

Sinhala and Tamil versions of this report will be printed separately.



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**REPORT OF THE
PRESIDENTIAL TRUTH COMMISSION
ON ETHNIC VIOLENCE
(1981 – 1984)**

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September 2002

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(1981 - 1984)

**REPORT OF THE
PRESIDENTIAL TRUTH COMMISSION
ON ETHNIC VIOLENCE
(1981 - 1984)**

*His Excellency Chandrika Bandaranaike Kumaratunga
President of the Democratic Socialist Republic of Sri Lanka*

Commissioners

- 1. Suddath Suddathudu Esq. (Retired Chief Justice) - Chairman*
- 2. Sathyananda Perera - Member*
- 3. Mohamed Mohamed Zuhair Esq. (President's Counsel) - Member*

Secretary to the Commission

Mr. S. M. J. Senarathne (Retired C. L. A. Officer)

Mr. Anura Kumara - General, (Retired)

Mr. H. H. P. - State Counsel

September 2002

September 2002

G. M. I. C. M. Colombo

REPORT OF THE
PRESIDENTIAL TRUTH COMMISSION
ON ETHNIC VIOLENCE
(1981 - 1984)

Volume I - (Report)

September 1987

**PRESIDENTIAL
TRUTH COMMISSION
ON ETHNIC VIOLENCE
(1981 – 1984)**

Appointed on 23rd July 2001

by

Her Excellency Chandrika Bandaranaike Kumaratunge
President of the Democratic Socialist Republic of Sri Lanka

Comprising of

- 1. Suppiah Sharvananda Esq. (Retired Chief Justice) – Chairman**
- 2. Sathyaloka Sasita Sahabandu Esq., President's Counsel – Member**
- 3. Mohamed Mohamed Zuhair Esq., President's Counsel – Member**

Secretary to the Commission :

Mr. S. M. J. Senaratne, (Retired S. L. A. S. Officer)

Hon. Attorney-General, represented by :

Mr. A. H. M. D. Nawaz, – State Counsel

September 2002

B. M. I. C. H., Colombo 07

PRESIDENTIAL
TRUTH COMMISSION
ON ETHNIC VIOLENCE
(1981 - 1984)

Appointed on 13th July 1981

by

Her Excellency Chandrika Bandaranaike Kumaratunga
President of the Democratic Socialist Republic of Sri Lanka

Comprising of

- 1. Suppiah Sivarajah Esq. (Retired Chief Justice) - Chairman
- 2. Subramania Swami Sathyananda Esq. President's Counsel - Member
- 3. Mohamed Mohamed Zubair Esq. President's Counsel - Member

Secretary to the Commission
Mr. M. J. Senarathne (Retired S. I. A. & Officer)

Hon. Attorney-General, presented by
Mr. A. H. M. U. Nawaz - State Counsel

September 2002
P. M. J. C. H. Colombo 97

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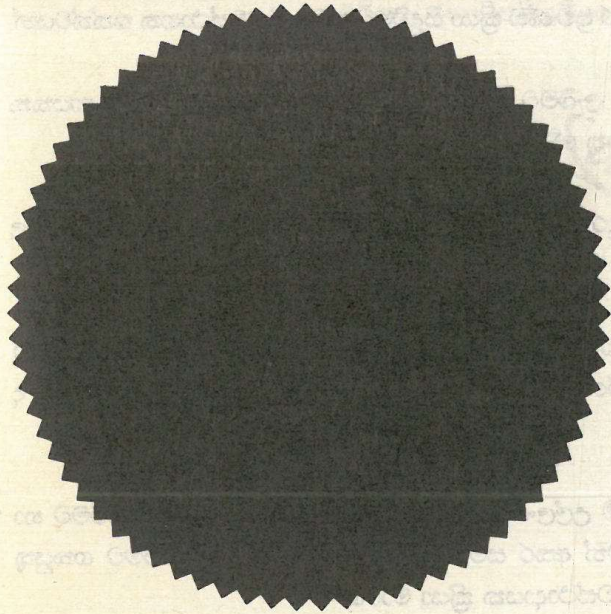
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ශ්‍රී ලංකා ප්‍රජාතාන්ත්‍රික සමාජවාදී ජනරජයේ ජනාධිපතිනි
චන්ද්‍රිකා බණ්ඩාරනායක කුමාරතුංග මැතිනිය විසිනි



- 1. සුප්පයියා පර්වානන්ද මැතිතුමා.
- 2. සත්‍යාලෝක සසිත සහඛන්ද්‍ර මැතිතුමා.
- 3. මොහමඩ් මොහමඩ් සුහයිර් මැතිතුමා

