

Genocide against the Tamil People

DISCRIMINATORY LAWS AND REGULATIONS

Convention on the Prevention and Punishment of the Crime of Genocide:

Article 2

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part”

Introduction

A genocidal onslaught that targets a distinct national community can always take different forms. Although, the physical extermination of a given population can be the most rapid and blunt method of implementing such a policy, there are more ‘sophisticated’ strategies of doing so. As Lemkin himself stressed, ‘genocide does not necessarily mean the immediate destruction of a nation, except when accomplished by mass killings of all members of a nation.’ While sporadic violence targeting the economic life, selective assassinations and periodically orchestrated pogroms can certainly be components of any genocidal policy, the ‘law of the land’ can also be reinforced to disguise, enhance and legitimise a protracted policy of genocide.

Any efforts to scrutinise and analyse the Sri Lankan state policy towards the Tamil community, at least since ‘40s, can definitely provide an important window to understand the genocidal potential of seemingly ‘legitimate state policy’. This document envisage to shed light on some of the most prominent policy measures implemented in the history under the pretext of upholding the ‘law of the land’ in order to expose the extremely destructive essence of the Sri Lankan state’s genocidal policies.

The Disfranchisement of the plantation Tamils

In our document on the historical context of the conflict and the role of the British Empire, we have discussed at length, how the Tamil people living in the tea plantation areas, mainly in the central highlands, became the first victims of racially motivated attacks of the Sri Lankan state in 1948 and 1949. Interestingly enough, in 1928, in the course of the discussion on the Donoughmore Commission proposals in the State Council, D.S.Senanayake famously said:

"We do not want to get rid of anyone from this Island. Let us live together; let us be citizens of this country and not citizens of any other.... We want the Indians in Ceylon to be Ceylonese; to be domiciled here.... We do not deny them citizenship.... We would welcome the Indians as Ceylonese, but if they have no permanent interests in Ceylon, then let them be Indians; let them look after themselves. They must be either citizens of India or Ceylon.... We do not want to differentiate. We do not want to discriminate. We

do not consider Indians as aliens.... We tell them 'Become part of ourselves, become Ceylonese, and then share in the Government'.... That is our position, and I hope that our friends will not for their own purposes misinterpret us, but will appreciate our real attitude in this matter".¹

But in a matter of months after becoming a dominion, the same Senanayake, now the Prime Minister of the country, turned his guns towards the most exploited and oppressed community in the island, the plantation Tamils, who lived segregated in line house in tea estates, away from the general trend of life without being allowed to settle down in nearby villages. Through **Ceylon Citizenship Act no. 18 of 1948** and **Indian and Pakistani Residents (Citizenship) Act of 1949**, they were stripped of their citizenship rights which were followed by a third act, **Ceylon (Parliamentary Elections) Amendment Act, no. 48 of 1949**, legalising the denial of their voting rights.

The bills were blatant violations of Article 29 (2) of the Island's Constitution drafted by British Soulbury Commission before granting Dominion status. The flimsy provision barred the state from making *'persons of any community or religion liable to disabilities or restrictions to which persons of other communities or religions are not made liable.'*² Despite the rhetoric, the British Empire let the Senanayke's Dominion Government act in the way they did, since the colonialists had their own reasons to do so. For an example, from a **'Top Secret Report', dated 09th June 1947**, sent to the Cabinet jointly by the Chief of the Air Staff Marshal of the Royal Air Force, Chief of the Imperial General Staff and Vice Chief of the Naval Staff concerning 'Defence Requirements in Ceylon' stated:

"There is always a danger of India (especially Congress India) interfering in Ceylonese internal politics and promoting discontent among the powerful Indian minority....Such disorders, however provoked, would have a serious effect upon the working of our service establishments. Although the Ceylon Government should be responsible for internal security, in the event of the situation becoming beyond her

¹ Quoted in a speech made by Tamil senator S. Nadesan, at the Ceylon Senate on 15 September 1948. / Ceylon Hansard,

