides, the reversal of the government policy of Ceylonisation was also involved. And as the two delegations approached the vital question of the status of the resident Indian population in Ceylon from divergent angles, no basis for continuing the exploratory talks could be found.

The 1940 Conference was followed by the introduction in the State Council, by the Government of Ceylon, an Immigration Bill with a view to controlling immigration between the two countries. One of the grounds for India's objection to the Bill was that "the definition of 'non-Ceylonese' (in the Bill) prejudiced the whole issue between the two governments as to what classes of Indians now in Ceylon should be treated as Ceylonese".<sup>36</sup> In order to work out a mutually acceptable definition, both the countries agreed to resume the informal conversation.

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36. Ibid.

37. Government of India, Review of Important Events Relating to or Affecting Indians in Different Parts of the British Empire for 1940-41.

On 21 September 1941 a joint Report of the Delegations was issued. They arrived at the following conclusions, despite their previous divergence of views.

(1) Immigration: The Indian delegation suggested certain modifications to this draft which sought largely to guarantee entry and re-entry of persons possessing domicile of origin or of choice, or certificates of permanent settlement. Their dependents as well as undomiciled persons - if they were returning to work under their former employer - were also to be allowed to enter Ceylon.

(2) Quotas: The Ceylon delegation agreed to exempt certain specified classes of Indians from the operation of certain types of quota legislation.

(3) Registration: It was agreed that registration of immigrants should either be voluntary or, if compulsory, applicable to all residents in Ceylon.

(4) Franchise: It was agreed that those Indians who could not claim domicile of origin or of choice, <sup>38</sup> or a literary and property qualification, could vote only if they possessed certificates of permanent settlement which would be granted on

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38. 'Domicile of Choice' was understood by the Ceylon delegation to mean a domicile of choice established after 5 years residence, to the satisfaction of a Court according to the rules of English law regarding the acquisition of domicile of choice.

the following conditions:

- (a) declaration that applicant has the intention of remaining in Ceylon indefinitely;
- (b) proof of means of livelihood;
- (c) if married, proof that wife and minor children, if any ordinarily reside with applicant; and
- (d) possession of a qualification of past residence in Ceylon, of 7 years for married, and 10 years for unmarried persons, the period of residence to be completed within 4 years from the date of the agreement, provided that continuous absence of more than one year prior to application constitutes a break in the qualifying period of residence.

(5) Status: It was agreed that Indians who had satisfied tests for proving a permanent interest in Ceylon should have equal rights with the permanent population. The Indian delegation conceded that no existing Ceylon law, whether discriminatory or otherwise, need be revised, and that Indians other than those with a domicile of origin could not claim the right to government service nor benefit from the Land Development Ordinance.<sup>39</sup>

As the Joint Report was generally an endorsement of the Ceylonese view of the Indo-Ceylon question, that there was need to limit the rights of those classes of the Indian population who were not considered to be domiciled in the

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39. Ceylon. Indo-Ceylon Relations, Joint Report by the Delegations from India and Ceylon, September 1941, Sessional Paper 28 of 1941 (Colombo, 1941), pp. 4-5.



island for less than five years, the Ceylon delegation strongly urged the Board of Ministers to adopt the Report.

On the other hand, the official Indian response was unfavourable. In November 1941, India's Central Legislative Assembly unanimously resolved that:

Indians in Ceylon on the prescribed date of the Agreement and those who had been residents within a specified period prior to the date of the Agreement should have freedom of entry into Ceylon and no regional or occupational restriction shall be imposed on them; they should be entitled to full rights of citizenship on the completion of the prescribed period, and that for the future provision should be made to protect Indian trade interests. 40

This principle was directly opposed to that which underlay the Joint Report. India therefore did not ratify the Report, and in January 1943 repudiated it altogether. Thus, the opportunity for agreement was allowed to pass.

Significant enough was the assertion of D.S. Senanayake on 8 November 1945, that franchise would be restricted to those deemed to be citizens of the country and that the plantation workers would be excluded.<sup>41</sup> In spite of delegations and deputations to and from Delhi and Colombo, the status of this group of persons of Indian origin was hanging on fire. The

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40. Government of India, Review of the Important Events, etc. for 1941-42.

41. E.F.C. Ludowyk, The Modern History of Ceylon (London, 1966), p. 219.

fuel was added to the fire by the result of the first parliamentary elections held in 1947 under the Soulbury Constitution. The voters of Indian origin could secure seven seats in the House of Representatives, and favourably influenced the election of seven to nine left-wing Sinhalese leaders in other electorates.<sup>42</sup> This was viewed with alarm by the United National Party<sup>43</sup> and the outcome of the Citizenship Acts of 1948 and 1949.

Although the enactment of Ceylon's citizenship law had been preceded by a Conference between Prime Minister Nehru and D.S. Senanayake in December 1947, when a measure of agreement regarding the principles which should govern the admission of Indians to Ceylon citizenship had been arrived at, the manner of the implementation of these principles into specific legal documents, over which there was an extended correspondence between the Prime Ministers in 1948 was not acceptable to the Prime Minister of India.<sup>44</sup>

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42. Wriggins, n. 4, p. 223. Analysis of voting results suggested that in the constituencies where Congress candidate was not fighting, the estate population generally voted for the Marxist candidates. See, Ivor Jennings, "The Ceylon General Elections of 1947", University of Ceylon Review (Colombo), vol. 6, no. 3, July 1948, pp. 133-195.
  43. C.V. Velupillai, "The Problem of the Stateless", United Asia (Bombay), vol. 15, no. 2, p. 124.
  44. S.U. Kodikara, "Persons of Indian Origin in Ceylon", Foreign Affairs Report (New Delhi), vol. 13, no. 2, February 1964, p. 54.

The Nehru-Senanayake Talks, 1947  
and Subsequent Correspondence

The Nehru-Senanayake talks were concerned with two questions: (a) who among the 800,000 Indian residents in Ceylon should be considered eligible for Ceylonese citizenship, and (b) how they should be admitted to such citizenship.<sup>45</sup> The discussion proceeded on the basis of certain qualifications suggested by Senanayake for the grant of Ceylon citizenship to Indian residents in Ceylon. These were slightly modified at the instance of the Indian Prime Minister, and the following agreement was reached on general principles.

(1) Indian applicants for Ceylon citizenship should have resided in Ceylon continuously for a prescribed number of years. Absence from the island for a period exceeding one year would be deemed to constitute a break in continuous residence;

(2) Vagrants and destitutes should not be eligible for citizenship;

(3) If the applicant was married, his wife and minor unmarried children should have ordinarily resided with him in Ceylon;

(4) Applicants must comply with the laws of the country on becoming citizens of Ceylon;

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45. Ceylon. Correspondence Relating to the Citizenship Status of Indian Residents in Ceylon, Sessional Paper 22 of 1948 (Colombo, 1948), p. 5.

(5) No Indian who was admitted to Ceylon citizenship should be allowed to retain Indian citizenship;

(6) Finally, the Prime Minister of Ceylon agreed to consider the feasibility of an Indian suggestion that applicants for citizenship should be dealt with administratively, by commissioners, rather than by courts of law, as proposed by him.<sup>46</sup>

Senanayake was highly optimistic of the outcome of the talks; unfortunately, his public declaration that "there will be no more Indo-Ceylonese Problem" proved a rash surmise.<sup>47</sup>

Generally, the Indian Prime Minister's aim was to canvass for the most liberal interpretation of the agreed principles, while his Ceylonese counterpart tended to give them a stricter meaning. Senanayake did indeed agree that applications for citizenship should be dealt with administratively, by Commissioners, rather than by Courts of Law.<sup>48</sup> Both of them also agreed that dual citizenship should be discouraged. Senanayake had also suggested at the Delhi talks a residential qualification of seven years for married persons, ten years for others preceding 31 December 1945, and to this formula he adhered inflexibly. Nehru was willing to concede an eight-year

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46. Ibid., 1-3, pp. 5-11.

47. The Hindu (Madras), 3 January 1948.

48. Ceylon, Sessional Paper 22 of 1948, n. 45, pp. 15-16.

residence test provided that it was reckoned from 1 January 1948, and the same residential qualification were applied to married and unmarried alike.<sup>49</sup>

Further, Nehru was inclined to put a negative construction on the means test, while Senanayake wanted it positively defined. The latter insisted on applicants for citizenship possessing "adequate means of livelihood", or "an assured income of a reasonable amount"; the former wanted the means test to disqualify only vagrants, destitutes and those without means of subsistence through physical disability.<sup>50</sup>

Little agreement had emerged from the Prime Ministers' correspondence on the nature of the proposed tests to be applied before the grant of Ceylon citizenship to Indian residents in Ceylon. Further disagreement and divergences resulted when Senanayake produced a draft citizenship law embodying his own views, modified as described above, of the tests which should govern the grant of Ceylon citizenship to Indians.<sup>51</sup> This draft Bill envisaged two types of Ceylon citizenship; citizenship by descent, and citizenship by registration.

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49. Ibid., Aide Memoire, p. 19.

50. Ibid., p. 34.

51. This law was embodied in two separate draft Bills, the Ceylon Citizenship Bill and the Indian Residents' Citizenship Bill, both of which were sent to the Indian Premier, at his request. These Bills were enacted as the Ceylon Citizenship Act No. 18 of 1948 and the Indian and Pakistani Residents' (Citizenship) Act No. 3 of 1949.

The Indian Prime Minister found many of the provisions, particularly those relating to the admission of Indians to Ceylon citizenship, wholly unacceptable. In a series of letters to Senanayake, he reiterated his earlier objections to the proposed tests for citizenship, e.g., the residence test, the means test, compliance with the laws of Ceylon etc.<sup>52</sup> As before, the general purpose of Nehru's criticism was to simplify the proposed tests for citizenship, and to reduce to a minimum the proposed administrative procedures for verification of applicant's claims. The Ceylonese Prime Minister, however, was unwilling to make any substantial amendment in the draft Bill as desired by Nehru.

Generally, however, Senanayake remained adamant on the question of tests, though prepared to adopt a simplified procedure. Any further modification of the draft Bill Senanayake declared to be out of question, and inconsistent with the interests of the indigenous population.

"The qualifications", wrote Senanayake to Nehru,

I have proposed are the minimum. I consider necessary to ensure that the Indians applying for registration have a genuine desire to settle down in Ceylon. In fact, I have laid myself open to the charge of having consulted the interests of the indigenous population insufficiently or not at all. Far from being merged in the permanent population of the Island and identifying themselves with its interests and development, they have grown into a bloc quite distinct from other

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52. Ceylon. Sessional Paper 22 of 1948, n. 45, pp. 31-40.

communities. I admire the affection they still have for their mother country but note with regret the absence of even the beginning of a similar affection for the country of adoption.... You have my assurance that we do not wish to deny the right of citizenship to any Indian who can justly claim it. 53

The Indian Prime Minister was not impressed by this assurance. Replying further to an assurance sought by Pandit Nehru that "there will be no discrimination, either legislative or administrative, between citizens by descent and citizens by registration", Senanayake was constrained to admit that no such discrimination was contemplated by the Government of Ceylon 'in the future'.

In an earlier letter, Senanayake had assured the Indian Prime Minister that Indians not qualified for Ceylon citizenship would be allowed to continue to pursue their lawful avocations in Ceylon without hindrance.<sup>54</sup> But these assurances failed to convince the Indian Premier, to whom the statement imposing certain constraints on registered citizens came as an unpleasant surprise. The correspondence, therefore, terminated on an embittered note, and Senanayake introduced the draft citizenship Bill for enactment by the Ceylon Parliament.

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53. Ibid., pp. 45-46.

54. Ibid., p. 33.

The Citizenship Acts of 1948 and 1949:  
Processes of Implementation

The Ceylonese Parliament determined the status of a "Citizen of Ceylon" afresh by its Citizenship Act No. 18 of 1948. The Act laid down the ways to acquire citizenship - either through descent or by registration. The provisions as relating to citizenship by descent were the follows: Persons born before an appointed day could claim Ceylon citizenship if they had two out of three immediate ancestors in the personal line born in Ceylon, but if an applicant was born in Ceylon before the appointed day, it was sufficient if he proved the birth of his father in Ceylon. A person born after the appointed day could claim citizenship only if his father was a citizen of Ceylon, either by registration or by descent. Citizenship by registration could be claimed by an applicant:

- (i) whose mother was a citizen of Ceylon by descent, who had resided in Ceylon (if married for seven years, if unmarried for ten years) immediately preceding the date of application;
- (ii) or, who was a widow, widower, or spouse of a Ceylonese citizen either by registration or descent, and had at least one year residence in Ceylon immediately preceding the date of application. The intention to continue to be the resident of Ceylon was also to be expressed.

• The Act No. 18 was amended by the Citizenship Amendment Acts No. 40 of 1950 and No. 13 of 1965. The motive of these amendments was to increase the discretionary powers of the Minister "to grant, refuse or revoke citizenship."<sup>55</sup>

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55. Kodikara, n. 6, p. 121.



As most of the estate labourers of Indian origin could not satisfy the conditions laid down for the conferment of citizenship by descent, the option before them was to seek citizenship through domicile, the procedure for which was laid down in the Indian and Pakistani Residents (Citizenship) Act No. 3 of 1949. Moreover, it was difficult for the illiterate Indians to retrieve the birth certificates of their fathers and grand-fathers. Besides, these exercises would have cost them one 'wageless day' which they could ill-afford. Under the Act, an applicant had to establish that he was an Indian or a Pakistani resident in Ceylon and had an uninterrupted residence (absence on one occasion not exceeding a year) in Ceylon of ten years for married, widower or divorcee, and seven years for unmarried persons, the period was to be completed from 1 January 1936 and 1 January 1939 respectively and ending on 31 December 1945. This Act was subsequently amended by Act No. 37 of 1950<sup>56</sup> and Act No. 45 of 1952 with regard to minor points.

The Act of 1949 came under heavy fire not only by opposition parties in Ceylon, but was also severely indicted<sup>57</sup> by the Supreme Court and the Privy Council. The Parliamentary

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56. D.M. Prasad, Ceylon's Foreign Policy under the Bandaranaike, 1956-1965 (Delhi, 1973), p. 235.

57. See J.S. Bains, India's International Disputes: A Legal Study (Bombay, 1962), p. 101; N. Radhakrishna, "The Stateless in Ceylon", Indian Year Book of International Affairs, vol. 12, 1963, pp. 501-12; K.P. Krishnashetty, "The Laws of Citizenship for Indian and Pakistani Residents in Ceylon", Indian Year Book of International Affairs, vol. 7, 1958, pp. 165-88.

opposition, consisting of members of left-wing parties, e.g. The Trotskyite Lanka Sama Samaj Party (LSSP) and the Communist Party (CP), the Ceylon Indian Congress (CIC), the Tamil Congress (TC) and independents, took exception to the Ceylon Citizenship Act and the Indian and Pakistani Residents' Citizenship Act on much the same grounds; first, that they were discriminatory, and would result in "decitizenising" a large number of Indians who already had citizenship status in Ceylon; second, that their provisions were too restrictive, and particularly that inadequate provision had been made for naturalization; third, that they made an invidious distinction between citizens by descent and citizens by registration; and finally, that the requirements under the Indian Residents' Citizenship Act were too complex and involved too much expense<sup>58</sup> for the poor Indian estate labourers in Ceylon.

It was difficult even for the indigenous people in Ceylon to comply with these provisions. Ceylon's Communist Party leader Pieter Keuneman said in Parliament that even Dudley Senanayake, who was later to become the Prime Minister of Ceylon succeeding his father, the author of the Act, could not comply with the clauses because, according to his own admission in the House of Representatives, he could not trace

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58. For the debate on the Ceylon Citizenship Bill, see Ceylon, PDHR, vol. 4, 1948, cols. 1679-1778; 1781-1821.

his father's birth certificate. <sup>59</sup> Pieter Keunemen was on the same boat because the practice of registration of birth was not there when his father was born. <sup>60</sup> Leslie Goonewardene, leader of the LSSP, commented that the denial of citizenship and voting rights to permanent residents of Indian origin, who were principally plantation workers, "is an ugly blot which <sup>61</sup> disfigures the present political structure of Ceylon."

The UNP Government's Citizenship Act No. 18 of 1948 was the first move in denying citizenship to nearly one-tenth of the population. The proof of continuous residence since 1946, and before that of residence of 7 years (if married) or 10 years (if unmarried) "was much less difficult for the worker to provide than legally valid documentation of his parents and grand-parents' marriage. To have asked the illiterate workers to furnish such proof was equivalent to disqualify him in advance.... Whatever the long term policies and principles were involved the Act had the immediate effects that they were <sup>62</sup> intended to have." And we see that at least 84 per cent of the applications for Ceylonese citizenship were rejected by

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59. Ceylon, PDHR, vol. 41, 1960, col. 1930.

60. Ibid., col. 1929.

61. Leslie Goonewardene, "What We Stand For?", United Asia, vol. 15, no. 2, February 1963, p. 115.

62. Ludowyk, n. 41, p. 222.

the authorities. That they applied for Ceylon's citizenship and not for India's was a clear indication of their intention to make Ceylon their permanent home.

The Government of Ceylon, however, from the beginning adopted the attitude that the persons rejected were to be repatriated to India, as they were ab-initio its citizens. The Indian government on the other hand, held that they were all Ceylonese citizens because they had lived there for generations, and some of them were actually born there.

The Government of India was, however, willing to confer Indian citizenship to these people, provided they satisfied the conditions stipulated in Article 8 of the Indian Constitution. Under this Article, during the period 1949-1953, 182,272 persons applied, 155,292 were granted Indian citizenship, and only 27,000 cases were pending. As against this, out of 824,480 applicants for Ceylon's citizenship, 8,087 applicants were granted citizenship, 10,319 applications out of 26,359 were rejected, and action was pending on the rest.