වෙත

ශුභාශි-සන පෙරටුවයි,

මෙහි මින්මතු සඳහන් කරනු ලබන කාර්යයන් සඳහා පරීක්ෂණ කොමිෂන් සභාවක් පත්කිරීම අවශ්‍ය යයි මාහට පෙනී යන හෙයින්,

ජනාධිපතිනි චන්ද්‍රිකා බණ්ඩාරනායක කුමාරතුංග වන මම, ඔබතුමන්ලාගේ විවේචනාත්මක, සාමර්ථය හා විශ්වාසවන්තභාවය කෙරෙහි මහත්වූ හක්කිය හා විශ්වාසය තබමින්, (393 වන අධිකාරය වූ) පරීක්ෂණ කොමිෂන් සභා පනතේ 2 වැනි වගන්තියෙහි විධිවිධානවලට අනුකූලව, පෙරකී,

- 1. සුප්පයියා පර්වානන්ද මැතිතුමා.
- 2. සත්‍යාලෝක සසිත සහඛන්ද්‍ර මැතිතුමා.
- 3. මොහමඩ් මොහමඩ් සුහයිර් මැතිතුමා

වන ඔබතුමන්ලා පහත සඳහන් කාරණා ගැන, එනම්,

(අ) වර්ෂ 1983 ජූලි මාසයට විශේෂ අවධානය යොමු කරමින් 1981 සිට 1984 දක්වා වූ කාලය තුළ සිදුවූ ජනවාර්ගික ප්‍රචණ්ඩ ක්‍රියාවලදී සිදුකරන ලද,

- (i) දැඩි ආකාර මානව හිමිකම් උල්ලංඝනය කිරීම්වල හා
- (ii) එකී ප්‍රචණ්ඩ ක්‍රියාවල කොටසක් ලෙසට සිදුකරන ලද දේපළ විනාශ කිරීම් සහ/හෝ ඒවාට හානි පැමිණවීම්වල ස්වභාවය, එසේ කිරීමට තුඩුදුන් හේතු හා එකී ක්‍රියාවල ප්‍රමාණය සහ පෙරකී ප්‍රකාර ප්‍රචණ්ඩ ක්‍රියා සිදුවීමට තුඩුදුන් අවස්ථාගත තත්ත්වයන්,

(ආ) පෙරකී ප්‍රචණ්ඩ ක්‍රියා සිදුකරනු ලැබීමට කිසියම් පුද්ගලයින්, කණ්ඩායම් හෝ ආයතන සෘජුවම හෝ අනියමින් වගකිවයුතු වේද,

(ඈ) පෙරකී ප්‍රචණ්ඩ ක්‍රියාවලට ගොදුරුවූවන්ට සිදුව ඇති ශාරීරික මෙන්ම මානසික හානිවල ප්‍රමාණය,

(ඈ) එකී ප්‍රචණ්ඩ ක්‍රියාවන්ට ගොදුරුවූවන්ට හෝ ඔවුන්ගෙන් යැපෙන්නන්ට හෝ උරුමකරුවන්ට කුමන ආකාරයේ වන්දි ගෙවිය යුතු ද, නොඑසේ නම් සහන දිය යුතු ද යන වග,

(ඉ) පෙරකී ආකාරයේ මානව හිමිකම් උල්ලංඝනය කිරීම් ඔතුවදී යළි සිදුවීම වැළැක්වීමට හා ජාතික සමගිය සහ සියලු ප්‍රජාවන් අතර සමගි සමාදානය ප්‍රවර්ධනය කිරීමට ගතයුතු ආයතනික, පරිපාලනමය හා ව්‍යවස්ථාදායක ක්‍රියා මාර්ග

යන කාරණා ගැන පරීක්ෂා කර බලා වාර්තා කිරීම සඳහා මාගේ කොමසාරිස්වරයන් ලෙස මෙයින් පත්කරමි.

තව ද, යටකී හිටපු අග්‍රවිනිශ්චයකාර සුප්පයියා ප්‍රචාරණයද මැතිතුමා වන ඔබ යටකී කොමිෂන් සභාවේ සභාපති ලෙස මෙයින් පත්කරමි.