² Section 29 of the Soulbury Constitution. (2008). In R. Edirisingha, M. Gomez, V. Thamilmaran & A. Welikala (Eds.), *Power Sharing in Sri Lanka: Constitutional and Political Documents 1926-2008* (p. 204). Colombo: Centre for Policy Alternatives.

capacity to control and our defence interests being threatened, we should reserve the right to introduce forces, and to take action as necessary to protect our interests.”³

As a consequence of the citizenship bills, over 700,000 Tamils became stateless overnight. It was, in fact, the hard labour of the Tamil plantation workers that made a large welfare state possible in the first place. For example, according to official statistical records, the tea production rose to an average 120,000 metric tons in the war years and had peaked in 1948 at 137,000 metric tons. ‘...about 40 per cent of gross national income of Ceylon in 1950 was derived from exports and about 30 per cent of gross national expenditure was on imported consumption goods. Nearly 95 per cent of export earnings were from tea, rubber and coconut products’⁴ while tea remained as the major export crop. The Sri Lankan state generously spent the revenues to launch massive peasant colonisation schemes while providing free education, free health care, free milk feeding, free meals for school children and subsidies on essential goods, whereas the people who generated the revenues were left out as aliens who were denied even the fundamental democratic right of voting. Instead, they were presented as ‘parasites’ intending to oust the ‘Sinhalese out of their traditional areas’ by way of expansion.

Shocked by the openly racist character of the citizenship bills, one of the leading Tamil politicians at the time, S.J.V.Chelvanayagam, said in the State Council, in 1948: “*You are now hitting at the weakest section of the Tamils. You are hitting at the innocent and the meek that are labouring in the chill and the cold of the hill-country plantation regions producing your wealth. We will know where we stand when our turn comes next, we will know when the next piece of legislation in this series comes, the one dealing with our language.*”⁵

Many believed that he was carried away by his anger triggered by the discriminatory nature of the Citizenship Bills. But in point of fact, his words reflected a prophetic truth than emotional outrage.

The Sinhala Only Act

³ Cabinet Paper (47) 179 : 09 June 1947 / The National Archives, UK

⁴ Nanjundan, S. (1952, April 15). *Economic Development of Ceylon*. Economic Weekly, p.353.

⁵ Navaratnam, V. (Toronto:1991). *The Fall and Rise of the Tamil Nation*. (pp. 48-49).

At the dawn of twentieth century, it was the Tamil political leaders who became the most outspoken and vigorous advocates of the use of indigenous languages and fought for vernacular education. Long before anyone from the Sinhala elite stressed the need to use the Sinhala language, the Tamil political leadership championed the cause and appealed to the Sinhala masses, to use their mother tongue instead of feeling inferior to the English language. In a speech delivered on the 3rd of September, 1903 at a ceremony held in one of the foremost Sinhala Buddhist schools in Colombo, Ponnambalam Ramanathan, the famous Tamil politician said: *"First and foremost, (the cause of the denationalisation of the Sinhalese) is the utter neglect of the use of the Sinhalese language amongst those who have learned to speak English....I have asked these denationalised Sinhalese gentlemen, 'Will you tell me what constitutes a Sinhalese man?' Not knowing the answer, they have remained silent. I then asked them, 'Do you take delight in speaking the beautiful Sinhalese language at your homes, and among your friends when you meet in railway carriages and other places, and on public platforms' They feebly smiled.....Am me! If Sinhalese lips will not speak the Sinhalese language, who else is there to speak it?"*

And he went on to say: *"The man who speaks Sinhalese....without any admixture of foreign language, who can roll out sentence after sentence in pure Sinhalese, charged with sober sense, inspiring and grand to hear is a Sinhalese man indeed....If you cannot or will not speak your native language on public platforms, in railway carriages and in drawing-rooms, and will not stand up for your national institutions, then I say none of you deserve to be called Sinhalese, 1,800,000 Sinhalese will soon dwindle to nothing. The nation will be ruined, and we must await with trembling knees the early destruction of the Sinhalese language."*⁶