The status of these stateless persons of Indian origin became the subject of intense discussion and bilateral official talks between these two States. In June 1953, an attempt to break the ice was made at London, by Nehru and Dudley Senanayake.

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63. Urmila Phadnis, "The 1964 Indo-Ceylonese Pact and the Stateless Persons in Ceylon", India Quarterly (New Delhi), vol. 23, no. 4, Oct/Dec. 1967, p. 376.

The discussion proceeded on the basis of the under-mentioned proposals put forward by premier Senanayake -

(a) 400,000 Indian residents in Ceylon were expected to be registered under the Citizenship Act of 1949.

(b) An additional number of 250,000 persons would be granted permanent Residence Permits whose future would be reviewed after ten years, and if during that period any of them desired to go back to India, the Government of India would not raise any objection.

(c) The permissible number of persons to be granted citizenship by registration and permanent Residence Permit in no case was to exceed 650,000.

(d) The balance of the Indian residents, about 300,000, were to be accepted as Indian citizens by the Government of India and to be compulsorily repatriated over a period of years.

Dudley Senanayake suggested that all these steps were to be part of an integral scheme of solving the Indo-Ceylon problem.<sup>64</sup> Though Nehru was much attracted by the scheme of Senanayake, he could not accept the principle of compulsory repatriation lest it became a precedent for other Afro-Asian countries.

In August 1953, John Kotelawala became the Prime Minister of Ceylon. He considered the Acts of 1948 and 1949

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64. John Kotelawala, An Asian Prime Minister's Story (London, 1956), p. 105.

as "the utmost concession that the Government of Ceylon was willing to make. That concession went far beyond the views of many supporters of the Government especially in the Kandyan provinces."<sup>65</sup> However, he was determined to succeed where his predecessors had failed. His strenuous efforts resulted in the signing of the Nehru-Kotelawala pact on January 18, 1954.

According to this pact, both the governments displayed their determination to suppress the traffic in illicit immigration between Ceylon and India and resolved to take all possible steps in that direction. The Ceylon Government proposed to undertake the preparation of an upto date register of all residents who were not on the electoral register. This was done with a view to tracking down the illicit immigrants. They agreed that when the registration was complete any person, having an Indian language as mother tongue, could be presumed to be an illicit immigrant from India and was liable for deportation for which Indian High Commission would extend all facilities.

With regard to the citizenship question, the agreement laid down that Indian persons registered as Ceylon citizens were to be placed on a separate electoral register for an initial period of ten years. The Government of Ceylon agreed that in certain constituencies where the number of registered voters

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65. Ibid., p. 103.

was not likely to exceed 250, they were to be put on the national register. However, the registered Indians were entitled to elect certain number of Members of Parliament, the number was subject to consultation with the Indian Prime Minister. Indians not registered as Indian citizens were allowed, if they desired, to register themselves as one under Article 8 of the Constitution of India. Ceylon agreed to offer inducements to encourage the persons of Indian origin to opt for the Indian nationality. India promised all administrative facilities for the same purpose.<sup>66</sup>

Years of Suspense 1954-1964

The worst part of the Nehru-Kotelawala pact was that it was not implemented scrupulously either by the Government of Ceylon or by the Indian High Commissioner in Colombo. The Ceylon Government seemed to be interested that out of 984,327 Indians in Ceylon, major part should opt for Indian citizenship. However, they failed to realize that the nature of Article 8 of the Indian Constitution could not be turned to the disadvantage of India. If, as the Ceylonese premier argued, that the Ceylonese citizenship cannot be granted merely because a person desired it,<sup>67</sup> neither could Indian citizenship be conferred solely because a foreign government had a problem on

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66. Ibid., pp. 108-10.

67. Ibid., p. 99.

its hand. Even before this agreement had been ratified, it was being given divergent interpretation. The Ceylonese government expected the emergence of only two categories of Indian residents under the Agreement - Indian nationals and Ceylon nationals. The Indian government, on the other hand, envisaged a third category of "stateless persons". Ceylonese interpretations of the Agreement refused to acknowledge the theory of statelessness which according to The Hindu was "one of the unspoken assumption of the Delhi Agreement."<sup>68</sup> C.C. Desai who took part in the Delhi talks said that the understanding "was that there would be a stateless class, whose case should be re-examined after ten years and till then the status quo should remain".<sup>69</sup>

The failure of Nehru-Kotelawala Agreement of January 1954 led to another conference between the two countries in Delhi in October 1954.\* This was intended to iron out differences between these two countries over the interpretation of the January Agreement. Ceylon wanted to convince and convert India to her viewpoint that all persons of Indian origin in Ceylon continued to be nationals of India until and unless they were given Ceylon nationality. But she was not successful in this regard. India put forward that only those persons of

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68. The Hindu, 29 June 1954.

69. Ibid., 28 June 1954.

\* See Appendices D and E.



Indian origin were Indian nationals who possessed Indian passports or who had been its citizens under the provisions of the Indian Constitution.

AS there appeared to be a basic difference in the approach of the two countries to the problem of the status of persons of Indian origin resident in Ceylon, it was decided that the practical course was to recognize the difference and to proceed as rapidly as possible with the two processes of registration as Ceylon citizens or as Indian citizens and thus to reduce the number of those persons who, at present, were not accepted either as Ceylon citizens or as Indian citizens.<sup>70</sup>

The governments of Ceylon and India agreed to expedite the process of registration, and to review at a later date the status of those who were still stateless. Ceylon agreed to simplify the procedure for registration as citizens of Ceylon. It was agreed to relax the restrictions on India-Ceylon travel which had been imposed by both the countries.

However, the implementation of the Delhi agreement ran into heavy weather in no time. The main criticism against Ceylon was the large scale rejection of applications for her citizenship by the persons of Indian origin on flimsy grounds. Secondly, Ceylon was criticized with regard to the provisions concurring the special electorate for Indians. In fact, the

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70. For text of Joint Statement, see Ceylon, PDHR, vol. 20, cols. 887-90.

Government of Ceylon amended the Constitution to make provisions for the return of four Indian members from a special<sup>71</sup> all-island electorate. Technically, India was supposed to be consulted under the provisions of the January Agreement, but the consultation never took place. Finally, as the provisions relating to the special representation of the registered Indians were never translated into action, the Indian community in Ceylon remained unrepresented in the Ceylonese Parliament.

From Ceylon's point of view, the raison d'etre of the whole agreement rested on the pre-supposition that the number of Indians in Ceylon would be reduced drastically. This assumption, however, proved to be wrong as a result of India's refusal to grant Indian citizenship liberally. Thus the Agreement became "meaningless" for Ceylon.

Under the circumstances, the UNP leadership even went to the extent of advocating the abrogation of the pact as, according to them, the Indian High Commissioner was obstructing the smooth sailing of the pact. This is partially correct. C.C. Desai, it was alleged, had said that there would be a desk and a table and a clerical staff, but no registration would take place. Unimpressive were the figures of registration

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71. Ceylon Constitution (Special Provisions) Act No. 35 of 1954 and Indian and Pakistani (Parliamentary Representation) Act of 1954.

of people as Indian citizens in the calendar year of 1954 - 8,613 persons of Indian origin applied, 5,618 were accepted as Indian citizens and 2,545 were pending scrutiny.<sup>72</sup> "These figures", comments Kodikara,

might suggest that the Indian authorities in Colombo were in fact registering as Indian nationals the majority of these Indians in Ceylon who applied for such status. But there are strong presumptions against such a conclusion, the indications are that the Indian High Commission in Colombo, and other spokesmen for Indian interest in Ceylon, actually discouraged applications for Indian nationality from Indian residents in Ceylon. 73

Further, it was maintained that all those applying for Ceylon citizenship were debarred by Desai from applying for Indian citizenship.<sup>74</sup> The Ceylon Government alleged further that far from being helpful, the Indian High Commissioner was raising "fanciful objections" to Ceylonese initiatives and adding the number of stateless persons by destroying the Indian passport of Indian nationals. This charge was levelled by Dudley Senanayake in the Parliamentary group of the UNP. The charge was not substantiated but it remained true that Desai refused to accede to a request of the Ceylon Government to supply a list of Indian passport holders in Ceylon, a fact of

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72. The Hindu, 17 April 1955.

73. Kodikara, n. 6, pp. 129-30.

74. Ibid.

significance, considering that Indian nationals in Ceylon with expired temporary Residence permits, whose compulsory repatriation India objected to, needed only to have destroyed their passports to prolong their stay in the island as stateless persons.<sup>75</sup>

As regards Ceylon, quite contrary to the pledge taken by the Ceylonese Government to announce schemes of "inducement", it was taking harsh and coercive measures which could not be so termed by any stretch of imagination. The refusal to extend ration books, denial of employment, refusal to extend temporary residence permits, dismissal from the job on account of failure to provide nationality certificate within a prescribed time, withholding accumulation under the National Provident Scheme, denial of right to join trade unions, were some of the measures speaking for themselves.<sup>76</sup> According to an opposition leader,

... instead of offering inducements the Ceylon Government was offering them kicks ... while the Kotelawala Government had offered facilities for Americans to take their dividends and profits from Ceylon, Indian residents were prevented from taking away their meagre earnings. 77

At the same time, the Government of Ceylon put a stop to issuing temporary Residence Permits and identity cards to

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75. Ibid., p. 130.

76. See Bains, n. 57, pp. 87-113.

77. W. Dahanayake, The Tribune (Colombo), 2 August 1954.

the persons of Indian origin, thus exposing them to rigorous Immigrant-Emigrant Amendment Act.

The Government of India reacted to these measures by introducing a Visa system for travel between Ceylon and India. Both the Governments wanted to put the blame on the other, but the fact is that both of them were at fault. "Unfortunately, the Delhi agreement and the ensuing legislation, did not stop the growing numbers of stateless people or the feeling on both sides that the other was not acting in good faith. Technical difficulties were serious. Documentary evidence of previous domicile or intent to remain in Ceylon was difficult to provide. Government officers on both sides appeared to be in no hurry to give estate workers the rights of citizenship."<sup>78</sup>

The slow process of registration in Ceylon provoked public criticism in India that the "real objective of Ceylon Government was to limit the number of Indians acceptable to a pre-determined figure."<sup>79</sup> The Ceylon Government, on the other hand, charged India of deliberately adopting a go-slow policy in granting Indian citizenship. Under such circumstances, the Premier of India suggested the mode of arbitration for the

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78. Wriggins, n. 4, p. 402.

79. S. Chaudhary, "Problem of Citizenship Rights for People of Indian Origin in Ceylon: The Background and the Issues", Foreign Affairs Report, vol. 5, no. 11, November 1965, p. 125.

settlement of the problem regarding the interpretation of  
the agreement. But Kotelawala did not favour the idea. 80

In a policy statement of the Sri Lanka Freedom Party, which was published in its journal Free Lanka on 16 February 1955, S.W.R.D. Bandaranaike suggested that

the wisest course would be to abrogate (the 1954 Agreement) by friendly discussion, to go on with the registering of Indians who have applied for our citizenship and when that task is completed to take up the question of those who have failed to obtain our citizenship with India on a fresh basis. 81

This was a clear shift in the earlier attitude and policy of the SLFP vis-a-vis the Indian question. Earlier Bandaranaike had stated that he saw

no point in a deputation, official or unofficial, going to Delhi to discuss the so-called Indo-Ceylon problem which is in fact a problem of Ceylon citizenship ... it is not possible for Mr Nehru or the Indian Government to solve the question of our citizenship for us, nor, indeed, is it desirable for us to expect them to do so. 82

In 1956 General Elections, Bandaranaike's SLFP came to power to execute what it had promised in its journal. However, this saw the emergence of "Sinhala only" banner, which was to the detriment of the Tamil interest in Ceylon. Bandaranaike

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80. Kodikara, n. 6, p. 137.

81. T. Ratnakara, "Indo-Ceylon Agreement and Citizenship Issues: Dangers in the Pact", Ceylon Daily News, 20 April 1967.

82. The Hindu, 15 December 1953.

had triumphed, "but at the cost of undermining the national  
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unity."

Having rallied and enlisted the support of communal and religious extremist forces, in his bid for power, Bandaranaike found himself their prisoner. This ironical drama was tragically ended when, a Buddhist fanatic assassinated him. After a short intermission, when his widow Sirimavo Bandaranaike became the Prime Minister of Ceylon, 35,411 of the applicants had been given Indian citizenship and 190,294 Ceylonese citizenship. India had rejected 10,491 applications till the end of 1960 and Ceylon 6,91,975 till August 1960.<sup>84</sup>

The SLFP Government's stand on the issue was,

Ours is a small country and unemployment is very high. In a total population of about eleven millions it (the Indian Tamil population) constitutes a great economic burden for us. We say India should take these people back ... with our own population and the foreign exchange problem created by the need to import food, such as rice and sugar, we just cannot absorb these people in our economy. 85

Mrs Bandaranaike maintained thus, that Ceylon still faced the problem of about 9,71,000 persons on her soil; they have been refused citizenship of Ceylon and had not applied for Indian citizenship.

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83. Gunnar Myrdal, Asian Drama, vol. I (London, 1968), p. 352.

84. Times of India (New Delhi), 8 August 1961.

85. The Guardian (Manchester), 21 July 1964.

By October 1964, 134,188 persons had been given citizenship by Ceylon and 234,488 by India. The number of "stateless" was put at 971,073 of whom 904,838 were on the estates and 66,235 resided outside the estates.<sup>86</sup>

### Conclusion

The 'Indian Question' - a byproduct of British imperialism - had been a bone of contention between the colonial governments of both the countries since 1920s. However, even after a quarter century of bilateral negotiations and bargaining in the post-independence era of India and Sri Lanka, the issue continued to bedevil the Indo-Ceylonese relations. Thus we see the enactments of 1948 and 1949 to solve the problem on the domestic plane, and the agreement of 1954 to divide the responsibility for those unfortunate people on the bilateral plane.

No doubt, legal solutions to the issue were envisaged in the Citizenship Acts of Sri Lanka and the Constitution of India. However, the presence of one million odd 'stateless' persons of Indian origin in 1963 indicated, if anything, the incapacity of the existing legal provisions to solve the citizenship issue of this category of persons. It appears then, that, for the leadership of both the countries, the legal

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86. Data supplied by the Indian High Commission in Ceylon, quoted in Phadnis, n. 63, p. 382.



dimension of the issue seemed to loom large during this period. Further, Nehru viewed this problem in a global perspective because of the presence of Indian settlers in other parts of the world. Giving credence to such a view entertained by Nehru, Krishna Menon said, "he knew the burden we would have to carry (their absorption into Indian Economy),<sup>87</sup> but what worried him more was the impact on world opinion."

Such an universalistic approach on the part of Nehru did not facilitate the solution of the problem. The proximity of the island, amongst other things, called for a 'special' formula to sort out the issue.

An attempt to review the problem of the 'stateless' persons of Indian origin in Sri Lanka afresh was made by the new Prime Minister of India, Lal Bahadur Shastri, and Sri Lanka Premier Sirimavo Bandaranaike, leading to the signing of an agreement in October 1964. Known in popular parlance as Sirimavo-Shastri Pact, the agreement became a landmark in the history of India-Sri Lanka relations.

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87. Michael Brecher, India and World Politics: Krishna Menon's View of the World (Oxford, 1968), p. 325.

Chapter III

THE BREAKTHROUGH: SIRIMAVO-SHASTRI  
PACT OF 1964

## Chapter III

### THE BREAKTHROUGH: SIRIMAVO-SHASTRI PACT OF 1964

#### Introduction

In 1964 the period of indecision and vacillation came to an end and the breakthrough was achieved by the Indian Prime Minister Lal Bahadur Shastri and Mrs Sirimavo Bandaranaike, premier of Sri Lanka. This was not an easy going task and the Premiers' negotiations on the issue were on the verge of breakdown at least twice. However, their determined and persistent efforts to reach an amicable settlement bore fruit. Both the delegations went through prolonged rounds of hard bargaining and arrived at the final adjustment after resiling from their firmly entrenched positions in a spirit of give and take.

The conclusion of the pact was not a bolt from the blue but represented a victory of reconciliatory attitude on the part of India due to several factors. The forced exodus from Burma to India enhanced, to some extent, the bargaining position of the Ceylonese government. The Ceylon Observer noted<sup>1</sup> that the Burmese example was not "unmeaningful" for Ceylon.

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1. Ceylon Observer (Colombo), 27 September 1964, p. 6.  
"However small we are India can no longer take us for granted. It needs in its own interest our positive friendship."

Speaking in the same vein, Mrs Bandaranaike told a press conference in London where she had gone to attend the Commonwealth Prime Ministers' Conference in January 1964, "We want the Indian Government take back as many as possible. They have agreed to take 300,000 (sic) from Burma."<sup>2</sup>

In fact there are certain shortcomings in this analogy. Indians in Ceylon never had the ownership of the country's twenty per cent area of agricultural land as the Burmese Indians possessed. Secondly, unlike in Burma they were labourers in Ceylon not landlords.<sup>3</sup> Thirdly, the Burmese Indians were not the subject of bilateral talks or agreements between Burma and India whereas we see a number of delegations and deputations shuttling between Delhi and Colombo to arrive at a mutually satisfactory agreement. History has taught us that the nationalistic aspirations of a community never lie

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2. The Times (London), 30 October 1964. "The Deputy Minister for External Affairs, Mr Dinesh Singh informed the Lok Sabha on December 7, 1964 that 55,240 Indian nationals had returned from Burma between January 1 and November 11, 1964." Asian Recorder (New Delhi), vol. II, no. 1, p. 6228. "The number of reluctant repatriates was expected to reach 100,000." Ibid., vol. 10, no. 33, p. 5974.
  3. "According to a 1960-61 statistics Report, 4.5 million acres out of 19.5 million acres of agricultural land in Burma were owned by non-farmers landlord residents outside the village where the land was situated. Further the majority of Indians looked Burma as a land of livelihood, a place of temporary exile. Caste and provincial differences further precluded their diffusion into the general community. They continued as insulated enclaves." See Usha Mahajani, The Role of Indian Minorities in Burma and Malaya (Bombay, 1960), p. xix.

dormant for all times. The Burmese gradually began to assert their right to free themselves from the yoke of foreign economic domination and so did the Ceylonese.