තව ද, පෙරකී කාරණා සම්බන්ධයෙන් අවශ්‍ය යයි ඔබට පෙනී යන සියළු පරීක්ෂණ පැවැත්වීමට සහ වෙනත් සියළු විමර්ශනයන් කිරීමට පෙරකී කොමසාරිස්වරුන් වන ඔබට මා මෙයින් අධිකාරය හා බලය දෙන අතර, ඔබගේ පරීක්ෂණවල තීරණ හා ඔබගේ නිර්දේශයන් දැක්වෙන යථා කාරණා සම්බන්ධ ඔබගේ අවසන් වාර්තාව වර්ෂ 2002 ජනවාරි මස 23 වැනි දින හෝ ඊට ප්‍රථම ඔබගේ අත්සනින් මාහට ඉදිරිපත් කරන ලෙස ඔබට මෙයින් නියම කරමි.

තව ද, යටකී කාරණාවලට සම්බන්ධ පරීක්ෂණවල යම් කොටසක් ප්‍රසිද්ධියේ නොපැවැත්විය යුතු යයි ඔබතුමන්ලාගේ අභිමතය ප්‍රකාර නිශ්චය කරනු ලැබේ නම් එම කොටස් ප්‍රසිද්ධියේ නොපැවැත්විය යුතු යයි ද මම මෙයින් විධානය කරමි.

තව ද, ඔබතුමන්ලාගේ පරීක්ෂණවල හා විමර්ශණවල කාර්යය සඳහා ඔබතුමන්ලා විසින් සහාය හෝ තොරතුරු ඉල්ලා සිටිය හැකි සියළු රජයේ නිලධාරීන් සහ වෙනත් තැනැත්තන් විසින් ඒ සඳහා නිසි පරිදි දියහැකි සියළු සහාය දියයුතු යයිද, සැපයිය හැකි සියළු තොරතුරු සැපයිය යුතු යයි ද යටකී නිලධාරීන්ට හා තැනැත්තන්ට මෙයින් නියම කොට විධාන කරමි.

බාලය

තව ද, පෙරකී පරීක්ෂණ කොමිෂන් සභා පනතේ විධිවිධාන මෙම කොමිෂන් සභාවට අදාළ විය යුතුයයි ද මෙම මෙයින් ප්‍රකාශ කරමි.

චර්ෂ දෙදහස්එකක් වූ ජූලි මස විසිතුන් වැනි දින වූ මෙදින ශ්‍රී ලංකා ජනරජයේ මුද්‍රාව යටතේ කොළඹ දී දෙන ලදී.

/හෝ

සාවල

යන්,

අතිගරු ජනාධිපතිතුමයගේ අණ පරිදි,

සතන

කේ. බාලපටබැදි
ජනාධිපති ලේකම්.

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අතු ද

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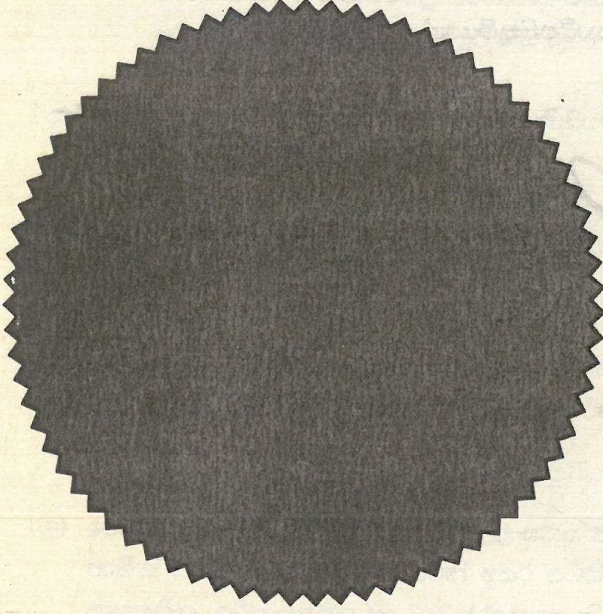
යේ

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පුතු

இலங்கைச் சனநாயக சோசலிசக் குடியரசின் சனாதிபதி அதிமேதகு சந்திரிகா பண்டாரநாயக்கா குமாரதுங்கா அவர்களினால்



1. திரு. சுப்பையா சர்வானந்தா
2. திரு. சத்யலோக சசித சகபந்து
3. திரு. மொகமட் மொகமட் சுஹூர்

ஆகியோருக்கு,

வாழ்த்துக்கள் :

இதனகத்துப்பின்னர் குறிப்பிடப்படும் நோக்கங்களுக்கு விசாரணைகள் ஆணைக்குழு ஒன்றைத்தாபிப்பது அவசியம் என எனக்குத் தோன்றுகின்றதாதலால் :