Ramanathan was not alone in adopting a broader approach towards promoting Sinhala language. Since the outset of Jaffna Youth Congress (JYC) in 1920s, the teachers associations in predominantly Tamil north worked in close liaison with the JYC and supported their campaign for a broad Ceylonese nationalism. As Jane Russell points out, during the 1931 election boycott campaign, teachers were at the forefront of the JYC

⁶ Wickramasuriya, S. (1976). *A Study of the Educational Ideals of Sir Ponnambalam Ramanathan*. The Sri Lanka Journal of the Humanities, ii(2), 89-107.

agitations, demanding complete independence to the island instead of colonial ‘reforms.’ The members of the associations were known to be quite outspoken about building the north south unity. In 1930, for example, the President of the Jaffna Town Teachers Association urged:

*“The best results could be obtained by using the mother tongue as the medium of instruction. The education of the country must be built behind some national aims. It must create a nation of young Ceylonese, proud of their country.”*⁷

Ironically, it was a Tamil member from the eastern province who moved a resolution in the State Council calling that ‘teaching of Sinhala in Tamil schools and the Tamil in Sinhala schools be made compulsory’. The Tamils overwhelmingly endorsed the idea, which was well reflected in an editorial published in the ‘Hindu Organ’ in Jaffna:

*“We can hardly disguise our joy at the passage of this motion. There is not that atmosphere of complete trust and confidence between the Sinhalese and Tamil communities which there should be. The State should see that each child is taught in the religion of its parents and the languages of the country. We put it to the Tamils that the Sinhalese may not feel the need for Tamil, but for us a good working knowledge of Sinhalese is of the utmost importance.”*⁸

Jane Russell vividly describes the collective mood of enthusiasm prevailed in the Tamil areas: *“In 1938, Sinhalese classes were started at the Classical School, Jaffna and Sinhala classes were conducted for Tamil teachers in Hindu schools by the Hindu Board of Education. It became the policy of the Hindu Board in 1940,....that all Hindu schools and colleges in Jaffna teach Sinhala as a compulsory subject. On December 22, 1938, the Northern Province Teachers Association had passed a unanimous resolution that the teaching of Sinhala and Tamil be made compulsory in all schools in Ceylon, a resolution which the Jaffna Youth Congress endorsed in 1939.”*⁹

But there was no widespread excitement in the south of the island to match the raging

⁷ Russell, J. (1982). *Communal Politics under the Donoughmore Constitution 1931-1947*. (p. 117). Colombo: Tisara Prakasakayo

⁸ Russell, J. (1982). p. 274

⁹ Ibid.

nationalist fervour in the north to promote both Sinhala and Tamil languages, just as it had been the case during JYC's election boycott campaign¹⁰ in 1931. Instead of reaching out to the Tamil people, the Sinhala elitist leadership demonstrated their arrogant determination to become the master race of the country. In May 1944, an emerging leader of the Ceylon National Congress, J.R.Jayawardane (*who declared an all out war against the Tamils after being elected to become the first Executive President in 1977*), moved another resolution in the state council proposing that '*Sinhalese should be made the medium of instructions in all schools*' and that '*Sinhalese should be made a compulsory subject in all public examinations.*'¹¹ Tamils, who were taken by surprise by the resolution after all their effort to promote both languages against the dominance of the English language, condemned the idea as a show of supremacist attitudes. **Congress stalwart Jayawardane responded by reawakening the British invented mindset of a 'sub-continental minority' who are destined to be absorbed by a 'hostile India':**

*"...The great fear I had was that Sinhalese, being a language spoken by only three million people in the whole world, would suffer if Tamil is also placed on an equal footing with Sinhalese. The Influence of Tamil literature, a literature used in India by forty million, and the influence of Tamil films and Tamil culture in this country I thought might be detrimental to the future of the Sinhalese language."*¹²

The Tamil hopes for a broader Ceylonese nationalism against the colonial dominance was ignored and betrayed again. What next to come was obvious. In 1955, ten years after Jayawardane expressed his fears about 'forty million Tamils in India', the new Sinhala crusader, **S.W.R.D. Bandaranayake repeated the same 'fears'** while speaking in favour of a 'Sinhala Only' policy:

*"With their books and culture and will and strength characteristic of their race, the Tamils (if parity were given) would soon rise to exert their dominant power over us."*¹³

In the following year, 1956, Bandaranayake swept to power in a landslide, leading a new

¹⁰ See the detailed description on JYC, provided in the document dealing with the British Complicity.