Governmental interference with private property has been one of the many manifestations of socio-economic changes of the twentieth century. However, if the Burmese government found nationalisation the most convenient method for the implementation of this policy the Ceylonese government opted for negotiation to settle the point of dispute. This demonstrates the nationalistic temperament - one having a continued democratic tradition, enjoying universal adult suffrage from 1931, the other nursing autocratic form of government under Ne Win. However, this is not to suggest that the Burmese example did not condition India's thinking. They had the problem of Indians coming over from Burma virtually penniless.<sup>4</sup> So it was better to have fruitful negotiations facilitating an agreement with Sri Lanka in such a manner that the Indians repatriated were not hard hit economically in the same manner as they had had from Burma.

Also, the middle of 1950s marked a distinct change in Ceylon's foreign policy and India needed to take cognizance of this fact. Since 1956 (when headed by Mrs Bandaranaike's late

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4. The Burmese Government allowed those leaving to take about Rs.75 each adult and Rs.15 each child and also gold worth Rs.250 each family. See Asian Recorder, vol. 10, no. 33, p. 5974.

husband the Sri Lanka Freedom Party had come to power) Sri Lanka's relations with China had been very close and cordial as against the none-too-happy relations between India and China in the years immediately after Bandung, leading to the India-China border conflict in 1962 and the consequent shattering defeat of India at the hands of her one-time friend. In the context of her strained relations with China and the mixed response of her near neighbours, India felt the desperate need to have friendly neighbours.<sup>5</sup>

Finally, Pakistan, too, in a way, played the role of a catalyst, in bringing about a solution of the problem of statelessness in Sri Lanka. President Ayub Khan's gesture to take back all Pakistani nationals numbering only 5,749 appeared as a contrast between the attitude of India and Pakistan and the Pakistani lobby pointed to such a contrast as symbol of India's big brotherly complacent attitude towards small neighbour and underlined India's reluctance to solve the problem.<sup>6</sup> This was an attempt to embarrass India and to exploit the situation in Pakistan's favour. Ayub Khan also maintained that there were certain "flashpoints" in the Asian region including "certain amount of tension between India and Ceylon."<sup>7</sup>

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5. For details on the response of India's neighbours on India-China border conflict, see United Asia, vol. 15, No. 11.
  6. Hindustan Standard (Calcutta), 31 January 1964.
  7. The Dawn (Karachi), 15 December 1963.

In such a setting, India felt a grim necessity to remove as far as possible, the major irritants in bilateral relations with her neighbours. Public opinion in India also appeared to emphasise the need for an early settlement to this problem. The political observers and journalists felt that an early understanding vis-a-vis the problems of statelessness was the need of the time. <sup>8</sup> Moreover, the fact that India had accepted about eight lakhs refugees from East Bengal (erstwhile East Pakistan) and about one lakh from Burma had sharpened the edge of the Ceylonese demand for an Indian initiative on the future of the Indian estate workers in Ceylon.

Last but not the least, the attitude of Lal Bahadur Shastri was a great asset in this respect. He was very anxious to find out a solution to the problem and his posture was mild, conciliatory and accommodating. Mrs Bandaranaike, gratified by this turn of events, said that the accord was possible because Mr Shastri used a "fresh approach and was determined to get this irritant removed." <sup>9</sup> This was contrary to the fear

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8. The Statesman (New Delhi), 16 October 1964. Inder Malhotra wrote: "In the Indian population they are proverbial drop in the ocean. There is no reason, therefore, why Mrs Bandaranaike should not be given a pen and paper and asked to write down the number of people of Indian origin she wants India to take."
  9. Cyril Dunn in The Times, 1 January 1965. According to V.K. Krishna Menon, a very close associate of Pandit Nehru, the latter would never had concluded such an agreement. He says, "Nehru knew the problem very well, he would not have made the present agreement." See Michael Brecher, India and the World Politics: Krishna Menon's View of the World (London, 1968), pp. 154-55.

expressed by Leslie Goonewardene in the House of Representatives on 29 August 1963. He said:

It may well be that no such danger will exist so long as Shri Jawaharlal Nehru is the Prime Minister of India, but with a Prime Minister who has less of a hold on the people of that country, who is more subject to pressures from different quarters and in particular the pressures of the Dravida Munetra Kazagham of the South, it cannot be excluded that our country will be placed, if this problem remains unsolved, in the same position as Czechoslovakia in relation to the Sudetan Germans. 10

However, these feelings proved to be pointless and we saw the shift in the approach on the part of India which had been, it is true, discredited by her representative in Colombo, particularly C.C. Desai. The shift from adamance to flexibility and from idealism to realism was essential to rectify the mistakes by the previous Indian Government and its representatives in Colombo vis-a-vis the problem of statelessness of the persons of Indian origin, as well as to save the Indians from the Burmese style ordeal.

This element of realism in the Indian foreign policy necessitated a change of approach and attitude leading to the shifting of the focus of Indian diplomacy from the distant world capitals to the countries at the door step. "It is a matter of some satisfaction that more attention had been devoted

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10. Ceylon, Parliamentary Debates, House of Representatives (hereafter referred to as Ceylon, PDHR), vol. 53, col. 729.



to our relations with our neighbours during the past 17<sup>11</sup> weeks than during the preceding 17 years."

AS regards Ceylon, the presence of such a large number of non-citizens not only impinged on her severely strained economic resources but also led to the continuance of an atmosphere of political uncertainty so far as their attitude to the major political parties was concerned. Any party bringing about a definite deal regarding their political future tended to gain political benefits from the Sinhalese electorate as much as from the 'stateless'.

It was in this context that intergovernmental negotiations beginning at the official level, led to the meeting of the two premiers in October 1964 at Delhi.

Inter-Governmental Negotiations  
at Delhi

Before her departure for Delhi Mrs Bandaranaike, the Ceylonese Prime Minister, not only elicited the views of all the important leaders of different political parties but also invited Dudley Senanayake, the leader of the Opposition, to join the delegation. This was not an extraordinary precedent; in October 1954, John Kotelawala had also invited S.W.R.D.

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11. The Statesman, 16 October 1964.

12. "Indian in Ceylon" (editorial), Indian Finance (Calcutta), vol. 24, no. 17, p. 769.

Bandaranaike, the then leader of the opposition, to join the Ceylon delegation to India for discussion on the same subject. Further, Mrs Sirimavo Bandaranaike also had discussion on the subject with the other leaders of the opposition - Communist Party (CP) and the Federal Party (FP) -<sup>13</sup> and though the leader of the opposition could not join the Ceylonese delegation to India, he was kept abreast of the developments in Delhi.

On the Indian side, the Indian Prime Minister not only tried to be in touch with the officials and the political leaders of Madras state but also solicited the co-operation from the governments of other states in the future rehabilitation of the repatriates from Ceylon.

Both delegations included some legal experts in view of the divergent stands taken by the two governments in their earlier deliberations. The delegations comprised one person each representing the regional pressure group. Ceylon's Minister of Trade, T.B. Illangaratne, for instance was a Kandyan Sinhalese, representing the Kandyan view. The Madras Minister of Works, V. Ramiah represented the state of Madras, the original home of the majority of repatriates from Ceylon. In fact, the then Chief Minister of Madras, Bhaktavatsalam was to have participated in the negotiations but he was called

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13. Times of India (Delhi), 19 and 22 September 1964.

back to Madras because of some urgent task. Further Kamaraj, a prominent Congress leader of Madras state, was also consulted.

The negotiations which began on 22 October 1964 did not seem to be an easy going affair and Mrs Sirimavo Bandaranaike had to extend her stay twice, stretching the talks to six days with almost round-the-clock negotiations. The quantitative formula was the main issue of the deadlock. To begin with, Mrs Bandaranaike conceded only 2.5 lakhs to be the "absorbable maximum" for Ceylon, a figure for which she had sought the approval of Dudley Senanayake, leader of the United National Party. Lal Bahadur Shastri on the other hand, put forward that 4.75 lakhs could be given Indian citizenship. Apparently, he had arrived at this figure on the advice of the bureaucrats who had made their assessment on the basis of their talks with the leaders of the persons of the Indian origin on the estates. Then came the mutual give and take and the path was made easy by the two Prime Ministers relaxing the earlier figures to some extent. Shastri agreed to take 50,000 more if Mrs Bandaranaike accepted the equal number of persons in addition to her previous commitment. Before she agreed to the final figure of 300,000 persons to be given Ceylon citizenship the Ceylonese premier obtained the concurrence of Dudley Senanayake. The Pact was finally signed on 30 October 1964.

The Pact

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The Pact stipulated among other things that the Indian and Ceylonese Governments would confer citizenship on 825,000 out of the total number of 975,000 stateless persons. In the 10-point agreement the numerical formula envisaged the repatriation of 525,000 persons together with their natural increase to India and absorption of 300,000 persons along with their natural increase as Ceylonese citizens. The remaining 150,000 stateless persons' future was to be negotiated later. These figures did not include illicit immigrants and Indian passport holders.

Acceptance of the numerical formula by Mr Shastri was thus, a deviation from the line adopted by Mr Nehru. Previously both the countries clashed over the question of "absorbable maximum". Nehru considered even the number of 250,000 more than what India could absorb. That India was now prepared to take back more than double the number conceded by Nehru as more than the "absorbable maximum" showed the earnest desire of Prime Minister Shastri to strike a deal acceptable to the Ceylonese leaders.

On its part, earlier, the government of Ceylon was not very sure of the absorbable maximum number either. Mr D.S.

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14. For the text of the Pact, see Foreign Policy of India: Texts of Documents 1947-64 (Delhi, 1964), pp. 196-97. Ceylon Treaty Series No. 5 of 1964 (Colombo, 1964).  
See Appendix F.

Senanayake, the first Prime Minister of Ceylon, estimated this number as 50,000; his son and successor Dudley stipulated it to be around 400,000. Mrs Bandaranaike chose to confer citizenship to 300,000 in a period of 15 years. Her estimate was very close to that of Dudley Senanayake's because Ceylon had already granted citizenship to about 134,000 persons under the Indian and Pakistani (Resident) Citizenship Act of 1949.

The repatriation to India and grant of citizenship of Ceylon were to "keep pace with each other in proportion to the relative numbers, in the ratio of 7 : 4.<sup>15</sup> The Government of Ceylon agreed to grant to the persons to be repatriated to India facilities enjoyed by the citizens of other states. Besides, the Ceylon Government undertook that such of those persons as were gainfully employed on the date of their repatriation in accordance with the requirements of the phased programme<sup>16</sup> or until they attained the age of 55 years, whichever was earlier, would continue to remain employed as before.

It was also agreed that "subject to the exchange control regulations ... Ceylon Government would permit the repatriates to take all their assets including their provident fund and gratuity amounts when they leave finally for India the maximum amount of assets which any family was to be permitted to

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15. Ibid., Article 6.

16. Ibid., Article 7.

repatriate was not to be "reduced to less than Rs.4000."<sup>17</sup>  
Finally, Articles 9 and 10 made certain procedural arrangements like preparations of two registers - one containing the names of persons to be repatriated to India, the other containing the names of persons to be granted Ceylon citizenship. However, the completion of the above mentioned registers was not to be a condition precedent to the commencement of the grant of Ceylon citizenship or the process of repatriation to India. The officials of both the countries also were to establish joint machinery to formulate appropriate procedure for the implementation of the pact.

Unlike the Nehru-Kotelawala Agreement under which only those persons who qualified themselves under the laws of the respective countries could become citizens, the Sirimavo-Shastri Pact of 1964 imposed obligations on Ceylon and India to confer their nationality on the people even if the prevalent laws did not permit it. In the 1954 agreement no internationally binding obligations were created, as the persons concerned were entitled to apply for the citizenship of the respective countries even without such agreement. The present agreement imposed obligations on the two governments under International Law to confer citizenship "on a specific number of people even if they

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17. Ibid., Article 8.

may have to change their nationality laws." <sup>18</sup> This was a significant feature of the Agreement.

According to Mrs Bandaranaike this agreement was an advance over the agreements concluded in 1954 in three ways: (i) the Indian Government had recognized its obligations to persons of Indian origin in Ceylon by undertaking to confer Indian citizenship on those who were to be repatriated and by accepting the principle of compulsory repatriation; (ii) no inducements were to be paid nor was there any need to hold up repatriation until a person attained the age of 55 years; (iii) finally, declared Mrs Bandaranaike, the concept of <sup>19</sup> 'statelessness' would not bedevil the solution of the problem.

Public Responses in India and Sri Lanka on the Agreement

The Pact was received with jubilation and contempt at the same time. Ceylon's Prime Minister received bouquet from almost all newspapers' correspondents. According to the Ceylonese correspondent of an English monthly: "The agreement represents a personal victory for the Prime Minister. She has achieved what five other Prime Ministers before her including

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18. J.S. Bains, "Indo-Ceylonese Agreement: A Legal Analysis", Indian Journal of International Law (New Delhi), vol. 4, no. 4, 1964, p. 523.

19. Ceylon Daily News (Colombo), 12 November 1964.

her husband, had failed to achieve." <sup>20</sup> Ceylon Daily News, usually critical of Sirimavo Government, showered praise for her "statesmanship, diplomacy and skill" shown in the "tough bargaining <sup>in</sup> <sup>21</sup> New Delhi." According to a Ceylonese academician <sup>22</sup> the agreement was a "fair and honourable settlement."

As regards the political parties, the UNP could not go against the pact because Dudley Senanayake was continuously consulted during the negotiations. As regards the LSSP, its support was understandable as it had joined the establishment in May 1964. The Tamil opposition parties, as was expected, condemned the agreement. According to the Federal Party, the pact was part of a 'conspiracy' to denigrate the Tamil race <sup>23</sup> in Ceylon. The General Secretary of Ceylon DMK M.A. Velaiyayan condemned the agreement on the plea that it was concluded "to meet the internal and external needs of the capitalist Indian and Ceylon Government." <sup>24</sup> The Ceylon Workers Congress, the organization representing the estate workers of Indian origin

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20. G. Navaratne, "Ceylon: Indo-Ceylon Problem Solved", Eastern World (London), vol. 18, December 1964, p. 19.
  21. "After New Delhi" (editorial), Ceylon Daily News, 31 October 1964.
  22. S.U. Kodikara, "Ceylon's Foreign Policy in Asia: Forces Operating in It", Asian Seminar (New Delhi), 8-13 March 1965, p. 5 (mimeographed).
  23. Tribune (Colombo), vol. 10, no. 49, 7 November 1964, p. 8.
  24. Ceylon Daily News, 11 November 1964.



in Ceylon rejected, the Sirimávo-Shastri Pact by a unanimous vote and took a non-cooperative attitude towards its implementation",<sup>25</sup> on the plea that it involved "denial of human rights and is calculated to add to the suffering and humiliation of these stateless persons of Indian origin who are today making a vital contribution to the economy of this country even as they and their ancestors had done in the past."

Among other reasons given by the Ceylon Workers Congress for the rejection of the agreement were:

1. That the agreement had been arrived at without an opportunity being afforded to representative organizations of such persons to place their views before both Governments regarding the terms of the agreement.

2. It did not purport to achieve a final solution of the problem in so far as the fate of 150,000 persons of Indian origin had not yet been decided.

3. The agreement did not provide for the immediate<sup>26</sup> grant of citizenship by both the countries.

Another organisation of the plantation estates' workers, the Ceylon Democratic Workers Congress also denounced on 27 November the Agreement and charged its authors with treating the settlers as "a commodity rather than human beings in an

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25. The Hindu (Madras), 21 October 1964.

26. The Hindustan Times, 21 December 1969.

effort to solve a political tangle".

The Democratic Workers Congress pointed out three defects:

1. It contained a provision for compulsory repatriation which denied to the people the right to choose between Ceylonese and Indian nationality.

2. The aim of a full and final settlement had not been achieved as the future of 150,000 people was still left in the balance.

3. Even the future of the 825,000 people which it claimed to have settled was left in suspense for 15 years as they were denied their fundamental rights and their children employment rights during their stay in Ceylon, while the employment rights of the children of even those who were to be absorbed by Ceylon were not assured during the interim period. <sup>27</sup>

#### Public opinion on the 1964 Pact

The Indian reaction to the pact was also mixed. If <sup>28</sup> this was characterized as a "happy solution" by one newspaper, the other journal described it as the "most astonishing piece of diplomacy", affecting..."...the lives of some million ignored.... Had Shri Shastri stood firm, it is difficult to see how Ceylon

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27. Asian Recorder, vol. 10, no. 50, p. 6184.

28. Times of India, 31 October 1964. "Mr Shastri and Mrs Bandaranaike can take just pride in having atleast solved a problem which had defied solution for 17 years."

could have gone about its inhuman policy." <sup>29</sup> The Hindu of Madras commented:

The joint communique mentions the cordial atmosphere and the spirit of 'give and take' in which the discussions were conducted. Indian opinion would be inclined to feel that much of the 'giving' has been done on the Indian side. That out of a stateless population of 975,000, the Government of India should have agreed to the phased repatriation of as many as 525,000 will come as a rude shock to many in India who have felt that the bulk of these people are legitimately entitled to Ceylon citizenship. 30

Opposition leaders like J.B. Kripalani and C. Rajagopalachari assailed the agreement in no uncertain terms. Kripalani said that the agreement was not an achievement at all on the part of the Government of India. <sup>31</sup> C. Rajagopalachari, an older and rightist leader from Tamil Nadu asked:

Why should nearly a million children and grand children born in Ceylon and who had gone there from South India and settled down in the plantations be disentitled to be the citizens of Ceylon? 32

He insisted that the whole issue of the stateless persons of Indian origin in Ceylon should be referred to the United Nations as it involved "a question of human rights." He characterized the Pact as "a farcical termination of the protracted negotiations." <sup>32</sup> The Jana Sangh leader summarily called India

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29. "The Indo-Ceylon Agreement", Janata (Bombay), vol. 19, no. 41/42, Diwali Number 1964, p. 2.