ஆகவே, இப்பொழுது, சனாதிபதி சந்திரிகா பண்டாரநாயக்கா குமாரதுங்கா ஆகிய நான், உங்கள் விவேகம், திறமை, நேர்மை என்பனபற்றி மிகுந்த நம்பிக்கையும் உறுதியும்கொண்டு (393 ஆம் அத்தியாயமான) விசாரணை ஆணைக்குழுக்கள் சட்டத்தின் 2 ஆம் பிரிவின் ஏற்பாடுகளைப் பின்பற்றி, சொல்லப்பட்ட,

1. திரு. சுப்பையா சர்வானந்தா
2. திரு. சத்யலோக சசித சகபந்து
3. திரு. மொகமட் மொகமட் சுஹூர்

ஆகிய உங்களை பின்வரும் கருமங்களைப்பற்றி விசாரணை செய்து அறிக்கையிடுவதற்கு எனது ஆணையாளர்களாக நியமிக்கின்றேன்-

2001

1. 1983, யூலை மாதத்தில் இடம்பெற்றவைகள் சம்பந்தமாக விசேட கவனம் செலுத்துவதுடன், 1981 முதல் 1984 வரையான காலத்துள் நிகழ்ந்த இனரீதியான வன்செயல்களின் போது இடம்பெற்ற.

(அ) பாரிய மனித உரிமை மீறல்கள், மற்றும்

(ஆ) அத்தகைய வன்முறைச் செயல்களின் பாகமொன்றாக மேற்கொள்ளப்பட்ட ஆதனங்களின் அழிவுகள் மற்றும்/ அல்லது அவற்றுக்குச் சேதம் இழைத்தல்களின் தன்மை, அச்செயல்களின் அளவுகள் மற்றும் அத்தகைய வன்முறைகள் இடம் பெறுவதற்குத் தூண்டுதல் அளித்த சூழ்நிலைகள்,

2. எவரேனும் ஆள்கள், குழுக்கள் அல்லது நிறுவனங்கள் நேரடியாகவோ அல்லது மறைமுகமாகவோ அத்தகைய வன்முறைகள் இடம்பெறுவதற்கு பொறுப்புடையவர்களாக இருந்தார்களா,
3. அத்தகைய இன வன்முறைகளால், உடல் மற்றும் உளம் ஆகிய இருவழிகளிலும் பாதிக்கப்பட்டவர்களுக்கு ஏற்பட்ட பாதிப்புக்களின் தன்மை, அளவு,
4. அவ்வாறு பாதிக்கப்பட்டவர்கள் அல்லது அவர்களில் தங்கிவாழ்வோர் அல்லது அவர்களது உரித்தாளர்களுக்கு எத்தகைய நட்டஈடு வழங்கப்படல் வேண்டும் அன்றேல் நிவாரணம் வழங்கப்படல் வேண்டும்.
5. அத்தகைய மனித உரிமை மீறல்கள் எதிர்காலத்தில் மீண்டும் உருவாவதைவிட்டும் தடுப்பதற்காகவும், சகல இனங்களிடையேயும் தேசிய ஐக்கியம், ஒருமைப்பாடு ஆகியவற்றை வளர்ப்பதற்காகவும் மேற்கொள்ளப்பட வேண்டிய சட்டரீதியான, நிறுவன ரீதியான மற்றும் நிருவாக ரீதியான நடவடிக்கைகள்.

அத்துடன், முன்னாள் பிரதம நீதியரசராகிய திரு. சுப்பையா சர்வானந்தா ஆகிய உங்களையீ சொல்லப்பட்ட ஆணைக்குழுவின் தவிசாளராக இருக்கும்படி இத்தால் நியமிக்கின்றேன்.

அத்துடன், சொல்லப்பட்ட ஆணையாளர்களான உங்களுக்கு, மேற்சொல்லப்பட்ட கருமங்களைப்பற்றி அவசியமானதெனத் தோன்றுகின்றவாறான அத்தகைய விசாரணைகளை நடாத்துவதற்கும் அத்தகைய வேறு எல்லாப் புலனாய்வுகளைச் செய்வதற்கும்.

அதிகாரமளித்துத் தத்துவமும் வழங்குவதுடன், உங்கள் விசாரணைகளின் காண்புகளையும் உங்கள் விதப்புரைகளையும் தருகின்ற இறுதி அறிக்கையொன்றை உங்கள் கைப்பட, 2002, சனவரி மாதம் 23 ஆந் திகதி அல்லது அதற்கு முன்பு எனக்கு அனுப்பி வைக்குமாறு உங்களை இத்தால் தேவைப்படுத்துகின்றேன்.