¹¹ Ceylon Hansard, 1944 (May 24), Cited in *Selected Speeches of J.R.Jayawardane* (1974), p.74

¹² *Ibid.*, p.7

¹³ Daily News (Colombo: 08 November 1995)

Sinhala coalition. Immediately afterwards, Official Language Act No.33 was passed in Parliament, by a vote of 56 to 29, making Sinhala, the sole official language, amidst protests by Tamil people and the leftwing parliamentary groups. The bill was unofficially termed as the “Sinhala Only Act” which replaced English with Sinhala as the sole official language.

The outrage and shock expressed by many Tamil parliamentarians were overwhelming after voluntarily making an effort to arouse an interest to learn the Sinhala language among the Tamil masses in the 30s. *‘This, I say, is political treachery of the worst type’* said one Tamil parliamentarian while another Tamil MP representing the Communist Party of Sri Lanka lamented: *“You will never crush the spirit of a people fighting for existence. You will never make it forget its history....Outside the battles of the working class for its right and its life, I cannot think of a fight more righteous and ennobling than the one which the Tamil people are today beginning for their language.”* Out of sheer anger and frustration, one MP asked, *“If this is not tyranny.....what is tyranny?”*¹⁴

When the Bill was presented in June 1956, around 200 Tamils convened by the Tamil parties launched a non-violent direct action campaign – or a *‘Satyagraha’*, as coined by Mahathma Gandhi during the Indian freedom struggle - to resist the language bill. As they peacefully sat in front of Colombo’s parliament building, the police and the Sinhala hooligans were called in by the ruling politicians. Writing his memoir, a veteran Tamil politician who were present at the scene, retrospectively wrote: *“The moment the volunteers and leaders reassembled at the hotel end, a waiting mob of more than a thousand Sinhalese toughs ell on them like a pack of wolves in a most inhuman and cowardly attack. [The satyagrahis] were thrashed at felled prostrate on the ground. Their placards were seized and the wooden poles used as clubs. Some were trampled upon, kicked, beaten and spat upon. Not a single ‘Satyagrahi’ raised his hand in retaliation.....The police stopped the satyagrahis at the northern end of the Galle Face Green and blocked their way to the precincts of Parliament House.....As the day advanced, and the Colombo Harbour workers were let out, the mobs swelled until about*

¹⁴ DeVotta, N. (2004). *Blowback: Linguistic Nationalism, Institutional Decay and Ethnic Conflict in Sri Lanka*. (pp. 89-90). California: Stanford University Press.

mid-day and an estimated 100,000 crowded....Tamils spotted on the road were beaten up and thrashed. ...Many prominent Tamil professionals and others were caught, stripped and thrashed. The violence spread throughout the City of Colombo, to the roads, public transport, shops, business houses; wherever Tamils were seen, they were attacked."¹⁵

The outcome of the Bill was far reaching. Reflecting upon the consequences of the Sinhala Only Act, a Sinhala academic writes: "*The passage of the Sinhala-Only Act marked the first major step towards the "Sinhalaisation of the Sri Lankan state"....The Tamil speaking people were given no option but to learn the language of the majority if they wanted to get public service employment.....A large number of Tamil public servants had to accept compulsory retirement because of their inability to prove proficiency in the official language....For them [Tamils], it symbolised an explicit rejection of assimilation by the majority community.*"¹⁶

The drastic drop of Tamil representation in public sector was enormous. 'From 1956 to 1970, the proportions of Tamils employed by the state fell from 60 to 10 percent in the professions, from 30 to 5 percent in the administrative service, from 50 to 5 percent in clerical service, and from 40 to one percent in the armed forces.'¹⁷