30. The Hindu, 31 October 1964.

31. National Herald (New Delhi), 1 November 1964.

32. Indian Express (New Delhi), 1 November 1964 and Hindustan Times, 6 November 1964.

"a nation of refugees". He said that "the human element in this lump agreement has been completely ignored. The people whose fate was to be decided should have been consulted."<sup>33</sup>

Speaking in the Parliament, another opposition leader condemned the numerical formula as being unsound in principle<sup>34</sup> "and in violation of human rights." One critic even questioned its locus standi in the matter: "

If she can help she is welcome. But she has no right to sell out their human rights at the behest of the narrow minded holders of power in Ceylon. Today India sacrifices the Ceylonese of Indian origin for the sake of good will as against China and Pakistan vain hope this. 35

Continuing in the same vein, he remarked, "India has betrayed for ends of her own diplomatic convenience, the aggrieved people of Indian origin, disowned by free Ceylon so grace-<sup>36</sup>lessly."

As regards the DMK leaders, they went a step further in maintaining that the very basis of the pact was questionable as the Ceylonese Indians were the responsibility of Sri Lanka government.

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33. Deendayal Upadhyaya, "A Nation of the Refugees", Organiser (Delhi), vol. 18, no. 13, 9 November 1964, p. 9.
34. For details see India, Lok Sabha Debates, vol. 35, 1964, cols. 1216, 1266-73, 1290-92 and 1521-28. Ranga called it a "shameful agreement".
35. M.A. Venkata Rao, "Ceylonese 'Stateless' and India", Swara<sup>3</sup>ya (Madras), vol. 9, no. 22, 28 November 1964, p. 3.
36. Ibid., pp. 3-4.

On legal grounds also the pact was subjected to certain criticism.<sup>37</sup> It was pointed out that on the matter of remittances, the Agreement did not say anything about the nature of remittances, the place and parties to whom these might be made. Ceylon might therefore be free to impose certain restrictions on the financial dealings and monetary transactions of the repatriates not only with their relatives in India but even with their friends, relatives or business partners in Ceylon itself. Secondly, even at the time of final departure they might not be permitted to take "all their assets including their provident fund and gratuity" as mentioned in the Agreement because of exchange control regulations and to that extent the repatriates might be made to suffer. Thirdly, the undertaking that the maximum assets which a family might repatriate would not be less than Rs.4,000 was also subject to possible arbitrary use because the Ceylon government might decide upon any sum above Rs.4,000 as the maximum. While under the existing law the other foreigners were "entitled to take away assets worth as much as Rs.150,000, the minimum guarantee in the case of Indian repatriates is insignificant and would be discriminatory".<sup>38</sup>

The pertinent question was which part of the population should be repatriated and how? How to phase the process of

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37. Bains, n. 18, p. 524.

38. Ibid.

repatriation? If the requisite number of Indians were not repatriated within the time limit what the Ceylon Government would do? Could it indulge in forced repatriation?

Separate Electoral Register:  
The Controversy

Before some of these questions could be taken up, came the announcement of Mrs Bandaranaike on 10 November 1964 that those granted Ceylon citizenship would be placed on a separate electoral register. She argued that when they were put on a separate register, it would be possible for them to select their representatives to safeguard the political interests of the persons of Indian origin.

South Indian paper like The Hindu termed it as the "act of bad faith".<sup>39</sup> It took the view that "to repatriate to India even a single person born and bred in Ceylon though of the remote Indian origin against his or her will, will be a gross violation of human rights ... to which India ... should not be a party."<sup>40</sup> However, the October agreement itself had provided for the phased repatriation of the persons of Indian origin from Ceylon and the term of 'compulsory repatriation' did not figure in its text.

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39. The Hindu, 2 December 1964.

40. Ibid.

It should be noted that the separate electorate provision introduced in the 1954 agreement was abrogated by the SLFP leader S.W.R.D. Bandaranaike by a constitutional amendment in 1959 and about 50,000 registered Ceylon citizens of Indian origin were placed on the general electoral register.<sup>41</sup> Now the same persons of Indian origin were to be taken off the general electoral register and placed on a separate electoral register along with the 300,000 to be granted citizenship under the new Indo-Ceylonese Agreement ironically to facilitate assimilation. Coming within a fortnight of the New Delhi agreement on stateless persons of Indian descent this announcement was a plain discriminatory measure against the very persons to whom the Ceylonese premier had undertaken to confer citizenship.

Indian official circles were surprised by this volte face of Sirimavo Bandaranaike. A government spokesman said that it violated the understanding reached between the two Prime Ministers in October 1964.<sup>42</sup> The spirit underlying the Shastri-Bandaranaike agreement was that these people would not be subjected to any kind of discrimination in the island. Mrs. Sirimavo Bandaranaike's statement implied that the Indian settlers to be granted Ceylonese citizenship would be

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41. The Statesman, 11. November 1964.

42. Asian Recorder, vol. 10, no. 50, p. 6185.

constituted into a separate class of voters unable to participate in that country's general elections on an equal footing with the rest of the population.

<sup>43</sup>  
In a secret letter written by Mr Shastri to Mrs Bandaranaike, the former stated that though the Pact put a "heavy burden" on India, she had agreed to its provisions because of the consideration "that those accepted as Ceylon citizens would become full-fledged citizens" and join the mainstream of Ceylon's life. Shastri was, therefore, afraid that the institution of separate electoral register might make the assimilation difficult and intensify separatist tendencies giving rise to disunity and conflict.

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43. This "secret" letter was published in the Indian Express, 2 March 1967. See Ceylon, PDHR, vol. 71, cols. 978-79.

"Despite the heavy burden falling on us under the agreement, the agreement's main attraction for us was the consideration that those accepted as Ceylon citizens would become full-fledged Ceylon citizens and join the mainstream of Ceylon's civic life. The announcement of Ceylon Government's intention would, however, mean that Ceylon citizens of Indian origin would be unassimilable with the rest of the population and unlike other Ceylon citizens, entitled to influence only a very limited spectrum of Ceylon's political life.... The lesson of history in many lands is that where a religious or ethnic group has been placed apart from the rest of the people and brought on to a separate electoral role, not only has assimilation become so difficult but separatism has been intensified giving rise to the disunity and conflict. We ourselves have had a sad experience of this in the past.

During the talks in Delhi, the question as to whether persons accepted as Ceylon citizens would be placed on a separate or common electoral roll was not discussed.



The Ceylonese High Commission in New Delhi hastened to dispel the doubts cropping up in the Indian mind saying "the device of a separate electoral register far from being an odious form of discrimination could, in case of closely knit and homogeneous groups like Indian group in Ceylon, give them the incalculable advantage of electing persons of their own choice and of their own group who would more effectively represent their special interests and aspirations and thereby vastly promote and accelerate assimilation into the surrounding society."<sup>44</sup> An official in the Ceylon High Commission in New Delhi even cited the Indian Constitution to rationalize his arguments for communal representation. However, Indian views were sharply critical of this step of Ceylon. It was argued that "communal registers far from helping the process of assimilation would perpetuate a sense of separation and would also keep alive a permanent source of tension between the two communities in the island."<sup>45</sup>

Ceylon's Prime Minister also contended at this stage that this proposal did not figure at the Delhi Conference as

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44. Statement by the First Secretary of the Ceylon High Commission in New Delhi, Mr D. Samarasekara, Asian Recorder, vol. 10, no. 50, p. 6185.

45. Harnam Singh, "Indo-Ceylon Agreement: The Question of Separate Register", Indian Journal of International Law, vol. 5, no. 1, p. 16.

this "is a matter solely for determination by our sovereign Parliament." The Ceylonese Government further reiterated that the provision for a separate register was there in the Nehru-Kotelawala Pact of 1954 and, therefore, its reintroduction was not mala fide. But it overlooked the fact that this was to last only up to ten years, i.e. 1964, under clause six. Moreover, Mrs Bandaranaike herself had admitted in New Delhi on 24 October 1964 that the talks had become necessary because the Indo-Ceylon Agreement of January 1954 and their Joint Statement of October 1954 could not deliver the goods. Both the Prime Ministers had agreed that they were obliged to "seek a fresh settlement of the problem" and the 1964 agreement represented such a settlement.

### Conclusion

After a quarter century of protracted negotiations between Sri Lanka and India, the Sirimavo-Shastri Pact had come into being. A number of factors facilitated the outcome of a satisfactory agreement. The eviction of Indians from Burma, the growing hostility of China towards India leading to a full-fledged bloody war, Pakistan's benevolent posture and last but not the least, the advent of Lal Bahadur Shastri on the Indian political scene were some of the factors responsible for the spurt of mutual give and take between Sri Lanka and India.

However, the ink on the signature had not even dried up, when the issue of separate electorate began to arouse the official as well as non-official opinion in India. A section of Sri Lanka's public opinion too viewed this with alarm. The Government of India dispatched a 'secret' letter to show her displeasure at the step and her inability to go further in the direction of a complete settlement.

It is interesting to recall, in this context, Mr S.W.R.D. Bandaranaike's views whose policies Mrs Bandaranaike professed to implement and won the elections of 1960:

The object of creating a separate electoral register is stated to be to enable these people to assimilate themselves in some degree into their environment. Does he (Kotelawala) hope, that this assimilation - if he wants assimilation - is going to take place in ten years? Does he hope to achieve that assimilation by creating a situation that will prove an effective barrier to any possible assimilation? You get them on a separate register returning separate members and you hope that in 10 years the situation will arise when these people will sufficiently at one with the rest of the population to be put on the general register. 46

Besides, on her own volition, the Government of Ceylon, during the premiership of the late Bandaranaike had placed the Ceylonese Indians numbering about 50,000 on the national register, thereby barring itself from going back to a proposal which was agreed upon in 1954.<sup>47</sup>

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46. Quoted in The Hindu, 28 November 1964.

47. Singh, n. 45, p. 15.

It is, therefore, surprising that Ceylon as a staunch supporter of racial equality in world forums, herself adopted a proposal which could perpetuate racial disharmony among the various communities in the island.<sup>48</sup>

Moreover, International Law favours the force of truthfulness, good faith and the doctrine of pacta sunt servanda behind every pact.<sup>49</sup> If one of the parties to an agreement violates these postulates, the other is free to denounce the agreement. Sirimavo's proposals definitely threw the 1964 pact off the balance for a while. Besides, the proposals also went against the Charter of the United Nations and the Declaration of Human Rights.<sup>50</sup>

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48. Commenting on it the Indian Express wrote:

Ceylon may inflict dual damage through the institution of separate electoral register. The creation of a special class of citizens would perpetuate the existence of a sector of society which has already remained unassimilated in the mainstream of the island's life. That would be bad for Ceylon itself. At the same time such a separate class would suffer from being marked out as conspicuously unprivileged.

Editorial "Second Class Citizens", Indian Express, 12 November 1964.

49. "Certain theorists, for example, Anzilotti have rested the binding force of treaties on the Latin maxim pacta sunt servanda, or in other words, that states are bound to carry out in good faith the obligations they have assumed by treaty". J.G. Starke, An Introduction to International Law (London, 1963), p. 321.
50. See Charter, Preamble, Article 1(3), Article 13, Article 55(c) and Articles 2 and 21(3) of the Universal Declaration.

This was an unfortunate start of the pact whose future became all the more uncertain and darker with the defeat of Mrs Bandaranaike on 3 December 1964 in the Parliament on the Governor-General's speech. With the defeat of the government and the consequent dissolution of Parliament, the observers started speculating regarding the prospects of the recently concluded Indo-Ceylon Pact.

Two views were expressed in this connection. One viewpoint was that the rejection of the throne speech amounted, more or less, to the rejection of the Indo-Ceylon Pact too, as this was one of the two chief proposals in the speech of the Governor-General (the other being the provision for the rightful place of Buddhism). This section pointed out that this was the first opportunity in which the majority in the Parliament had given its verdict against the government immediately after signing the agreement. As such it might be interpreted as the denunciation of the agreement itself. The other view was that this was an agreement which in principle had been approved by most of the opposition groups, particularly the UNP and its leader Dudley Senanayake. It was pointed out that he was taken into confidence by Sirimavo Bandaranaike before initialling the Pact. Finally, this agreement had already acquired the force of International Law behind it.

The defeat of the Bandaranaike Government in the 1965 elections thus, left the future prospects of the

Sirimavo-Shastri Pact open because the implementation of the Pact now became the responsibility of the UNP leader, who earlier was the leader of the opposition. In the next chapter we will analyse as to what extent the elements of continuity and change were effected in the processes of the implementation of the Sirimavo-Shastri Pact by the new premier.

Chapter IV

DUDLEY SENANAYAKE: CAUTIOUS ROAD TO  
IMPLEMENTATION

## Chapter IV

### DUDLEY SENANAYAKE: CAUTIOUS ROAD TO IMPLEMENTATION

#### The Shift in the Focus of Power

With the defeat of Mrs Bandaranaike's Government, the tenor and pace of the implementation processes of the Sirimavo-Shastri Pact appeared to be uncertain. This problem became all the more acute in view of the prevailing convention in Ceylon that the Prime Minister would invariably be the Minister for Defence and Foreign Affairs. This makes the foreign policy of Ceylon personality oriented. Hence the wide ranging foreign policy shades, from "inward looking" foreign policy of Dudley Senanayake to dynamic neutralism of John Kotelawala and from strict neutrality of the Bandaranaikes to the pro-west policies of D.S. The speculation on the Pact in 1965 was varied, taking into account the victory of Dudley Senanayake in the March election capturing 66 seats.

Interestingly enough, at the beginning of the elections the SLFP and its United Front partners had been thoroughly alienated from the Indian Tamil leadership.<sup>1</sup> The victory of the UNP was ushered in, in large measure, by the support of the Ceylon Workers' Congress (CWC). The CWC, after

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1. S.U. Kodikara, Indo-Ceylon Relations Since Independence (Colombo, 1965), p. 203.



an initial indecision, came out openly for the UNP at the tail-end of the feverish election campaign which turned the tables against the Leftist coalition of Sirimavo Bandaranaike as is evident from the election results. This needs an analysis, not in terms of party strength but in terms of the reversal of Mrs. Bandaranaike's party in estate labour areas.\*

A cursory glance at the results of July 1960 and March 1965 elections would prove that the SLFP had not been on congenial terms with the estate labourers in 1965 hence the UNP stood to gain by the support it received from the CWC. In the central province, where the majority was of the Indian Tamils, the SLFP suffered its worst defeat reducing her strength from 15 seats to 6 - a net loss of nine seats which went straight to the UNP which bagged 17 seats compared to only 8 in 1960 elections. In the provinces of Uva and Sabaragamuwa, the Indian estate labourers generally supported the UNP candidates which resulted in the net gain of six seats for the UNP at the cost of the SLFP. Soon after the elections Dudley Senanayake gained the ground by arriving at an understanding with both the Tamil parties, the Federal Party (FP) and the Tamil Congress (TC). Consequently, the National Government was formed, partners being the UNP, the FP and the TC.

The Tamils viewed that the Government was more sympathetic to and aware of their problems in two ways. Firstly, this was a coalition in which they were also partners, and

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\* See Appendix C.

secondly, Dudley Senanayake strongly felt that the co-operation of Tamils was essential for the political development of Ceylon. Moreover, Dudley Senanayake had to depend upon the political support of the Tamil parties and estate workers unions because of the slender majority of the UNP in the Parliament. The moves to placate the Tamil elements in Ceylon were thus, a must for his political survival. Dudley Senanayake once commented: "I may be an instrument in bringing the communities together." It was in this context that he slowly moved on the road to implementation of the Pact of 1964, mindful of the repercussions the exodus would have on the Ceylonese economy.

Even before the elections it had already been officially announced in Colombo in December 1964 that the representatives of the Governments of Ceylon and India had agreed on the form and composition of the joint machinery for implementing the Pact. The proposed joint committee was to consist of one representative each of Ceylon and India assisted by an alternate adviser from either side. The Joint Committee would be permanently in session in Colombo and the task of these officials would be to ensure the implementation of the Agreement. If any difficulty or disagreement would arise, the Committee might refer the matter to the Permanent

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2. Asian Recorder (New Delhi), vol. 10, no. 5, p. 6267.

Secretary of the Ceylon Ministry of External Affairs and the Commonwealth Secretary of the Indian Ministry of External Affairs. The Joint Committee was to meet once in six months alternately in Colombo and New Delhi to review the working of the agreement and to sort out the difficulties hampering the progress. Nevertheless while both sides expressed their Governments' pledge for "speedy implementation" of the Delhi Agreement, the necessary legislation was to be sponsored by the new government after 1965.

The National Government and  
the Indo-Ceylonese Pact

It seems that four emerging issues were going to play a decisive role in bringing about a final solution to the issue. The first was whether the two governments would do away with the objections - legal, technical and others - to the applications for registration, and guarantee that, after registration, they would not be placed on a separate electoral register. Second, whether the Joint Committee should permit the two Governments to consider applications on their own. This assumed importance when the target of 525,000 persons was not achieved and the question of compulsory repatriation was raised. Third, whether Ceylon would allow all declared assets, legitimately acquired, to be repatriated to India. The

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3. The Indian Express (Delhi), 7 July 1965.

fourth factor, though peripheral, was related to the new government's promise of giving proper place to Tamil language in the Tamil areas.

Each and every question was dealt with by the new government with great caution and care to keep, to the extent possible, the Ceylon Tamils on its side,<sup>4</sup> and to put the Indo-Ceylon relations, as a whole, on a better plane.