அத்துடன், மேற்கூறப்பட்டுள்ள கருமங்கள் தொடர்பாகப் பகிரங்கமாக நடாத்தப்படக்கூடாதென உங்கள் தற்றுணிப்பின்பேரில் நீங்கள் தீர்மானிக்கக்கூடியவாறான ஏதேனும் விசாரணையில் அத்தகைய பாகம் அவ்வாறு நடாத்தப்படும் ஆகாதென நான் இத்தால் பணிக்கின்றேன்.

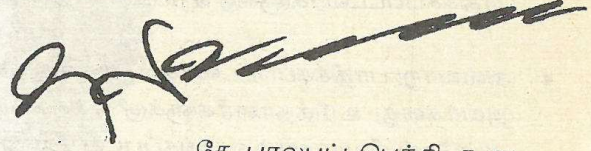
அத்துடன், உங்கள் விசாரணைகள் மற்றும் புலனாய்வுகள் ஆகியவற்றுக்காக, எந்தப் பகிரங்க அலுவலர்களிடமும் வேறெந்த ஆட்களிடமும் நீங்கள் உதவி அல்லது தகவல்

கோருகின்றீர்களோ அந்த பகிரங்க அலுவலர்கள் மற்றும் வேறு ஆட்கள் அனைவரையும் அதன் சார்பில் முறையாக அளிக்கப்படக்கூடியனவும், கொடுத்துவப்படக்கூடியனவுமான அத்தகைய எல்லா உதவிகளையும் அளிக்முமாறும், அத்தகைய தகவல்களையும் கொடுத்துதவுமாறும் இத்தால் நான் தேவைப்படுத்திப் பணிக்கின்றேன் :

அத்துடன் மேற்கூறப்பட்ட விசாரணை ஆணைக்குழுக்கள் சட்டத்தின் ஏற்பாடுகள் இந்த ஆணைக்குழுவுக்கும் ஏற்புடையனவாதல் வேண்டுமென இத்தால் நான் வெளிப்படுத்துகின்றேன்.

இலங்கைச் சனநாயக சோசலிசக் குடியரசின் இலச்சினையின் கீழ், இரண்டாயிரத்தோராம் ஆண்டு யூலை மாதம் இருபத்திமூன்றாம் நாளாகிய இன்று கொழும்பில் அளிக்கப்பட்டது.

அதிமேதகையரின் ஆணைப்படி.



கே. பாலபட்டபெந்தி, ச. வ,
சனாதிபதியின் செயலாளர்.

எஸ்பி/என்/223/2001

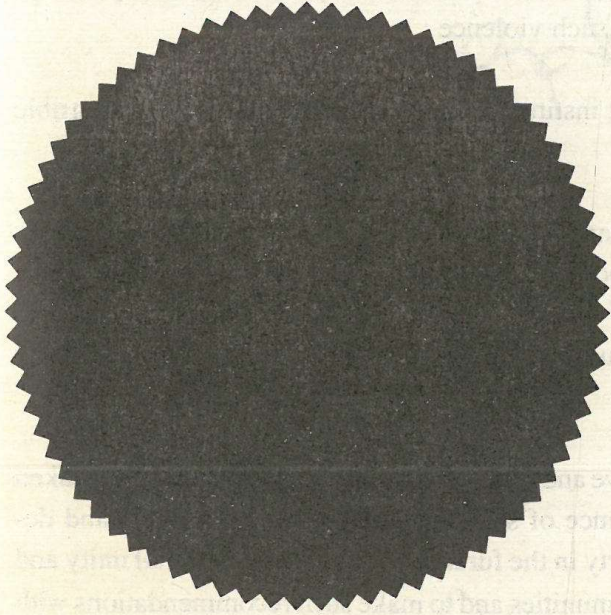
393 ஆம் அத்தியாயமான விசாரணை ஆணைக்குழுக்கள் சட்டத்தின் 4 ஆம் பிரிவினால் எனக்கு உரித்தாக்கப்பட்டுள்ள தத்துவங்களைப் பிரயோகித்து ஆணைக்குழுவின் இறுதி அறிக்கையினைச் சமரப்பிப்பதற்கான காலக்கெடுவை 2002, யூலை மாதம் 22 ஆந் திகதி வரை இத்தால் நீடிக்கின்றேன்.

சனாதிபதி.

சனாதிபதி செயலகம்,
கொழும்பு 01,
2002, சனவரி மாதம் 09 ஆந் திகதி.