Education Standardisation

Despite the governments kept changing every five years, allowing the two dominant Sinhala parties (United National Party - UNP & Sri Lanka Freedom Party - SLFP) to mutually exchange power, the state policies towards the Tamils remain unaffected. For example when the UNP initiated its' campaign by stripping plantation Tamils of their citizenship rights, the SLFP crushed the Tamil language by making Sinhala as the official language. Likewise, the 1956 and 1958 anti Tamil pogroms were instigated by the SLFP, while the UNP orchestrated the biggest anti-Tamil pogroms in July 1983. The very fact that the change of state power had no effect what so ever on the racist onslaught against

¹⁵ Navaratnam, V. (Toronto:1991). pp. 106-107

¹⁶ Navaratna-Bandara, A. M. (2002). *Ethnic Relations and State Crafting in Post-independent Sri Lanka*. In W. Nubin (Ed.), *Sri Lanka: Current Issues and Historical Background* (p. 63). New York: Nova Science Publishers.

¹⁷ Timberman, D., & Gwendolyn, G. B. (USAID: 2001). *Sri Lanka Democracy and Governance Assessment*. Retrieved from website: http://pdf.usaid.gov/pdf_docs/PNADI157.pdf

the Tamil people confirms that the Sinhala supremacist behaviour is an intrinsic characteristic of the British created unitary state, and hence a very much a structural issue that needs to be seriously investigated. What it unleashed was, in every sense of the Lemkin's definition, is 'a coordinated plan of different actions aiming at the destruction of essential foundations of the life of the Tamil people.'

However, as the Sinhala Only Bill effectively succeeded in diminishing Tamil representation in the public sector, the guns were turned towards the area of professional services. By 1970, despite a rapid decrease in Tamil representation in public sector, there was a considerable percentage of Tamils entering medical and engineering fields. *'Up to 1971, individuals entered universities on the basis of competitive examinations conducted at national level, and marks were given on a uniform basis. Those who scored highest gained access to different faculties in universities irrespective of their ethnicity or districts from which they came.'* As pointed out by a report published by Minority Rights Group in 1996, *while there was no bias inherent in this system Tamils from Jaffna and Colombo did particularly well. For example, in 1969-1970 intake science and engineering courses, Tamils constituted 35%, while they constituted over 45% of the intake of engineering and medical faculties.'*¹⁸

The newly elected government led by Sirimavo Banadaranayake, the widow of the previous Prime Minister, was determined to shift the path in order to place direct hurdles to the Tamils who were entering universities. But this was a lethal blow to an already disillusioned and frustrated generation in the north and east. While their lands were taken away in order to settle Sinhala peasants under new colonisation schemes in the east and then barred from entering the public service as clerks and administrative officers through the official language policy, the only escape route the Tamil youth had was the education. But *'from 1971 onwards, a new system was introduced, which ensured that the number of students qualifying for university entrance from each language was proportionate to the number of students who sat for university entrance examination in*

¹⁸ Perera, S. World Bank, (2001). *The Ethnic Conflict in Sri Lanka: A Historical and Socio-political Outline*. (P.11) Retrieved from website: http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2012/03/28/000333037_20120328010832/Rendered/PDF/677060WP00PUBL0io0political0Outline.pdf

that language. In real terms, this meant that Tamil speaking students had to score much higher than Sinhala speaking students to gain admission to universities. This also meant that for the first time, the integrity of university admission policy was tampered with by using ethnicity as a basis. In 1972, a district quota system was introduced in order to benefit those who not having adequate access to educational facilities within each language stream....These changes had a serious impact on the demographic patterns of the university entry. The Tamil representation in science based disciplines fell from 35.3% in 1970 to 19% in 1975. The Sinhala representation in all disciplines increased quite dramatically. In 1975, Sinhalese accounted for 78% of places in the science based disciplines while in the humanities and social sciences they held over 86% of the placements.'