Soon after assuming office, the national government asked the law department to draft necessary legislation to enable the government to confer citizenship on the people brought within the purview of the 1964 Agreement. In his address to the new Parliament on 9 April 1965, the Governor-General announced that the Senanayake Government would resume negotiations with the Indian Government with a view to remove the difficulties, "which have arisen in regard to the implementation of the Indo-Ceylon Pact of 1964."<sup>5</sup> In the debates that followed, Dudley Senanayake explained that those difficulties were, the principle of compulsory repatriation, the provision for separate electoral register and conditions for employment.<sup>6</sup>

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4. For details refer to Robert N. Kearney, Communalism and Language in the Politics of Ceylon (Durham, 1967).
  5. Ceylon, Parliamentary Debates, House of Representatives (hereinafter referred to as Ceylon, PDHR), vol. 60, col. 100.
  6. Ibid., cols. 1163-64.

He also made it clear that he was opposed to the introduction of separate electoral register and compulsory repatriation.

It might be mentioned here that during the talks on the implementation of the Indo-Ceylon Agreement in December 1964, the Indian delegation had made it clear that if the issue of separate register was not satisfactorily resolved, there was no assurance of the pact being implemented from their side. Prime Minister Shastri also felt that the issue was vital and the public opinion in India might go against the pact if the persons of Indian origin to be granted Ceylon citizenship would be placed on a separate register giving them the status of second class citizens.

On 5 November 1965, the Minister of State, J.R. Jayewardene, announced in the House of Representatives that the Government had no intention "at present" to put the voters of Indian origin on a separate electoral register. The future was to be decided when the matter would come to the implementation of the Indo-Ceylon Agreement of 1964,<sup>7</sup> meaning thereby<sup>8</sup> when the Government introduced the implementation Bill. The separate electorate issue thus was shelved for the time being by the National Government.

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7. Ceylon, PMR, vol. 63, cols. 2465-2503.

8. The Government of Ceylon had postponed even the calling of applications for citizenship from stateless persons of Indian origin. It was supposed to begin by September 1965 but now it would start from early 1966. See Asian Recorder, vol. 11, no. 47, p. 6775.

As regards the second issue, i.e. that of repatriation, Dudley Senanayake had the feeling that the gist of the Agreement was that if the required figures were not met it should be the endeavour of the two governments to see that they were reached. The whole spirit of the Agreement was to try and get these figures voluntarily. Leaders of the FP were optimistic that during the first two years of the implementation of the pact, there would be no problem of repatriation because already 60,000 had volunteered to leave Ceylon. After that a reasonable working arrangement could be made to facilitate the smooth and quick repatriation.

The opposition, particularly the SLFP did not seem to share the optimism of the National Government. Apart from insisting on the separate electoral register, the SLFP leaders Mrs Bandaranaike also demanded that in case the Indian High Commission was unable to reach the target of 525,000 persons of Indian origin to be repatriated to India voluntarily, then the Ceylon Government should exercise compulsion to reach the

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9. Ceylon, PDHR, vol. 62, col. 432. Also Asian Recorder, vol. II, no. 39, p. 6876. "Replying to the opposition demand for a compulsory repatriation, the Premier refused to enter into a controversy but stated it was obligatory on the two Governments to fulfil the number entered into by them. There was no point in clouding the issue by introducing compulsion when it had not been included in the pact."

10. Asian Recorder, vol. 12, no. 26, p. 7123.

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However, her pleas could not convince Dudley Senanayake. Firstly, he felt that this would have been the acts of bad faith. Secondly, the Pact of 1964 did not contemplate such a situation. Moreover, the Ceylonese Prime Minister was also afraid that the sudden void caused by the large scale emigration would have a crippling effect on the Ceylonese plantation economy. As such, the mooted idea of compulsory repatriation died its natural death in the Indo-Ceylon Agreement (Implementation) Bill introduced in December 1966.

#### Enabling Legislation on the Pact

On 7 December 1966, Prime Minister Dudley Senanayake presented to Parliament a Bill<sup>12</sup> "to make all such legal provisions as may be necessary to enable and facilitate the implementation" of the Sirimavo-Shastri agreement.

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11. The Indian Express, 6 August 1965. She agreed that the Sinhalese were on the verge of extinction. "This tiny island is all that is left for Sinhala people and if foreign encroachment were allowed, the native inhabitants would have to jump into the sea." To illustrate, in a booklet entitled "The Future of the Sinhala and the Indo-Ceylon Question", she had stated that if there was no satisfactory solution to the Indo-Ceylon problem there was a likelihood of the Indians capturing Ceylon. She must have been daunted by the sheer size of its neighbour and some 34 million Tamils of India who were culturally, ethnically and religiously close to the Tamils in Ceylon.
  12. Ceylon. Indo-Ceylon Agreement (Implementation) Bill (Colombo, 1966).

Part one of the Bill, dealing with the administrative issue, provided for the appointment of a Commissioner for the registration of persons who was responsible for the implementation of the agreement. Besides, one or more Deputy and Assistant Commissioners working under the general control and supervision of the Commissioner were to be appointed. A Minister was to assume the overall charge of the administration exercising general direction and control over the subject.

Part two dealt with the mode of acquisition of Ceylon citizenship. It provided for a simple procedure for the conferment of citizenship. Unlike the earlier Citizenship Acts, it merely required the application on a prescribed form from the persons of Indian origin desirous of getting Ceylon citizenship within a specified period. It did not lay any criteria for the acquisition of citizenship. Again, the Bill vested absolute and irrevocable authority for granting or refusing citizenship in the executive and not in the Judiciary. The Minister's decision was final in this matter.

Article 11 of the Bill, containing the rights and obligations of citizens so registered, said:

Every person who ... subscribe the oath of or affirmation of citizenship in the prescribed form, and shall thereafter be entitled to the same rights and be subject to the same obligations and liabilities, in law, as persons registered as citizens of Ceylon under any other law in force relating to the registration of persons as such citizens....



This clause provided for equal status among those who had acquired citizenship by registration, but it seemed to keep them in a separate category vis-a-vis the citizens by descent. But so long as the government did not discriminate against the registered citizens, nothing could be said against this article.

Part three and four of the Proposed Bill dealt with the repatriation of Ceylon residents granted Indian citizenship. The Bill provided that such persons, soon after their registration, would be issued temporary residence permits and would be liable to repatriation at the discretion of the Ceylon government. The Bill, however, did not specify the period for which such permits were to be valid. The Bill made it obligatory for the captains of any ship or airship to carry such persons liable to be repatriated, failure to execute the order would land them into the law courts with the charge of an offence to the Act.

#### Debate on the Bill

The opposition leaders alleged, in course of the debate in the first and second reading of the Bill, that certain essential features of the Indo-Ceylon Agreement were ignored in the Bill. To begin with, the Bill did not specify the maximum number of persons on whom the citizenship was to be conferred. Felix R. Dias Bandaranaike of the SLFP argued

that the Bill gave "absolute powers" to the Minister to grant citizenship to every single one of these stateless people." AS such, the Bill gave rights to the Minister "far in excess of what we need to implement the Indo-Ceylon Agreement."<sup>13</sup> The ratio of 12 : 21 between naturalization and repatriation, as agreed upon in the Pact, was altogether ignored. The Bill did not mention the period of 15 year phased implementation of the Pact either.

The opposition also suggested that the Bill, instead of requiring maintenance of one register to be called Indo-Ceylon Agreement Citizenship Register, as mentioned in clause 5 of the Bill, should maintain four registers, viz., (a) of persons entitled to the citizenship of Ceylon in terms of the Indo-Ceylon Agreement; (b) of persons granted the status of Ceylonese citizens from time to time under this Act; (c) of persons liable to be repatriated to India in terms of the Indo-Ceylon Agreement; and (d) of persons who have been repatriated to India in terms of the Indo-Ceylon Agreement.

Further, the opposition took objection to sub-clause 13(1) of the Implementation Bill which provided that "where a person to whom Indo-Ceylon Agreement applies is recognized as citizen of India by the Government of India, then, such person shall, as from the date of such recognition, be a person liable

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13. Ceylon, PDHR, vol. 71, cols. 605-10.

to repatriation under this Act." "So repatriation is made", continued Felix Bandaranaike, "conditional upon recognition by the Government of India. As far as I can see that was never the agreement. Liability to repatriation is a separate and distinct matter".<sup>14</sup>

It was further contended that the Pact never referred to "mutuality" in regard to the conferment of citizenship by either country. The opposition leaders maintained that the tie-up was between grant of Ceylon citizenship and repatriation to India and not with mere registration as Indian citizens. However, they conceded that as far as possible repatriation should be voluntary but they consistently held the proposition that by accepting the numerical formula the Indian government had undertaken an obligation to take back a certain number, thereby tacitly accepting the principle of compulsory repatriation. But Dudley Senanayake would not allow this to happen as he had unequivocally assured the FP leader S.J.V. Chelvanayagam that there would not be compulsory repatriation of persons of Indian origin under the provision of the Indo-Ceylon Agreement (Implementation) Bill.<sup>15</sup> "How can I deport a man" argued the premier, "to a country of which he is not a citizen? If he is not a citizen of any country how can I deport

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14. Ibid., col. 624.

15. Asian Recorder, vol. 13, no. 11, p. 7583.

him. First he has to become a citizen of a country." <sup>16</sup>

Interestingly enough, during the debate on the Bill, the Opposition leaders (with the notable exception of R.G. Senanayake who had been known to hold rather extreme views on this problem) did not insist on separate electoral register for the persons of Indian origin accepted as Ceylon citizens. Significantly, and perhaps surprisingly, Mrs Bandaranaike did not even mention it in her speech in the Parliament. She merely maintained that the delimitation of the constituencies with fresh allocation of seats would automatically provide representation to the people of Indian origin as well as to "all the other communal interests in the area."

During the debate in the Parliament, members of the Opposition alleged that the Government was rushing through the Regulations with a view to granting citizenship to persons of Indian origin and conferring voting rights to them with an eye <sup>17</sup> on the next General Elections. However, this allegation was unfounded, as is evident from the fact that, Ceylon had conferred nationality on only about 7,500 persons of Indian origin, up to August 1970, and it can be anybody's guess of how much help such a small number could be to the UNP in 1970

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16. Ceylon, PDHR, vol. 71, cols. 626-27.

17. Ibid.

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elections.

In his reply to this criticism, Premier Dudley Senanayake declared that he had no hesitation in incorporating in the Act the maximum number to be granted Ceylon citizenship as well as the ratio stipulated in the Pact. He, however, made it clear that the ratio of 4:7 was to apply to the numbers in the two lists of citizens accepted through registration, maintained by the Indian High Commission in Colombo and the Ceylon Government, and not the number of persons actually repatriated to India. He expressed himself firmly against the 15 years deadline for the implementation of the Pact because of "practical difficulties" fraught with the danger of economic squeeze of millions of valuable foreign exchange.

Recognizing the importance of the issue, Dudley Senanayake proposed at this stage that the Bill be referred to the Standing Committee 'B' so that apart from the parlia-

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18. Patriot (Delhi), 1 September 1970. Ceylon has so far conferred nationality on only 7,500 persons. India had repatriated 12,800, out of 72,000 registered as Indian citizens till 31 August 1970. But the Indian High Commissioner in Colombo and Ceylon Foreign Minister were still discussing fresh proposals to solve the problem.

AS against this see Mrs. Bandaranaike's claim that together with the Ceylon Tamils, the registered Ceylon citizens would have "a decisive say in 72 electorates"... "with the Tamils in 20 pocket boroughs in the Northern and Eastern provinces it would mean that the minorities would be holding 92 of the 151 elected seats." The Indian Express, 8 August 1965.

mentarians, others interested in the subject could also make representations and suggestions.

The Standing Committee 'B' received about one hundred memoranda and heard evidence from about fifteen delegations during March-May 1967. Its report was tabled in the Parliament on 2 June 1967.<sup>19</sup> Some of the amendments suggested by the Opposition had been accepted by Prime Minister Dudley Senanayake. Thus sub-clause 8(3) of the amended Bill provided that the ratio of those granted Ceylonese and Indian citizenship would be 4:7 and sub-clause 8(4) ensured that, as provided for in the 1964 Agreement, not more than 300,000 persons of Indian origin would be granted Ceylon citizenship. In the place of one register, the amended Bill made provision for three registers, namely, (1) Indo-Ceylon Agreement Ceylon Citizenship Register; (2) Indo-Ceylon Agreement Indian Citizenship Register; and (3) Indo-Ceylon Agreement Repatriation Register.

During the third reading in the Lower House on 4-6 June 1967 the Prime Minister further assured the Opposition that without making statutory provision, he would make administrative arrangement to have two more registers of all those persons to whom the Indo-Ceylon Agreement applied and the other including

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19. Ceylon, House of Representatives, Report of Standing Committee "B" on Indo-Ceylon Agreement (Implementation) Bill together with the Minutes of Proceedings and Notes of Evidence (Colombo, 1967).

the names of the persons from among whom future Ceylon<sup>20</sup> citizens would be selected.

However, Dudley Senanayake did not budge in the face of opposition demand for synchronizing the grant of Ceylon citizenship with actual repatriation to India. In fact, he<sup>21</sup> openly admitted that there was a divergence between the Bill and the Pact in one respect, i.e., the grant of citizenship of Ceylon was in consonance with the grant of Indian citizenship and not with repatriation of those recognized as<sup>22</sup> Indian citizens to India. He contended that the most important facets of the problem was the necessity to identify the people of Indian origin either as Indian or Ceylonese citizens. This was the fundamental objective of the Indo-Ceylon Agreement which had been "fully met with in the Bill."<sup>23</sup> (of 1967).

The opposition parties, however, continued to complain that the Bill was "an implementation not of the Sirimavo-Shastri Pact, but of the political pact between Mr Senanayake and Mr Thondaman for the mutual advantage of both," and not for the national interest. "The bill", they maintained, "was

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20. Ibid.

21. Ceylon, PDHR, vol. 71, cols. 4701-8.

22. Ceylon Observer (Colombo), 11 June 1967.

23. Ibid.

a shoddy attempt to throw dust into the eyes of the people, at the direction of the interest represented by Mr. Thondaman, the FP and the Tamil Congress as the price of their political support."<sup>24</sup>

Edmund Samarakody, the Secretary of the LSSP (R), stated that,

... far from being a solution or a partial solution to the problem of the so-called stateless persons (it) is an attempt on the part of the U.N.P. Government - to win support of the Sinhalese masses and sow communalism....<sup>25</sup>

A SLFP member S.K.K. Suriyarachchi commented:

When the Indo-Ceylon Special Provision Bill was debated in Parliament the Government was so interested in giving voting powers to the 300,000 Indians that the opposition members felt that they were arguing with the Indian Prime Minister and his Ministers.<sup>26</sup>

The Bill generated a lot of heat which resulted in the formation of a "Api Sinhala" (We Sinhala) group which organized a mass rally on May 5 to protest against the possible enactment in which around 10,000 people took part.<sup>27</sup> Critics of the National Governments' Indo-Ceylon Agreement (Implementation) Bill planned to hold a mass rally at Dedigama as a part of the

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24. See the statement of Mr. Maithripale Senanayake. Sun (Colombo), 16 June 1967.

25. Daily Mirror (Colombo), 8 February 1967.

26. Sun (Colombo), 9 June 1967.

27. Ceylon Daily News, 11 May 1967.



sustained nationwide campaign of opposition to the Bill<sup>28</sup> which was to be spearheaded by the SLFP.

Notwithstanding such opposition, the Bill, after a marathon 15-hour session, was adopted on 5 June 1967 with 67 in favour and 33 against. In the Senate, the Bill managed to scrapethrough in the second reading by a bare margin of one vote but it was finally passed on 19 June with 16 voting in favour and 9 against. The Governor-General gave his assent on 20 June 1967 and the Bill became a statute.

The Government of India and the  
Implementation Process of the Pact

With the passing of the required legislation by Ceylon for conferring citizenship on the 300,000 persons of Indian origin, the Indian High Commissioner in Colombo began to make necessary administrative arrangements with a view to cope with the spurt in the number of applications for the Indian nationality.<sup>29</sup> Taking the fact into consideration that most of the people of Indian origin were living in the Kandyan areas, additional staff was recruited in the Kandy office of the Indian mission, 72 miles from Colombo. The hill capital of Ceylon is situated in the centre of the plantation areas.

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28. Ceylon Daily News, 11 and 14 May 1967.

29. The Hindu (Madras), 6 July 1967.

An experienced official of the First Secretary rank was appointed as the Assistant High Commissioner there.

It will not be out of place to mention that since October 1964 notwithstanding the inability on the part of the Ceylonese government in granting citizenship to the stateless persons without an "enabling" legislation, the Indian High Commission, as a goodwill gesture, had continued to grant Indian citizenship to bonafide applicants within the scope of Article 8 of the Indian Constitution. According to the annual report of the Department of Rehabilitation, Government of India, the number of persons granted Indian citizenship under the Indo-Ceylon Agreement of 1964, up to the end of December 1969 was 61,231. Out of this 13,243, had already returned to India.<sup>30</sup>

Meanwhile, active steps were being taken in India, particularly in the southern states, for rehabilitation programmes and procedures for repatriates to obtain rehabilitation benefits which would be announced from time to time by the Indian High Commission in Ceylon.<sup>31</sup> A Press release by the Indian High Commission in Colombo on 12 July 1967 spelt out the schemes for rehabilitation of the repatriates from Ceylon. It was announced that the Madras Government had

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30. Government of India, Department of Rehabilitation, Report 1969-70 (New Delhi, 1970), p. ix.