Ref. No. : SP/6/N/223/2001

**BY HER EXCELLENCY
CHANDRIKA BANDARANAIKE KUMARATUNGA, PRESIDENT
OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA**



- To :**
- 1. Suppiah Sharvananda, Esquire**
 - 2. Sathyaloka Sasita Sahabandu, Esquire**
 - 3. Mohamed Mohamed Zuhair, Esquire**

Greetings

WHEREAS I am of opinion that it is in the interest of the Public welfare, to appoint a Commission of Inquiry for the purposes hereinafter mentioned.

NOW THEREFORE I, Chandrika Bandranaike Kumaratunga, President, reposing great trust and confidence in your prudence, ability and fidelity, do, in pursuance of the provisions of Section 2 of the Commissions of Inquiry Act (Chapter 393), by these presents, appoint you, the said :

- 1. Suppiah Sharvananda, Esquire**
- 2. Sathyaloka Sasita Sahabandu, Esquire**
- 3. Mohamed Mohamed Zuhair, Esquire**

to be my Commissioners, to inquire into and report on the following matters :-

- (a) the nature, causes and extent of -
- (i) the gross violations of human rights ; and
 - (ii) the destruction of and damage to property,
committed as part of the ethnic violence which occurred during the period commencing from the beginning of the year 1981 and ending in December 1984, with special reference to the period of July 1983, including the circumstances which led to such violence ;
- (b) whether any person, group or institution was directly or indirectly responsible for such violence ;
- (c) the nature and extent of the damage, both physical and mental, suffered by the victims of such ethnic violence ;
- (d) what compensation or solatium should be granted to such victims or to their dependents or heirs ;
- (e) the institutional, administrative and legislative measures which need to be taken in order to prevent a recurrence of such violations of human rights and destruction or damage to property in the future and to promote national unity and reconciliation among all communities and to make such recommendations with reference to any of the matters that have been inquired into under the terms of this Warrant ;

AND I do hereby appoint you the said Suppiah Sharvananda Esquire, retired Chief Justice, to be the Chairman of the said Commission :

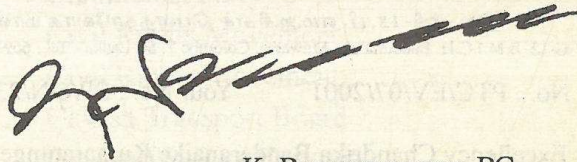
And I do hereby authorize and empower you the said Commissioners, to hold all such inquiries and to make all such investigations into the aforesaid matters as may appear to you to be necessary and require you to transmit to me on or before 23rd January, 2002 a report thereon under your hands, setting out the findings of inquiries and your recommendations :

And I do hereby direct that such part of any inquiry relating to the aforesaid matters as you may in your discretion determine, shall not be held in public ;

And I do hereby require and direct all Public Officers and other persons to whom you may apply for assistance or information for the purposes of your inquiries and investigations, to render all such assistance and furnish all such information as may be properly rendered and furnished in that behalf :

AND I do hereby declare that the provisions of the aforesaid Commissions of Inquiry Act, shall apply to the Commission :

GIVEN at Colombo, under the Democratic Socialist Republic of Sri Lanka this Twenty-third day of July Two Thousand and One.



K. BALAPATABENDI, PC
Secretary to the President.

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இன வன்செயல்கள் பற்றிய மெய் அறியும் சனாதிபதி ஆணைக்குழு
PRESIDENTIAL TRUTH COMMISSION ON ETHNIC VIOLENCE

අංක 2-ජ-12, බී.එම්.අයි.සී.එච්. බෞද්ධාලෝක මාවත, කොළඹ 07, ශ්‍රී ලංකාව

இல.-2ஐ-12, பீ. எம்.ஐ.சி.எச். பெளத்தாலோக மாவத்தை, கொழும்பு 07, இலங்கை

No. 2-G-12, B.M.I.C.H. Bauddhaloka Mawatha, Colombo 7, Sri Lanka - Tel : 669132/669136-Fax : 669137 E-mail:truthcom@slmet.lk

My No. : PTC/EV/07/2001

Your No. : SP/6/N/23/2001

Date : 30.09.2002

Her Excellency Chandrika Bandaranaike Kumaratunge
President of the Democratic Socialist Republic of Sri Lanka

Your Excellency,

In pursuance of the provisions of Section 2 of the Commissions of Inquiry Act (Chapter 393), Your Excellency was pleased to appoint us, the undersigned, as Your Excellency's Commissioners on 23rd July, 2001 to inquire into and report on the following matters :

- (a) the nature, causes and extent of -
 - (i) the gross violations of human rights ; and
 - (ii) the destruction of and damage to any property, committed as part of the ethnic violence which occurred during the period commencing from the beginning of the year 1981 and ending in December 1984, with special reference to the period of July 1983 including the circumstances which led to such violence ;
- (b) whether any person, group or institution was directly or indirectly responsible for such violence ;
- (c) the nature and extent of the damage - both physical and mental, suffered by the victims of such ethnic violence ;
- (d) what compensation or solatium should be granted to such victims or to their dependants or heirs ;
- (e) the institutional, administrative and legislative measures which need to be taken in order to prevent a recurrence of such violations of human rights and destruction or damage to property in the future and to promote national unity and reconciliation among all communities,

and to make such recommendations with reference to any of the matters that have been inquired into under the terms of Your Excellency's Warrant.