The closure of path to enter the professional service further increased the frustration among the youth who were very much angered by the state brutality displayed towards any non-violent resistance. Moreover, as a new constitution was introduced in 1972, ending the dominion status of the country and renaming it as a 'Republic', further steps were taken to fan the flames of discontent among Tamils. The new constitution repelled the nominal protection given to minorities under Article 29(2) in the 1946 constitution apart from legally declaring Sri Lanka as 'Unitary State'. The separation of powers as ensured by the previous constitution was abolished by Article 5 which instead invested in the National Assembly the judicial, legislative and executive power of the state. Article 126 made explicit that the appointment of judicial officials would be appointed by the cabinet of ministers. Chapter 2 Article 6 of the constitution declared that : 'The Republic of Sri Lanka shall give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster Buddhism...' and thus making Buddhism as the state religion, while official status given to Sinhala language was reasserted.

Endless discrimination in areas such as employment, land ownership, education and culture pushed the youth to rethink the validity of the strategies of their previous generation, which appeared more and more pointless in the face of state repression. The discriminatory policies were made to become the 'law of the land' and a 'way of life'. The increasing importance given to political patronage to gain employment and other

state benefits further justified the decision of a new generation to resort to violence. As a progressive Sinhala scholar observed: “*The system of recruitment on political patronage also favored the Sinhala youth. Irrespective of the regime being UNP or SLFP, opportunities existed for Sinhala youth to build up patron client linkages with local politicians and press themselves forward. The Tamil youth, especially those of the north and the east, did not enjoy this advantage, as their local politicians represented regional ethnic parties, enjoying no power at the centre. Thus the expansion of the public sector was not merely an increase in the state regulation of the economy. It was, simultaneously an area of expansion of job opportunities for Sinhala youth*”¹⁹

In effect, the nationalistic project based along the ideological lines defined by the British colonialists was refined and consolidated while legally completing the establishment of the long awaited ‘Sinhala Buddhist Nation-State’. The stylized lion holding a sword reflecting the Sinhala nation became the emblem of the Buddhist Sri Lankan state. The national flag also constituted of this very lion and in addition encapsulated by four leaves of the holy Bo tree representing the North, East, West and South of the island, denoting the entire land as Sinhala Buddhist heritage. The existence of the Tamils as a distinct nation, with a distinct traditional homeland/habitat and socio-cultural practices was blatantly denied.

Following the introduction of 1972 Republican Constitution leaving out every single amendment proposed by the Tamil parliamentary parties forced the moderate parties to form a new alliance, later named as Tamil United Liberation Front (TULF). In 1976, at the historic convention of the newly formed political front (now famously known as *Vattukottai resolution*), the Tamils, for the first time in the history, unanimously adopted a resolution calling the Tamil people to support the demand to form a separate state: ‘Independent Socialist Tamil Eelam.’

The adoption of a resolution which called for a separate state marked the end to one historic era of Tamil politics. In 1977 parliamentary elections, TULF won a landslide in

¹⁹ Gunasinghe, N. (1984). *Open economy and its impact on ethnic relations in Sri Lanka. In Sri Lanka, the Ethnic Conflict: Myths, Realities and Perspectives* (p. 199). Colombo: Committee for Rational Development.

the north and eastern provinces, gaining 18 seats out of 22 electorates in the north and east after appealing to the masses demanding a mandate for a separate state.

PTA: Legalization of State Terrorism and Military occupation

In 1979, under the newly elected UNP government, J.R. Jayewardene finalized the legalization of state sponsored armed oppression of Tamils by enacting the Prevention of Terrorism Act no.48 (PTA). Although it was introduced as a temporary law, an amendment passed in 1981 made it permanent. This act enhanced the unleashed repression of Tamils on a collective basis as the state aimed to crush Tamil resistance and the political mobilization which humiliated the Sinhala political forces in the 1977 election. It also facilitated for the military occupation of the North and East which in turn effectively made defunct the civilian administration in the Tamil homeland. The PTA invested the Sri Lankan security forces with extraordinary powers which suspended all the basic democratic and human rights which were enshrined in the constitution. With extra-judicial powers and impunity, the military occupation was imbued with numerous means to subjugate the Tamil nation as a whole. Tamils were given no security for their lives, liberty and property and were brutalized by the occupation.