31. Asian Recorder, vol. 14, no. 19, p. 8299.

allotted about 3,000 acres of government land in the Nilgiris for plantation. The Government of Andhra Pradesh had been planning to absorb Ceylon Indians in the Coffee plantation and silk industry. Haryana and Punjab also offered assistance and incentive to repatriates to start small scale enterprises. Besides, Mr Jayasukh Lal Hathi, the Labour Minister, declared that the Government had a plan to rehabilitate some of them on plantations in the Andamans.<sup>32</sup>

The repatriates were to be given certain special facilities and concessions. The application forms for Indian citizenship were to carry clauses under which each applicant had to indicate the type of assignment he wanted after repatriation. "To ensure easy identification and with a view to giving prompt attention to the particular needs of the repatriates",<sup>33</sup> the High Commission, it was said, would issue a Repatriation Card to the head of each family. The Indian Government, it was ensured, would extend substantial custom concessions to the repatriates.<sup>34</sup> A note on "Facilities and Concessions" attached to the press statement elaborated that:

- (i) Priority has been accorded in the matter of appointment to posts and services under the Central Government through the Employment Exchange to persons repatriated under the Agreement.

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32. Ceylon Daily News (Colombo), 22 July 1967.

33. Times of Ceylon (Colombo), 13 July 1967.

34. Ibid.

- (ii) The age limit has been relaxed to 45 years (50 years for scheduled castes and scheduled tribes) for appointment through Employment Exchanges.
- (iii) Age and Fee concessions have also been granted in respect of appointments made through the Union Public Service Commission.
- (iv) The Government of India has devised a scheme for providing substantial tax concessions to private establishments who employ repatriates from Ceylon.

The note further stated that to facilitate resettlement of repatriates in professions such as lawyers, engineers, teachers and mechanics, etc., the question of recognition of certificates, diplomas, licenses, etc. issued by the Ceylonese authorities would be given sympathetic consideration.<sup>35</sup> Finally, the Indian Government also ensured facilities for their transport and reception.

The vista of employment opportunities was also being explored and widened. The Government of Karnataka and Madras were examining proposals for affording facilities to these people in newly developed plantation areas with loans. Besides, a scheme was also being drawn to provide employment to a substantial number of families in newly built industries. Even the provisions for easy instalment loans on priority basis and of the cash doles to needy families were also contemplated.<sup>36</sup>

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35. Ibid.

36. Ibid.

The announcement of the programmes for the repatriates was followed by a meeting in Madras of the Chief Ministers of Madras, Andhra Pradesh, Karnataka and Kerala, convened under the aegis of the Union Ministry of Rehabilitation, to work out the plan for rehabilitating the incoming Indians from Ceylon. In the meeting the Chief Ministers of Madras and Kerala agreed to give tax concessions to the estates absorbing these repatriates. Besides, it was decided that ten seats in each of India's industrial institutes would be reserved for the repatriates of 18-20 age group. It was also disclosed that the United Planters Association of South India had agreed to absorb 2,000 repatriate families immediately.<sup>37</sup>

### Conclusion

The implementation of the Indo-Ceylon Agreement of 1964 under the premiership of Dudley Senanayake was, no doubt, slow. The chief reason was the necessity for an 'enabling legislation' to confer Ceylon nationality on the persons of Indian origin because Ceylon did not have any constitutional provisions of the nature of article 6 of the Constitution of India. With the enabling legislation passed only in 1967 and the process starting only in 1968, the slow implementation was a foregone conclusion. Besides, Senanayake needed the

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37. Ceylon Daily News, 3, 6 and 8 August 1967.

support of Tamils for his political survival because of his thin majority in the Ceylonese Parliament.

Another question which was raised by a certain section in Sri Lanka was as to whether estates could withstand the exodus of over 525,000 workers. It was argued by a section that there was enough unemployment on the tea estates and about two lakhs Indian labour force (out of a total of about eleven lakhs) could be easily sent home without much repercussion on tea production.

However such a view needed to reckon with the attitude of Sinhalese labour force because of the ethos attached to their culture and way of life. The Annual Report of the state run Plantation Corporation is revealing in this respect:

The shortage of labour has been, and continues to be, a recurring problem. Though employment was found for 6,807 persons as against 6,558 persons in the previous year, there still remained at the end of the year 2,189 vacancies in labour grades. ... only a very small percentage find Estate work and conditions congenial to them. This shortage of labour has not only handicapped development programmes, but has also adversely affected the harvesting of crops. It would not be out of place to mention here, that had the corporation the necessary pluckers at Pelawatta, a further 100,000 lbs. of Made Tea could have been harvested. It is sometimes most depressing that despite all the facilities afforded to labour and the fact that there is considerable unemployment, there should still be this difficulty in obtaining the requisite labour. ... In spite of the hardships he has to undergo, the rural peasant is most reluctant to leave his traditional homelands. Therein lies the crux of the problem. There also still persists the magnetic attraction for white-collar jobs. ... 38

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38. Ceylon State Plantation Corporation, Annual Report 1965-1966 (Colombo, 1967), pp. 1-2. Italics mine.

However, the speedy repatriation of the Ceylonese labour force to India was likely to affect the Ceylonese Government in certain respects. No doubt, it was a matter of the loss of some 525,000 estate workers, or possibly more because the fate of 150,000 persons was undecided and their natural increase was bound to swell the number. The repatriation of the persons of Indian origin gave rise to doubts and scepticism in practically everybody's mind, whether the Ceylon Government could afford to spend some Rs.500 million in foreign exchange because repatriates were permitted to carry with them their assets, provident fund and gratuity (Dudley Senanayake talked about practical difficulties). "The implementation of the Pact", declared Prime Minister Dudley Senanayake, "will to a great extent be conditioned by the availability of foreign exchange." Thus the 15-year period stipulated in the 1964 Agreement would have imposed a heavier economic strain than the country could bear.

It is most probable, therefore, that because of the likely repercussions of a large-scale emigration of the estate workers on tea production (thence on the country's economy), together with the drain of the indispensable foreign exchange to the tune of Rs. five hundred million, the Prime Minister of Ceylon shelved the 15-year programme of phased repatriation to India.

Thanks to the regular interchange of power between the UNP and the SLFP we come across striking shifts in emphasis in

foreign policy exercises by different Prime Ministers resulting in a system of "nullification and reintroduction" and the Sirimavo-Shastri Pact could not escape such an ordeal. The divergences of interpretation and difficulties, combined with the "prevailing party political situation in Ceylon have been largely responsible for the delay in the implementation of the Agreement."<sup>39</sup> The uncertainty again loomed large with the sweeping victory of Mrs Bandaranaike and her partners in the elections of 1970.

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39. S.U. Kodikara, "Indians in Ceylon: Problems and Prospects", in Anirudha Gupta, ed., Indians Abroad: Asia and Africa (Delhi, 1970), p. 73.



Chapter V

THE PACT UNDER THE U.F. GOVERNMENT

## Chapter V

### THE PACT UNDER THE U.F. GOVERNMENT

#### Introduction

The resumption of premiership by Mrs Bandaranaike after a lapse of five years, gave a new fillip to the foreign as well as domestic policies. The United Front (UF) comprising the Sri Lanka Freedom Party, the Lanka Sama Samaj Party and the Communist Party scored a decisive and landslide victory in the 1970 poll securing an overwhelming majority of 116 seats in the House of Representatives comprising 151 elected and 6 nominated members.

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#### 1. The Party position in:

	<u>1970</u>	<u>1965</u>
SLFP	91	41
LSSP	19	10
UNP	17	66
CP	6	4
FP	13	14
TC	3	3
MEP	-	1
JVP	-	1
Independents	2	6
LPP	-	5

Details given in Ceylon. Report on the Sixth Parliamentary General Elections of Ceylon. Sessional Paper 20 of 1966 (Colombo, 1966), p. 30 and Ceylon. Report on the Seventh Parliamentary General Elections in Ceylon 27th May 1970. Sessional Paper 7 of 1971 (Colombo, 1971), p. 42.

The beginnings of UF Government was characterized with a spurt in economic nationalism and growing radicalism. Its policy aiming chiefly at reducing alien control in the private sector and facilitating state control over the country's economy. This led to the formulation of various measures such as the imposition of visa tax and curbs on the export-import trade by non-nationals.<sup>2</sup> Such measures affected a large number of Indians in Sri Lanka. Further to give a fillip to the policy of Ceylonization, the UF government introduced the Business Undertakings (Acquisition) Bill on 27 October 1970.<sup>3</sup> Also in pursuance of the above mentioned

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2. Ceylon, Parliamentary Debates, House of Representatives (hereafter referred to as Ceylon, PDHR), vol. 93, col. 1541. The Hon. Member from Nikawaratiya (Mr. M. Tennekoon) wanted to know how much was collected from this tax. I can give him the details now. In 1960-61 we collected Rs.3.4 million; in 1961-62, Rs.5.5 million; in 1962-63, Rs.4.2 million; in 1963-64, Rs.3.6 million; and in 1964-65, Rs.2.4 million. After that year this tax was not collected. We hope as I said before, to be able to collect Rs.3 million more or less", said Mrs Bandaranaike. Ibid., col. 1539.

"After a period of stabilization Indo-Ceylon relations appear to be coming under some strain again, despite official claims to the contrary several steps taken by the new government in Colombo since Mrs. Bandaranaike took over as Prime Minister can hardly be viewed differently." The Statesman (New Delhi), 7 November 1970.

3. For details see Ceylon, PDHR, vol. 91, col. 569 and vol. 93, cols. 278, 281, 283 and 287.

policy, the government of Ceylon abolished the whole category of temporary residence permits (majority of Indians had this). This was done with a view to exploring job opportunities for the 'indigenous' population. The massive cut in the import of Indian films and periodicals was introduced to facilitate the growth of local industries, besides, saving valuable foreign exchange. The cry against the so-called 'paper invasion' from India was also a by-product of the policy of ceylonization. A committee was formed headed by the Post and Telecommunication Minister, C. Kumarasuriar, which recommended that the import of Indian periodicals should be channelled through the news agents appointed by publishers and Tamil periodicals should be made available on a restricted basis.

To some extent, economic nationalism leading to such actions seemed to account for the emphasis which the UF government had placed on the speedy implementation of the Indo-Ceylon Pact of 1964. Thus, during his budget speech of 1970-71, the Finance Minister Dr N.M. Perera underlined the job prospects for the Ceylonese after the repatriation of the persons of Indian origin.

#### The UF And the Pact Implementation

Soon after the assumption of office by the UF, the Governor General had declared that the Indo-Ceylonese Pact of

1964 would be implemented soon.<sup>4</sup>

It was necessary because almost five years after the promulgation of the Pact only 12,798 had been repatriated. As regards Ceylon, in accordance with the ratio stipulated in the agreement, it had already fulfilled its quota by granting citizenship to 7,316 persons up to 30 June 1970. In addition, 1,226 children born after the date of the agreement had also been granted Ceylonese citizenship.<sup>5</sup>

No doubt the pact actually meant the repatriation, on an average 35,000 persons of Indian origin every year. But it was Ceylon which enacted an act substituting registration for repatriation envisaged in the Pact of 1964 as late as 1967. Moreover, during Dudley Senanayake's term (1965-70) the repatriation of Indian estate workers did not take top priority in his scheme of things. So we have about twelve and a half thousand persons repatriated in the said period. The reasons for this slow implementation have been discussed in the previous chapter. Besides these, Premier Senanayake had a very short period in which he could hardly have produced a better result. After piloting the "enabling legislation" in 1967 he had only two and a half years at his disposal to

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4. Ceylon Daily News (Colombo), 17 June 1970.

5. News Review on South Asia (Indian Institute for Defence Studies and Analyses, New Delhi) (hereafter referred to as IDSA), August 1970, p. 267.

initiate the Pact into action. It is also worth recalling that the period for inviting applications had been fixed from March 1968 to April 1970.

In contrast to this, the first 2½ years of Mrs Bandaranaike's tenure witnessed a sharp rise in the number of persons registered and repatriated to India as is evident from the Table below:

Table - A<sup>6</sup>

	Registered as Indian Citizens	Repatriated to India	Granted Ceylon Citizenship
From 30 October to June 1970	70,879	13,733	8,519
From July 1970 to the end of December 1973	1,15,062	92,690	52,294

### Puri Plan

Meanwhile as a gesture to expedite the pace of repatriation to India, the Indian High Commissioner in Colombo had put forward a plan popularly known as Puri Plan.

6. For details refer to India, Parliamentary Debates, Rajya Sabha, vol. 74, no. 16, col. 14 and ibid., vol. 83, no. 5, cols. 124-137. Also The Hindustan Times (New Delhi), 1 July 1970; The Motherland (Delhi), 22 February 1974 and News Review on South Asia (New Delhi), March 1974, p. 302.

Under the plan India suggested a new procedure by which the persons of Indian origin who had bonafide claims for Indian citizenship would be allowed to go to India and then conferred Indian nationality. The provident fund claims of potential Indian citizens was to be decided on the recommendation of the Indian High Commissioner.

Political observers in Sri Lanka, however, commented that the new procedure would be contrary to the "letter and spirit of the Pact and would act as "disincentive" for Indians to return home. Consequently it would result in the further delay in the implementation of the Agreement.<sup>7</sup> Commenting on the subject a couple of months later, the Ceylon Daily News observed:

... the real danger lies somewhere.... The Indians know as well as we do that human cargo which moves illegally from their shore to ours is as heavy as the traffic as large as the contraband which goes the other way. The two-way traffic is in fact co-ordinated and is remarkably businesslike. A 'stateless' person is repatriated to India without Indian citizenship. He is chalked up in our books (and showily in Mr Puri's list) as one of the promised 50,000. He comes back illegally. We catch him - if we are lucky (5 get away to each one caught). He is now an illegal immigrant and Ceylon has to prove to the satisfaction of the Indian High Commissioner ... that the man is Indian. 8

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7. Ceylon Daily News, 28 August 1970.

8. Ibid., 4 October 1970. "This is a gift horse that must be looked in the mouth with a cold and vigilant eye."

Though the government of Ceylon discussed the plan on 15 November 1970 under the chairmanship of Mrs Bandaranaike, the plan presumably failed to receive a favourable response. Consequently the plan, though a novel idea, died prematurely because of governmental apathy and sceptical public opinion in Sri Lanka.

Notwithstanding the credibility gap of the Puri Plan and Dudley Senanayake's "inaction" vis-a-vis the problem of the stateless persons, Mrs Bandaranaike again made a march to achieve in what her predecessor had failed. She staged another 1964 in 1971.

#### The 1971 Amendment

In pursuance of her zeal to repatriate the persons of Indian origin to India soon, Mrs Bandaranaike initiated an amendment to the Indo-Ceylon Agreement (Implementation) Act of 1967, which was adopted by the House of Representatives on 20 June 1971. This brought on track again the procedure of repatriation-registration as stipulated in the Sirimavo-Shastri Pact. During the debate, Mrs Bandaranaike declared in the House that she "had to bring this amendment in order to keep strictly to the terms of the Pact. The amendment to Section 8 is to incorporate the provisions of the Indo-Ceylon Agreement of 30 October 1964 that the number to be granted Ceylon citizenship will be in proportion to the number repatriated to India."<sup>9</sup>

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9. Ceylon, PDHR, vol. 94, col. 1245.



Further Mrs Bandaranaike regretted the delay in the implementation of the Pact during the last seven years.

"We could have repatriated", she maintained, "about 150,000 persons to India but we had not sent back even the one-fourth of this number. We are dedicated to implement the pact in letter and spirit and we will repatriate them as quickly as possible."<sup>10</sup>

During the debates, Dudley Senanayake, leader of Opposition, tried to justify his piloting of the Indo-Ceylon Agreement (Implementation) Act of 1967 by saying that the time bound repatriation programme of the persons of Indian origin would have cost at least Rs.28 million each year in precious foreign exchange which the country could ill-afford.<sup>11</sup> He added:

I think the exchange situation is worse today. Therefore, I do not know whether that Rs.28 million every year could be put aside for the purpose of implementing the agreement as it stands, in its entirety. 12

This argument was brushed aside by the SLFP as "absolute non-<sup>13</sup>sense both in arithmetic as well as in fact." Felix R.D.

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10. The number so far recognized for Indian citizenship by the Indian Government is 84,923, and the number repatriated so far is 26,414, when really 150,000 persons at least should have left the shores of Ceylon in the last six years," Mrs Bandaranaike lamented. Ibid.
  11. Ceylon, PDHR, vol. 94, cols. 1454-55.
  12. Ibid.
  13. Ibid., col. 1462.

Bandaranaike commented further:

If a man happens to have money he must be allowed to take up to Rs.75,000 and the minimum below which we are not permitted to reduce it is the exchange control limit of Rs.4,000. That is not the same thing as saying that there is a minimum of Rs.4,000 and the maximum of Rs.75,000 as stated by the hon. Member.... 14

### Indian Parliament on the 1971 Amendment

Curiously enough, the Government of India which had kept silent during the passage of 1967 Act faced some angry exchanges from the Opposition members in the Lok Sabha on 23 June 1971. M. Kalyanasundaram, a CPI member, criticized the provision that ~~different~~ punishment was to be given to the employers if they continue to employ persons who had obtained Indian citizenship.<sup>15</sup> He rapped the government of India for overlooking such an important amendment and for ignoring its implications.<sup>16</sup> Kalyanasundaram said that "... unilaterally that Government takes steps to amend their Act and it is a matter of serious concern for us as a large number of persons would be forcibly repatriated to India."<sup>17</sup> Era Sezhiyan, a DMK member also displayed his anger at the inactivity on the part of the Government of India. He said:

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14. Ibid., col. 1463.