Having inquired into the aforesaid matters, we have the honour to submit this Report dated 30th September, 2002.

We remain,
Your Excellency's Commissions,

Supiah Sharvananda,
Chairman.

Sathyaloka Sasita Sahabandu,
Member.

Mohamed Mohamed Zuhair,
Member.

ACRONYMS

AGA	-	Assistant Government Agent
AI	-	Amnesty International
APC	-	All Party Conference
ASP	-	Assistant Superintendent of Police
CID	-	Criminal Investigations Department
CP	-	Communist Party
CRM	-	Civil Rights Movement
CRM	-	Civil Rights Movement
CTB	-	Ceylon Transport Board
CWC	-	Ceylon Workers Congress
DDC	-	District Development Council
DIG	-	Deputy Inspector General of Police
GA	-	Government Agent
HR	-	Human Rights
ICJ	-	International Commission of Jurists
IGP	-	Inspector General of Police
JMO	-	Judicial Medial Officer
JVP	-	Janatha Vimukthi Peramuna
LSSP	-	Lanka Sama Samaja Party
LTTE	-	Liberation Tigers of Tamil Ealam
MEP	-	Mahajana Eksath Peramuna
MP	-	Member of Parliament
NGOs	-	Non-Governmental Organizations
NSSP	-	Nawalanka Sama Samaja Party
OPA	-	Orgnaisation of Professional Associations
PPC	-	Political Parties Conference
PTA	-	Prevention of Terrorism Act
PTC	-	Presidential Truth Commission (of Sri Lanka)
SLBC	-	Sri Lanka Broadcasting Corporation
SLFP	-	Sri Lanka Freedom Party
TELO	-	Tamil Ealam Liberation Organization
TRC	-	Truth and Reconciliation Commission
TULF	-	Tamil United Liberation Front
UNP	-	United National Party

**REPORT OF THE PRESIDENTIAL TRUTH COMMISSION ON
ETHNIC VIOLENCE
(1981 - 1984)**

CHAPTER 1

Introduction

01. "NEVER AGAIN" is a central rallying cry of truth commissions, and one about which perpetrators and victims can agree. The notion of "never again" captures the response of societies that are recovering their own equilibria, their own dignity and their own sense of integrity. Truth Commissions are intended to be both preventive and restorative.

02. "But if societies are to prevent recurrences of past atrocities and to cleanse themselves of the corrosive enduring effects of massive injuries to individuals and whole groups, societies must understand - at the deepest possible levels - what occurred and why, in order to come fully to terms with their brutal pasts. They must uncover, in precise detail, who did what, to whom, and why, and under whose orders. They must seek, at least, thus to uncover the truth - in so far as this aim is humanly and situationally possible after the fact.

03. "Truth commissions generally are created after a totalitarian/authoritarian regime has been succeeded by a democratic one. Sometimes the transition is preceded by civil and economic war bolstered by world public opinion, sometimes by invasion and sometimes when societal revulsion overwhelms a military junta, a minority dictatorship, or strong arm pseudo democrats. Massive human rights violations usually accompany such arrogations of power. The mandate of the successor regime is to establish or revive democracy and to prevent any resumption of human rights abuses. It also seeks to reconcile the old and the new and to move forward in effective harmony.

04. "Truth commissions thus seek, whatever their mandate from a new government, to uncover the past in order to answer questions that remain unanswered : What happened to husbands, sons, wives and lovers at the hands of ousted regime ? Who gave the orders ? Who executed the orders ? What was the grand design ? Who benefited ? Getting the facts provides closure, at least in theory. Making it possible for perpetrators to be confronted by victims and the heirs of victims (as in the South African and Guatemalan cases) can provide further closure. In societies as disparate as Argentina, Bosnia, Cambodia, Cyprus, El Salvador, Guatemala, Haiti, Nigeria, South Africa and Sri Lanka and now in Sierra Leone and Kosovo, there is a natural, consuming desire to elicit as complete an accounting as possible of how people disappeared, how they were assassinated, how and why they were flung from airplanes above the Atlantic Ocean and how and why they were slaughtered in groups and tossed into unmarked graves.