To establish that the PTA was passed as an act deliberately targeting the Tamils one must look into its origins in a former law and the manner in which it was practiced exclusively on Tamils under the pretext of fighting terrorism. The PTA springs out of the Proscribing of the Liberation Tigers of Tamil Eelam Law (No. 16 of 1978), which was a functioning as a small armed group. The only localities on the island where the military and police were involved in occupation and confrontation were the Tamil areas. Throughout the occupation Tamils as a whole became subjugated to the unlimited powers invested in the armed forces of the state. Furthermore Section 9 (1) of the PTA did not define terrorism, thereby it tactically allows for the arrest of anyone suspected of being involved in any unlawful activities to be detained up until 18 months without trial, or being charged and in incommunicado. After release of detainees, the PTA also attributed power to the Ministry of Defence to issue additional orders restricting an individual's freedom of movement, association and expression. Individuals were not allowed to participate in organizations or associations, address in public meetings and were even restricted in their

place of residence or during travel (Amnesty International 2012 : 13). Section 10 of the PTA explicitly states “an order made under Section 9 shall be final and shall not be called in question in any court or tribunal by way of writ or otherwise”. The PTA was also criticized by two International Commission of Jurist reports as a draconian law:

"The South African Terrorism Act has been called 'a piece of legislation which must shock the conscience of a lawyer.' Many of the provisions of the Sri Lankan Act are equally contrary to accepted principles of the Rule of Law".²⁰

"These provisions (in the Prevention of Terrorism Act) are quite extraordinarily wide. No legislation conferring even remotely comparable powers is in force in any other free democracy operating under the Rule of Law, however troubled it may be by politically motivated violence. Indeed there is only one known precedent for the power to impose restriction orders under section 11 of the Sri Lankan P.T.A., and that - as Professor Leary rightly pointed out in her Report - is the comparable legislation currently in force in South Africa... such a provision is an ugly blot on the statute book of any civilised country."²¹

Following the PTA, President Jayewardene formally mandated the Sri Lankan Army (SLA) to occupy the North and East of the island to "wipe out" the Tamils demanding secession. Tamil political mobilization and resistance was criminalized as well as being designated as "Terrorism". The PTA and the military occupation ensured a reign of unlawful detention, torture and murder of Tamils, which in turn strengthened the legitimacy of the armed resistance among the Tamils against the state terrorism. The legalization of state terrorism and the military subjugation of the Tamil people was a direct reaction to the growing political mobilization of the Tamils under the banner of self-determination.

From March 31 - June 06 1981 the army and police unleashed a campaign of terror and violence in Jaffna town during the preparations for the District Development Council

²⁰ Tambiah, S. J. (1986). *Sri lanka: Ethnic Fratricide and the Dismantling of Democracy*. (p. 44). Chicago: University of Chicago Press

²¹ Sieghart, P. (1984). *Sri lanka: A mounting tragedy of errors* Report of International Commission of Jurists.

(DDC) elections which were held on 04 of June. The DDC was a minimum autonomy mechanism with no actual power allotted to the Tamil political representatives in the TULF. *'During the campaign, a candidate and two police officers were killed. Police and security forces, apparently in reaction to the killing of the policemen, went on a rampage in the Tamil City of Jaffna, burning the market area, the home of a member of parliament and the Public Library containing 95,000 volumes.'*²²

The violence spread to other parts of the island, mainly the east and the central regions where Indian Tamil Plantation workers were prone to attacks and particularly targeted. Once more these state coordinated actions brought about more loss of life, liberty and property of the Tamil people. Around 15 000 Tamils were reported to be rendered as refugees who fled to the relative safety of the Tamil stronghold of the North.²³

Further legalization of state terrorism: The E.R. and the 6th Amendment

By 1983, the Sri Lankan state was entrenched in perpetuating interrelated processes of militarization and colonization in the Tamil homeland to the North and East. The highest executive authority, the President had since 1978 ushered a mandate to the armed forces to subjugate the Tamil people, thus institutionalizing the pursuit for a militarized solution to settle the national question. In this regard further amendments were made constituting a legal framework to enhance the state oppression on Tamils. The Emergency Regulation (ER) 15A was passed in 1983 under the Public Security Ordinance (PSO) and was even more draconian than the PTA. It was introduced as a component of the Article 155 of the constitution which incorporated the PSO originally introduced by British authorities in 1946 (Amnesty International 2011 :3).