15. India, Lok Sabha Debates, vol. 4, col. 134.

16. Ibid.

17. Ibid., col. 135.

"The latest amendment to the 1967 Act makes another departure and makes the conditions stringent, for the so-called stateless people there."<sup>18</sup>

Defending the stand taken by the Government of India, Surendra Pal Singh, Minister of State for External Affairs, said that "the present amendment is to the Ceylonese domestic legislation of 1967 and not to the 1964 Indo-Ceylon Agreement," and "...it only brings their own enactment in line with the 1964 agreement. It does not come into conflict with the 1964 agreement."<sup>19</sup> The vehemence with which the amendment of 1971 was defended by the Indian government might have gratified the Ceylonese government. Manifesting the Ceylonese sense of satisfaction, the Ceylon Daily News characterized the deliberations in the Lok Sabha as "most assuring."<sup>20</sup>

In fact the Government of India had already accepted and endorsed Colombo's intended programme of action at the time of the Lusaka Conference of September 1970. Ceylon was given to understand by Swaran Singh, India's Foreign Minister, that the legislation enacted by Dudley Senanayake no doubt gave India a more favourable basis than the treaty concluded

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18. Ibid., col. 138.

19. Ibid., cols. 134 and 137.

20. Ceylon Daily News, 25 June 1971. "Our correspondent in New Delhi recorded the spirited and unequivocal defence of recent Ceylonese legislation by Mr Surendra Pal Singh, India's Minister of State". Ibid.

between Lal Bahadur Shastri and Mrs Bandaranaike. However, Swaran Singh minced no words in stating that "we stand by the treaty. Your legislation is irrelevant as far as we are concerned."<sup>21</sup>

Meanwhile, the progress made in the implementation of the agreement in nearly three and a half years was not to the satisfaction of Mrs Bandaranaike. It was as follows:

22  
Table - B

<u>Year</u>	<u>No. of Persons Repatriated to India</u>
1970	8,733
1971	21,867
1972	27,575
1973	33,172

This implied that notwithstanding her efforts, Mrs Bandaranaike had not succeeded in fulfilling the stipulated number of 35,000 persons' repatriation every year. Also, by 1972 it was realized by her that the number of persons desirous of acquiring Ceylonese citizenship was far in excess of the number stipulated in the pact. Thus she appealed

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21. Ceylon, PDHR, vol. 94, col. 1461.

22. News Review on South Asia (IDSA, New Delhi), March 1974, p. 302.

to the Indian Prime Minister Mrs Indira Gandhi to reopen the register in the Indian High Commission which was closed in April 1970. Mrs Bandaranaike wanted the extension of time to enable the persons of Indian origin whose applications for Sri Lanka citizenship were rejected, to apply for Indian nationality. Informing the House on 15 December 1972 she declared that "there were 240,000 applications covering 625,000 persons" for Ceylonese citizenship. This means that only 400,000 had applied for Indian citizenship.<sup>22</sup> Under the circumstances, Mrs Bandaranaike requested Mrs Gandhi to send a delegation to discuss the matter.

Accordingly a ten-member delegation of Indian officials headed by the Foreign Secretary Kewal Singh arrived in Colombo on 13 February for a four-day visit. It was reported that the talks had deadlocked on two issues - (1) the Ceylonese proposal that India reopen its list, and (2) the increased rate of annual repatriation.

These issues appeared to have been the basis of Mrs Gandhi's discussion with her counterpart in Sri Lanka when she visited the island from 27 to 29 April 1973.

The Indian Prime Minister  
in Sri Lanka

During her visit it was agreed that India would absorb over the next eight to nine years a progressively increasing

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22. Asian Recorder (New Delhi), vol. 19, no. 4, p. 11199.

number of Sri Lanka residents of Indian origin who had opted for Indian citizenship, from 35,000 persons annually to nearly double that figure. The duration of the agreement was also extended up to 1982. (originally 1979).

However, the Indian government did not seem inclined to the Ceylonese request for the reopening of the register for the registration of the repatriates.<sup>23</sup> India believed that the cases of 400,000 persons, who had applied for Indian citizenship should be disposed of before considering new applications. India also felt that if Ceylon were to reject more applications, involving another 3,25,000 persons, the number of rejected applicants would have far exceeded the 525,000 persons which India had agreed to take back.

Further India was unwilling to reopen the register presumably on the grounds that there was no guarantee that the residue of 150,000 not covered by the Agreement would not apply for Indian citizenship. India agreed that fresh applications would not be made on a voluntary basis and the Ceylon Indians would seek Indian citizenship not because they were anxious to become Indian citizens but because they were unable to secure citizenship of their choice. However, it is interesting and surprising to note that Mrs Bandaranaike did not raise the issue of the problem of the residue number

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23. Ibid., no. 30, p. 11511.

left over in the 1964 Pact. In fact, if she was interested in solving the problem once and for all, she should have gone ahead in the direction of complete solution of the problem. May be, perhaps, she again wanted Delhi as a successful venue for bilateral negotiations.

Mrs Bandaranaike in New Delhi and  
Conclusion of 1974 Agreement

Mrs Bandaranaike came to India on 22 January 1974 for a week long tour to solve a "few issues". It was during this visit that the issue of residue which was not covered by the Indo-Ceylonese Pact of 1964 and India and Sri Lanka pledged to share the remaining 150,000 persons of Indian origin.

Under the January 1974 agreement, India agreed to take back 75,000 persons. Ceylon, on the other hand, assured India that till their repatriation they would be allowed to enjoy all existing facilities in Sri Lanka. The process of repatriation of these persons was to begin only after 525,000 persons of Indian origin covered by the 1964 agreement had crossed over to India. This generated the expected warmth in the field of Indo-Sri Lanka relations and this at least in principle, closed the chequered chapter of Indian question.

Conclusion

The tenure of Mrs Bandaranaike can be said to have achieved some results on the question of the problem of stateless persons of Indian origin. She was well aware of

the fact that repatriation process was slow and positive steps were needed to hasten it. Thus she reintroduced the tie-up of the repatriation registration figures. The purpose was to speed up the tempo of repatriation. But the 1971 amendment also did not yield expected results. This is evident from the repatriation-registration figures achieved under the UF regime. The average number of persons repatriated annually was far less than the stipulated number of 35,000 persons to be repatriated per year.

The massive need of foreign exchange was perhaps the major reason for the slowing down of the repatriation process despite the amendment Act, as well as for the failure of the Puri Plan. No doubt the Puri Plan was very attractive in its outfit but was fraught with the danger of illicit immigration which the Ceylonese could hardly overlook.

The blame for the failure of Puri Plan should be equally divided between India and Sri Lanka. It is a fact that this plan was practically sound and would have gone far ahead in the path of the solution of the problem. Sri Lanka suspected the increase if they accepted the plan in toto. In this regard India could have modified the plan to include the grant of Indian citizenship to the stateless persons before their departure from Sri Lanka. This would have allayed the suspicion from the minds of the people of Sri Lanka had India displayed its willingness to help. This would have saved the Plan.



The visit of Mrs Gandhi to the island only called for a ten per cent increase in the number of annual repatriation to India and nothing was done about the persons whose fate was left undecided under the 1964 Pact. Mrs Bandaranaike's visit to India in 1974 facilitated the solution of the problem of this category of persons numbering 150,000. However, this agreement, too, failed to solve the problem once and for all because of the discrepancy between the number of stateless persons covered by these two agreements and the actual number of the stateless persons of Indian origin.

In her speech in the National State Assembly on 21 February 1974 Mrs Bandaranaike claimed that the Indo-Sri Lanka problem which had dragged on for the past forty years was solved during the tenure of her government. This is an idealistic claim because the complete solution is years ahead even under the terms of the agreements concluded. So long as the persons of Indian origin are not given respective citizenship of the either country, the problem can be said to persist. And such a process, as will be discussed in the final chapter, is replete with many 'ifs' and 'buts'.

Chapter VI

C O N C L U S I O N

## Chapter VI

### C O N C L U S I O N

A major irritant in India-Sri Lanka relations, the problem of the political status of persons of Indian origin in Sri Lanka has been, in the main, a legacy of the British imperialism. The import of labour by the colonial power from the Southern parts of India during nineteenth and early twentieth centuries led to the germination of the problem. Cheap labour from India contributed to the growth of plantation economy of the island, which, apart from facilitating the economic development of the country brought in rich dividends to the imperialists.

Though the omnipresence of the British Empire on the sub-continent facilitated the retention of the problem on a low key, the highly emotive and manifold dimensions of the issue did lead to the unofficial discussions as well as inter-governmental negotiations during the colonial period which however proved abortive.

Soon after independence the Prime Minister of Sri Lanka enacted the new Citizenship Laws under which most of the persons of Indian origin failed to attain the nationality of the country of their adoption. As most of them did not apply for Indian citizenship, a large majority of 'Indian Tamils' became stateless. By 1964 their number had swelled to about one million.

The enactment and the rigorous implementation of the Citizenship Laws was a part of the Sinhalese campaign for a compact, homogeneous society in which the Sinhalese culture, religion and language could flourish. The fear of 'being swamped' by the Tamil element was exacerbated by the presence of Indian Tamil estate workers, whose political credentials as Ceylonese citizens, in any case, were suspect. Historical memories of Tamil invasion from time to time also played their role in such a threat perception of the Sinhalese.

As regards India, Nehru continued to maintain that the 'Indian Tamils', after their long-drawn stay in the island 'are or ought to be its nationals'. But the government of Ceylon argued that a large number of them had no 'abiding interests', that they sent regular remittances to India and had maintained very close and continuous cultural, educational and economic links with the country of their origin. Most of them, thus, were 'birds of passage' and as such were Indian nationals. Under the circumstances Sri Lanka could absorb only a certain number of Indian Tamils who had proved to have shown an abiding interest in the island.

Though, the concept of 'absorbable maximum' was touched by S.W.R.D. Bandaranaike, as early as 1940s, the first three premiers of post-independent Sri Lanka seemed to have divergent figures as 'absorbable maximum'. The figures

varied from 50,000 to 300,000. Such a numerical approach, however, did not gain favour with Nehru.

In 1964, Lal Bahadur Shastri's assumption of power after Nehru's demise, and premier Mrs Bandranaike's resolve to settle the problem facilitated the break-through, leading to the signing of the historic Pact of October 1964. This exploded the myth about India that "...there was hardly a single neighbour on any of her frontiers with whom she had<sup>1</sup> been able to settle any question by peaceful negotiations." Continuing, in the same vein, Felix R. Dias Bandaranaike stated in the House of Representatives that

We are rather proud to think that Ceylon should have been the first neighbour to settle some question with the Government of India by means of negotiations and by the peaceful procedure of discussion. 2

There is no denying the fact that the Sirimavo-Shastri Pact is a landmark in the realm of Indo-Sri Lankan relations but its implementation is still beset with many hurdles. As has already been mentioned, till 1970, very little progress was achieved regarding the grant of citizenship by both the countries, especially Ceylon. The resumption of office by Mrs Bandaranaike no doubt accelerated the pace of

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1. See Ceylon, Parliamentary Debates, House of Representatives (hereafter referred to as Ceylon, PDHR), vol. 71, col. 633.

2. Ibid.

registration. The progress made in the years after 1970 is in contrast to the rather slow pace of implementation by Dudley Senanayake. But her claim in the National State Assembly on 21 February 1974 that the Indo-Sri Lankan problem which had dragged on for so long was solved during the tenure of her government seems exaggerated. She was, of course, instrumental in signing both the agreements of October 1964 and January 1974 but these in themselves do not solve the problem altogether. Rather they demand more attention and action if they have to be implemented in "letter and spirit".

To begin with, in April 1973 it was agreed upon by the prime ministers of the two countries that 'statelessness' in Sri Lanka would come to an end by 1982. This implies that both the countries would honour the terms of 1964 pact by granting citizenship to the one million stateless in the stipulated ratio of 7:4.

Up to the end of 1973, 185,942 persons have been recognized by the Indian High Commission as citizens of India. Of this number 106,423 have been repatriated till January 1974. 60,813 persons have been granted Sri Lanka citizenship in the ratio of 4 granted citizenship to 7 repatriated to India. The progress of repatriation is on an average of 11,202 persons with the maximum number of repatriates being 33,172 in 1973 and the minimum being 512 in 1965. If the repatriation is carried out at this rate it takes nearly 38 years for Sri Lanka

to repatriate the remaining 4,21,176 persons of Indian origin to India. However, if the repatriation takes place at the 1971, 72, 73 level, or at an average of 27,538 persons per year the process of repatriation might be completed even earlier. But it would not be before 1989.

Article 7 of the 1964 Pact clearly stipulates that "...such of these persons as are gainfully employed on the date of this agreement shall continue in their employment until the date of ~~their repatriation~~...until they attain the age of 55 years, whichever is earlier". While the Pact secures continued employment for those employed on the date of the Agreement it does not naturally extend to persons who were not employed on that date. This really causes great miseries to the persons of Indian origin in the face of the policy of Ceylonization as much as in the context of increasing unemployment on the estates. Secondly, there is the question of prospective employment of persons who might not have attained the employable age, that is 14 years. In view of all these facts plus the fact that there is seasonal and partial employment on the estates, the absence of a clear interpretation of these lapses might create divergence of views on the part of Ceylon and India besides creating tremendous hardships to the persons of Indian origin in the plantation sector.

Ironical as it may appear, Mrs Bandaranaike will need to reject the applications of the persons of Indian origin for Sri Lanka citizenship as expeditiously as possible to enable

them to apply for Indian nationality. Otherwise India cannot step in to help Sri Lanka extricate herself out of the quagmire. In other words, there needs to be a tie-up between registration and rejection on the basis of 50-50 in Sri Lanka.

Besides, the 1964 Pact did not take into account the question of natural increase but left a discrepancy in the figures. When the applications for Ceylon citizenship were invited during 1968-70, it was done on the basis of 1964 population figures. It did not include the natural increase in the population of the Indian Tamils. Thus, when both the governments later pledged to share 150,000 persons of Indian origin, it, in fact, should have been marked at 200,000. However, since both India and Sri Lanka have agreed in principle to share equally the residue population, this should not create any complications.

Furthermore, the figures mentioned so far have not taken note of the illicit immigrants in the island. In this context the figures given in a press handout issued by the Ceylon High Commission at New Delhi in 1970 are revealing. According to the handout, the number of persons of Indian origin living in Ceylon totalled about 14,80,000 in October 1970. They are classified in the following broad categories:

- (1) 1,60,000 persons who obtained Ceylon citizenship under the Ceylon citizenship, the Indian and Pakistani Residents (Citizenship) Act and Indo-Ceylon Agreement (Implementation) Act.



- (2) 10,80,000 of the so-called "stateless" category the majority of them being covered by the Sirimavo-Shastri Pact of 1964.
- (3) 4,000 Indian passport holders.<sup>3</sup>
- (4) 2,00,000 illicit immigrants.

These 2,00,000 illicit immigrants are potential stateless persons of Indian origin of which both the governments have to take cognizance. The sooner they take up the case of persons not covered by the Sirimavo-Shastri Pact of 1964 and Sirimavo-Gandhi Agreement of 1974 the better.

Meanwhile, according to the rehabilitation authorities in New Delhi, 19,056 families had been repatriated to India till January 1973. They were mostly resettled in tea, coffee and rubber plantations in the Southern states and in the Andamans.<sup>4</sup> The repatriates on arrival in India got loans to finance business, construction of houses and the like. The Tamil Nadu and Andhra Pradesh governments have been authorized to resettle the repatriates in agriculture under the land commission scheme at a cost of up to Rs.4,659 per family provided the value of assets brought by them did not exceed the limit. Repatriates who returned to cultivate their land were given financial assistance ranging from Rs.3,103 to Rs.4,359 depending on the size of the land holding. But this is a

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3. Ceylon Daily News (Colombo), 28 December 1970.

4. Times of India (New Delhi), 6 February 1973.

meagre sum. The Government of India should give more incentive to the would-be repatriates who could hope to restart their life in India without much difficulty. Here the Government of India could consider the establishment of a guidance bureau to facilitate a better use of the money granted as loans.<sup>5</sup>

Finally, in the face of the acute foreign exchange crisis in Sri Lanka, howsoever strong willed Mrs Bandaranaike may like to be, she may not succeed in accelerating the pace of repatriation. It was the economic consideration that led Dudley Senanayake to jettison the 7:4 ratio of registration and repatriation. One way out of this foreign exchange dilemma of the Sri Lanka government could be the grant of loans by India to cover the remittances of the persons repatriated, or the governments of both the countries could negotiate for the formation of an India-Sri Lanka Rupee Bank with facilities for the repatriates to draw the equivalent amount in India.

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5. "Immigrants in Their Homeland: Tamil Repatriates Return from Sri Lanka", Economic and Political Weekly (Bombay), vol. 10, no. 8, pp. 353-56.

APPENDICES

Appendix A

Table IV

POPULATION OF CEYLON - CENSUS 1971 (PROVISIONAL)  
BY DISTRICT AND RACE AND THE PERCENTAGE

Districts	All races	Low-Country Sinhalese	Kandyan Sinhalese	Ceylon Tamils	Indian Tamils	Ceylon Moors	Indian Moors	Burghars and Eurasians	Malays	Others
1	2	3	4	5	6	7	8	9	10	11
Ceylon	100.0	42.8	29.1	11.1	9.4	6.5	0.2	0.3	0.3	0.1
Colombo	100.0	80.1	3.1	6.3	2.3	5.5	0.3	1.2	1.0	0.3
Kalutara	100.0	85.8	1.0	1.1	5.3	6.6	0.1	0.0	0.1	0.0
Kandy	100.0	11.2	51.0	4.2	24.5	8.5	0.4	0.2	0.3	0.1
Matale	100.0	12.0	62.1	3.6	15.3	6.4	0.3	0.1	0.2	0.0
Nuwara Eliya	100.0	8.4	32.9	4.7	51.7	1.5	0.3	0.2	0.2	0.0
Galle	100.0	93.4	0.8	0.5	2.1	3.0	0.1	0.1	0.0	0.0
Matara	100.0	93.2	0.6	0.3	3.3	2.5	0.0	0.0	0.0	0.0
Hambantota	100.0	96.2	0.9	0.5	0.1	1.3	0.0	0.0	1.0	0.0
Jaffna	100.0	0.7	2.2	92.1	3.4	1.4	0.1	0.1	0.0	0.0
Mannar	100.0	3.0	1.6	51.0	17.5	24.4	2.4	0.1	0.0	0.0

contd. on next page

1	2	3	4	5	6	7	8	9	10	11
Vavuniya	100.0	15.2	11.1	61.6	14.8	6.7	0.3	0.1	0.0	0.2
Batticolos	100.0	2.1	2.3	67.7	3.1	23.7	0.2	0.9	0.0	0.0
Amparai	100.0	11.4	19.0	22.0	1.4	45.4	0.4	0.3	0.1	0.0
Trincomalee	100.0	15.1	13.7	35.2	3.0	31.6	0.4	0.7	0.3	0.0
Kurunegala	100.0	17.3	75.2	1.3	1.3	4.4	0.2	0.1	0.1	0.1
Puttalam	100.0	71.5	9.9	6.5	1.6	9.8	0.2	0.1	0.2	0.1
Anuradhapura	100.0	21.5	68.6	2.2	0.8	6.5	0.2	0.0	0.1	0.1
Polonnaruwa	100.0	28.7	61.0	3.2	0.6	6.4	0.1	0.0	0.0	0.0
Monaragala	100.0	18.6	71.2	1.7	6.1	2.1	0.0	0.0	0.1	0.1
Ratnapura	100.0	16.9	62.6	1.7	17.0	1.3	0.3	0.1	0.1	0.0
Kegalle	100.0	75.5	76.2	1.9	9.6	4.5	0.2	0.0	0.1	0.0

Source: Statistical Abstract of Ceylon 1970-71 (Colombo, 1974),  
Table 18, p. 36.

Appendix B

POPULATION OF CEYLON BY RACES IN CENSUS YEARS

Table I

	(Thousands)				
	1931 (1)	1946	1953	1963	1973 (7)
All Races	5,306.4 (2)	6,657.3	8,097.9	10,582.2	12,711.1
Low-country Sinhalese	2,216.2	2,902.5	3,469.5	4,470.3	5,445.7
Kandyan Sinhalese	1,256.8	1,718.0	2,147.2	3,042.6	3,701.0
Ceylon Tamils	598.9	733.7	884.7	1,164.7	1,415.6
Indian Tamils	818.5	780.6	974.1 (3)	1,123.0	1,195.4
Ceylon Moors	289.6	373.6	464.0	626.8	824.3
Indian Moors	36.3	35.6	47.5 (4)	55.4	29.4
Europeans	9.2	5.4	6.5	- (6)	- (6)
Burghars and Eurasians	32.3	41.9	46.0	45.9	44.3
Malays	16.0	22.5	25.4	33.4	41.6
Veddahs	5.2	2.4	0.8	0.4	- (6)
Others	27.4	41.1	32.2 (5)	19.5	14.0

- (1) Estimated on a prorata basis on the figures of the 1921 census.  
 (2) Excluding the number of persons included in the total of 442 persons of unspecified sex and race enumerated at the partial census of 1931.  
 (3) Relates to all Indians.  
 (4) Relates to all Pakistanis.  
 (5) Relates to races not specified above.  
 (6) Included in "Other Races".  
 (7) Provisional

Source: Statistical Abstract of Ceylon 1970-71 (Colombo, 1974), p. 34.

Table II

POPULATION OF CEYLON BY RELIGION FOR CENSUS YEARS

(Thousands)

Census Year	Buddhists	Hindus	Muslims	Christians	Others
1931 (1)	3,266.6	1,166.9	354.2	518.1	1.0
1946	4,294.9	1,320.4	436.6	603.2	2.3
1953	5,209.4	1,610.5	541.5	724.4	11.9
1963	7,003.3	1,958.4	724.0	884.9	11.4
1971 (2)	8,567.6	2,239.3	909.9	986.7	7.6

(1) Estimated on a pro rata basis on the figures of the 1921 census. The figures include 442 persons of unspecified sex enumerated at the partial census of 1931.

(2) Provisional.

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Source: Statistical Abstract of Ceylon 1970-71 (Colombo, 1974), p. 37.

Appendix C

Table I

POSITION OF PARTIES (BY PROVINCES) AFTER THE  
MARCH 22, 1965 ELECTIONS

Provinces	UNP	SLFP	FP	LSSP	IND	SLFSP	CP	TC	MEP	NVP	Total Number of seats
Western	14	14	-	5	-	-	1	-	1	-	35
Central	17	6	-	-	-	-	-	-	-	-	23
Southern	8	3	-	2	1	2	3	-	-	-	19
Northern	-	-	10	-	-	-	-	3	-	-	13
Eastern	3	2	4	-	2	-	-	-	-	-	11
North-Western	12	2	-	-	2	-	-	-	-	-	16
North Central	1	5	-	-	-	2	-	-	-	-	8
Uva	3	5	-	-	1	-	-	-	-	1	10
Sabaragamuwa	8	4	-	3	-	1	-	-	-	-	16
Total Seats	66	41	14	10	6	5	4	3	1	1	151

Note: Six more members were to be appointed by the Governor-General.

R.G. Senanayake (Ind. Dambadeniya) rejoined the SLFP in July 1965.

Charlie Edirisuruja (SLFP - Tissamaharana) resigned from the SLFP in August 1965 and joined the UNP.



Table 2

POSITION OF PARTIES (BY PROVINCES) AFTER  
JULY 1960 ELECTIONS

Province	SLFP	UNP	FP	LSSP	CP	MEP	LPP	JVP	TC	IND	No. of Seats
Western	15	8	-	7	2	2	-	-	-	1	35
Central	15	8	-	-	-	-	-	-	-	-	23
Southern	11	2	-	1	2	1	2	-	-	-	19
Northern	-	-	10	-	-	-	-	-	1	2	13
Eastern	2	1	6	-	-	-	-	-	-	2	11
North-Western	10	5	-	-	-	-	-	-	-	1	16
North-Central	6	1	-	1	-	-	-	-	-	-	8
Uva	6	2	-	-	-	-	-	2	-	-	10
Sabaragamuwa	10	3	-	3	-	-	-	-	-	-	16
Total Seats	75	30	16	12	4	3	2	2	1	6	151

Source: H.W.W. Abeynaike (ed.), Parliament of Ceylon 1965  
(Colombo, 1965).

Appendix D

TEXT OF FIRST INDIA-CEYLON AGREEMENT  
ON IMMIGRATION

[Issued in New Delhi on February 13, 1954]

Whereas certain proposals relating to illicit immigration of Indians into and citizenship rights for persons of Indian origin in Ceylon were made in an instrument signed at New Delhi on the eighteenth day of January in the year one thousand nine hundred and fifty-four by the respective Plenipotentiaries and Representatives of the Government of India and the Government of Ceylon duly authorised for that purpose, which instrument is, word for word, as follows:

"The Prime Ministers of Ceylon and India, accompanied by some of their colleagues, met in conference in New Delhi on January 16, 17 and 18, 1954, and considered fully the problems of people of Indian origin in Ceylon. As a result of these discussions, certain proposals were framed by them, which will now be placed before their respective Governments.

These proposals are:

Illicit Immigration

1. Both Governments are determined to suppress illicit immigration traffic between the two countries and will take all possible steps, in close cooperation with each other, towards

that end. Periodical meetings between high Police authorities on either side of the Palk Strait may be held and information relating to illicit movements exchanged.

2. The Government of Ceylon propose to undertake the preparation of a register of all adult residents who are not already on the electoral register and will maintain such registers up-to-date. When this registration is completed, any person not so registered will, if his mother-tongue is an Indian language, be presumed to be an illicit immigrant from India and liable to deportation and the Indian High Commissioner will extend all facilities for implementation of such deportation.

3. The Government of Ceylon may proceed with the Immigrants and Emigrants Amendment Bill which throws on the accused the onus of proof that he is not an illicit immigrant; but before that the Government of Ceylon will give an opportunity to the Indian High Commissioner to satisfy himself that a prima facie case exists for such prosecution, the final decision being that of the Government of Ceylon.

#### Citizenship

4. The registration of citizens under the Indian and Pakistani (Citizenship) Act will be expedited and every endeavour will be made to complete the disposal of pending applications within two years.

5. All persons registered under this Act may be placed by the Government of Ceylon on a separate electoral register, particularly in view of the fact that the bulk of the citizens do not speak the language of the area in which they reside. This arrangement will last for a period of only 10 years. The Government of Ceylon agree that in certain constituencies where the number of registered citizen voters is not likely to exceed 230, they shall be put on the national register.

6. Citizens whose names are placed in the separate electoral register will be 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. The Government of Ceylon expect to complete their action in this respect before the present Parliament is dissolved in 1957.

7. In regard to those persons who are not so registered, it would be open to them to register themselves as Indian citizens, if they so choose, at the office of the Indian High Commissioner in accordance with the provisions of Article 8 of the Constitution of India. It is noted that Ceylon proposes to offer special inducements to encourage such registration and that these inducements will be announced from time to time. The Government of India will offer administrative and similar facilities to all persons of Indian

origin to register themselves as Indian citizens under the Constitution of India, if they so choose, and will also give publicity to the availability of such facilities.

8. Both Prime Ministers are desirous of continuing the present practice of close consultation between the two Governments in matters effecting their mutual interests.

JOHN KOTELAWALA,  
Prime Minister of Ceylon.

JAWAHARLAL NEHRU,  
Prime Minister of India.

New Delhi;  
18th January, 1954."

Appendix E

TEXT OF SECOND INDIA-CEYLON AGREEMENT  
ON IMMIGRATION

[Issued in New Delhi on October 10, 1954]

A Conference was held on October 9th and 10th, 1954 in New Delhi, to consider certain problems relating to persons of Indian origin resident in Ceylon. The Conference was attended by a delegation from Ceylon led by the Prime Minister of Ceylon and a delegation led by the Prime Minister of India. The Conference discussed these problems fully and frankly, and in a spirit of friendly and co-operative endeavour to overcome the difficulties that had arisen.

2. There was a basic difference of opinion between the two delegations in regard to the status of people of Indian origin in Ceylon. The Ceylon Delegation stated that it has always been the position of Ceylon, as it still is, that such persons continue to be citizens or nationals of India unless and until they are accepted as Ceylon citizens. The Ceylon Delegation could not therefore accept the position that any of these persons are stateless. The Indian Delegation stated that only those persons of Indian origin who are already in possession of Indian passports and passes, or who have been registered at the Indian High Commission under Article 8 of the Constitution of India are Indian citizens. Other persons of

Indian origin who are not either Ceylon citizens or Indian citizens are therefore at present stateless. It was further stated that there could be no automatic conferment of Indian nationality on persons belonging to this category.

3. The Conference also considered the Indo-Ceylon Agreement of January 18, 1954, and the misunderstandings that had arisen in regard to its implementation. In that Agreement it was provided that the registration of citizens under the Indian and Pakistani (Citizenship) Act would be expedited, and every endeavour would be made to complete the disposal of pending applications within two years. It was further stated that in regard to persons not so registered it would be open to them to register themselves as Indian citizens, if they so choose, at the office of the Indian High Commissioner in Ceylon in accordance with the provisions of Article 8 of the Constitution of India. It was further provided that the Government of India would offer administrative and similar facilities to all persons of Indian origin to register themselves as Indian citizens under the Constitution of India, if they so choose, and would also give publicity to the availability of such facilities.

4. While these two processes of registration have continued, the pace of such registration has been slow and certain difficulties have arisen. Complaints have been made by both sides about certain procedures which come in the way

of full implementation of the Agreement and have created misunderstandings.

5. As there appeared to be a basic difference in the approach of the two countries to the problem of the status of persons of Indian origin resident in Ceylon, it was decided that the practical course was to recognise this difference and to proceed as rapidly as possible with the two processes of registration as Ceylon citizens or as Indian citizens, and thus to reduce the number of those persons who at present were not accepted either as Ceylon citizens or as Indian citizens. In this way the number of such persons would be progressively reduced and would be more amenable to further consideration at a later stage. It was recognised by both Governments that it was undesirable to have a large group of persons who could not be accepted as citizens of either country. It was agreed, therefore, that these processes of registration should be expedited.

6. It was agreed that in regard to those persons who are not registered as Ceylon citizens, it would be open to them to register themselves as Indian citizens if they so chose. The Indian High Commissioner will entertain all applications made to him for registration as Indian citizens under Article 8 of the Constitution of India, and will grant every facility for this purpose, subject to satisfying himself that the applicants have the prescribed qualifications under



the Indian law. Applications will not be refused on the ground that an applicant had earlier applied to the authorities in Ceylon for registration as a citizen under the law of Ceylon.

7. The procedure for registration as citizens of Ceylon will be simplified as far as is possible, within the terms of the law, so as to complete, as far as <sup>may be</sup> practicable, the disposal of applications within the time mentioned in the Indo-Ceylon Agreement of 1954. The Ceylon Government will examine, with a view to their withdrawal, any executive instructions of a restrictive nature, issued by the Ceylon authorities, which result in the rejection of such applications on purely technical grounds.

8. The Ceylon Government will resume the practice of issuing Identity Certificates for travel abroad to all persons of Indian origin resident in Ceylon whose applications for Ceylon citizenship are pending. The issue of such certificates will be governed by the rules and conditions which apply to Ceylon citizens. Exchange facilities for remittances of money out of Ceylon by such persons will be the same as those available to Ceylon citizens.

The Indian High Commissioner will issue Identity Certificates for purposes of travel to persons of Indian origin whose applications for registration as Indian citizens are pending before him.

The Indian High Commissioner will issue Identity Certificates citizens and the Ceylon Government will give such persons remittance facilities, as before.

9. The Governments of the two countries earnestly hope that the steps mentioned above will in the time contemplated, i.e., 2 years resolve to a substantial degree the problem of persons of Indian origin resident in Ceylon by their registration either as Ceylon citizens or as Indian citizens. At the end of this period and when the registrations under the Indian and Pakistani (Citizenship) Act are completed, the position will be reviewed with a view to deciding what further steps may be needed to deal with the problems of the residue that may be left. The Ceylon Government for its part states that it will in addition have to consider what steps may be necessary at that stage to safeguard the interests of its own citizens in regard to such matters as employment. It was stated on behalf of the Government of India that while every effort should be made to promote employment, as stated by the Ceylon Government, this should not involve, in their opinion, any coercion or victimization of those persons of Indian origin who may still remain unregistered either as Ceylon citizens or Indian citizens. The measure of success attained in dealing with this problem will depend largely on a friendly and co-operative approach of all parties and every effort should be made to encourage this friendly approach.

10. It was stated on behalf of the Ceylon Government that it intends in the meanwhile to introduce a scheme enabling persons of Indian origin now in employment in Ceylon who may hereafter acquire Indian citizenship to continue in such employment till the age of 55 years, when they may be required to leave the country, and that it has under consideration a scheme for the payment under such conditions as may be prescribed, of gratuities to such persons when they leave the country. Such persons will also be given social and medical benefits no less favourable than those which may be provided for workers of the same category who are Ceylon citizens.

11. The two Governments will exchange information regarding lists of registration etc. from time to time to ensure effective co-operation in carrying out these arrangements.

Appendix F

TEXT OF THIRD INDIA-CEYLON AGREEMENT ON  
STATUS AND FUTURE OF PERSONS OF  
INDIAN ORIGIN IN CEYLON

[Issued in New Delhi on October 30, 1964\_7

The main heads of agreement are as follows:

- (1) The declared objective of this agreement is that all persons of Indian origin in Ceylon who have not been recognised either as citizens of Ceylon or as citizens of India should become citizens either of Ceylon or of India.
- (2) The number of such persons is approximately 975,000 as of date. This figure does not include illicit immigrants and Indian passport holders.
- (3) 300,000 of these persons together with the natural increase in that number will be granted Ceylon citizenship by the Government of Ceylon; the Government of India will accept repatriation to India of 525,000 of these persons together with the natural increase in that number. The Government of India will confer citizenship on these persons.
- (4) The status and future of the remaining 150,000 of these persons will be the subject matter of a separate agreement between the two governments.

- (5) The Government of India will accept repatriation of the persons to be repatriated within a period of 15 years from the date of this agreement according to a programme as evenly phased as possible.
- (6) The grant of Ceylon citizenship under paragraph 3 and the process of repatriation under paragraph 5 shall both be phased over the period of 15 years and shall, as far as possible keep pace with each other in proportion to the relative numbers to be granted citizenship and to be repatriated respectively.
- (7) The Government of Ceylon will grant to the persons to be repatriated to India during the period of their residence in Ceylon the same facilities as are enjoyed by citizens of other states (except facilities for remittances) and normal facilities for their continued residence, including free visas. The Government of Ceylon agrees that such of these persons as are gainfully employed on the date of this agreement shall continue in their employment until the date of their repatriation in accordance with the requirements of the phased programme or until they attain the age of 55 years, whichever is earlier.
- (8) Subject to the Exchange Control Regulations for the time being in force which will not be discriminatory against the persons to be repatriated to India, the

Government of Ceylon agrees to permit these persons to repatriate, at the time of their final departure for India, all their assets including their Provident Fund and gratuity amounts. The Government of Ceylon agrees that the maximum amount of assets which any family shall be permitted to repatriate shall not be reduced to less than Rs.4,000/-.

- (9) Two registers will be prepared as early as possible, one containing the names of persons who will be granted Ceylon citizenship, the other containing the names of persons to be repatriated to India. The completion of these registers, however, is not a condition precedent to the commencement of the grant of Ceylon citizenship and the process of repatriation.
- (10) This Agreement shall come into force with effect from the date hereof and the two Governments shall proceed with all despatch to implement this Agreement and, to that end, the officials of the two Governments shall meet as soon as possible to establish joint machinery and to formulate the appropriate procedures for the implementation of this agreement.

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