The armed forces involved in a military occupation in the North and East through the PTA and ER were invested with the power to arrest any suspect, interrogate and convict as they pleased. The body of suspects shot by the armed forces could be buried or

²² Tambiah, S. J. (1986) p. 19

²³ Ponnambalam, S. (London:1983). *Sri Lanka : The National Question and the Tamil Liberation Struggle* p.188

cremated without identification and notification to the family (Thambiah 1986:16). With such practices facilitated by legal provisions and enshrined in the constitution the armed forces were encouraged to utilize any brutalities they could in subjugating, beleaguering and destroying the Tamil people as a whole. With the powers invested in them by the country's constitution, the armed forces consolidated their power in the North and East with excessive violence, arbitrary detention, torture, rape, extra-judicial killings and massacres of civilians which in turn triggered militant violence.

Frightened by a growing tendency among Tamils to resist the unitary state through democratic means such as witnessed in the 1977 election and in the increased vocal demand for an independent state of Tamil Eelam, the Sinhala political elites and bourgeoisie sought to circumvent the democratic political mobilization of the Tamils. In 1983 Article 157A also known as the 6th amendment was passed in Colombo and added to the Sri Lankan constitution. The implications of the law, collectively breached the basic democratic rights of freedom of expression and association and was in effect intended to silence the democratic means through which the Tamil people and their representatives could voice their political aspirations, grievances and demands. Every parliamentarian and public sector worker was under the 6th amendment obligated to pledge allegiance to the unitary state, and to never advocate their political rights in a manner which threatened the integrity, sovereignty and unity of the nation-state. Thus the Tamil representatives in Parliament were forced to compromise and forsake their elected mandate from the people in order to comply with the obligations of office. In addition any expression, promotion or advocacy of a separate state in any form was to be criminalized and subjected to persecution. *The Seventh Schedule, issued under Article 157 A and passed on the 08.08.1983 is the oath one was obligated to take*, and is reproduced here:

SEVENTH SCHEDULE: ARTICLE 157 A AND ARTICLE 161 (d) (iii)

i , do solemnly declare and affirm swear that I will uphold and defend 'the Constitution of the Democratic Socialist Republic of Sri Lanka and that I will not, directly or indirectly, in or outside Sri Lanka, support, espouse, promote, finance, encourage or advocate the establishment of

a separate State within the territory of Sri Lanka.”

Since 1983 with the passing of the PTA, E.R. and the 6th amendment, the legal framework had been amended to engender state oppression, to collectively silence Tamil political and democratic rights, and criminalize Tamil opposition and resistance. During the anti-Tamil pogrom of July 1983 in which thousands of Tamils were massacred and tens of thousands made refugees, Government Ministers, notably Cyril Mathew, the army, and the police were all directly involved in the atrocities. The state was now blatantly conducting its planned affairs to deal with what was known as the "Tamil problem" which implied a depoliticized notion of the national question.

Throughout the 1980's, 1990's and 2000's the Tamil people were subjected to a counter-insurgency which collectively targeted them and their traditional homeland. The atrocities committed by the armed forces were conducted with the fullest of impunity enshrined in the constitution. The dimensions and longevity of the violence which targeted the Tamils amount to nothing less than structural violence as it is institutionalized in the apparatuses of the state and perpetuated through various forms of state coordinated agency. The coordinated plan of various actions deployed by the state and the armed forces were not random and rather exhibit a pattern which perfectly overlaps with the Lemkin's conceptualisation of Genocide.