-Robert I. Roberg on Truth Commissions and the Provision of Truth, Justice and Reconciliation.

05. Richard Goldstone, a Judge of the Constitutional Court of South Africa made the following remarks on the Truth and Reconciliation Commission (TRC) of South Africa, considered a model for all TRCs.

“The decision to opt for a Truth and Reconciliation Commission was an important compromise. If the African National Congress had insisted on Nuremberg style trials for the leaders of the former apartheid Government, there would have been no peaceful transition to democracy and if the former government had insisted on blanket amnesty then similarly the negotiation would have broken down. A bloody revolution sooner than later would have been inevitable.”

06. The Truth and Reconciliation Commission, is therefore, a bridge from the old to the new - (Alex Boraine – Truth and Reconciliation in South Africa – The Third Way)

07. President Patricio Aywin of Chile, when he assumed office in 1990, (same source as quoted above) said ;

“To close our eyes and pretend none of this ever happened would be to maintain at the core of society a source of pain, division, hatred and violence. Only the disclosure of the truth and the search for justice can create the moral climate in which reconciliation and peace will flourish.”

08. A widow testifying before the South African Truth and Reconciliation Commission in 1997 stated as follows (same source as quoted above) :

“No government can forgive. No commission can forgive. They don't know my pain. Only I can forgive and I must know before I can forgive”

09. Criticism has been levelled against the present Commission – that it was far too belated. When we posed this question to many of the victims, (most of whom wanted compensation), they felt a sense of relief that they could state in public what happened to them. One Sri Lankan victim who came from a foreign country said :

“We never thought there would be a thing like this...”

10. We have no power of amnesty given to us in our mandate. We carried out the inquiries that were mandated to us with great caution as there was no cross examination of witnesses and contrary evidence or allegations were not led, though there was opportunity to do so.

11. Justice K. D. de Silva, the One Man Commissioner, appointed to the Navy Commission in his report, (Sessional Paper VI – 1963, page 31) stated as follows :

“This is not a court proceeding. This inquiry is held under the provisions of the Commissions of Inquiry Act. The Evidence Ordinance is not wholly applicable to it.”

“A commission appointed under the Act shall have the power (notwithstanding any of the provisions of the Evidence Ordinance) to admit any evidence whether written or oral which might be inadmissible in civil or criminal proceedings.”

“As I have stated earlier, this is mainly a fact finding Commission. The object is to ascertain the truth pertaining to relevant matters. Hearsay evidence is admissible at such an inquiry. Of course, in assessing the value of a statement made by a person who is not available for cross-examination, greater caution has to be exercised.”

12. We have exercised great care and caution in acting on statements not subject to cross-examination. We have kept in mind the relevant principles governing the assessment of evidentiary value.

Violence in Sri Lanka

13. Violence in Sri Lanka can be broadly identified as ethnic, political, economic or terrorist, though more often than otherwise, violence would fall into a combination of more than one of the above categories.

14. The history of Sri Lanka records invasions, wars and violence but there is no evidence to suggest that any of those was ethnic or communal in character. According to W. Thalgodapitiya (Studies of Some Famous Cases of Sri Lanka) “The riots of 1915” commenced in Gampola and Kandy “as a protest against the prohibition of all music near Mosques during the Wesak carols... It was not an organized outburst of violence either against the Muslims or against the Government by the Buddhists ; it became in the end a wild mob-uprising of hooliganism in which the less law-abiding found undreamt of opportunities for looting,” (Page 133)

15. The May 1958 racial clashes, directed against the Tamils, have been identified as the first ethnic oriented or communal violence in Sri Lanka in which members of one ethnic group attacked members of another ethnic group, on a noticeably wide scale.

16. The next major communal conflagration took place in August 1977, following the General Election of 21st July, 1977. Violence which broke out initially against the political party which lost the general elections of July 1977 got transformed

by mid August 1977 into communal violence directed against the Tamils, living in almost all parts of the country.

17. Another outbreak of communal violence occurred in August 1981. It was also directed against the Tamils, more particularly against Tamils of Indian origin spread in the plantation sector. The worst affected were the Tamils in Central province, Sabaragamuwa Province, Colombo and Negombo.

18. This was followed by the ethnic violence of July – August 1983, accepted on all accounts as the worst in Sri Lanka's history, which was triggered off, as an immediate cause from the killing of 13 soldiers, by the Tamil Tigers on Saturday 23rd July 1983 at 11.30 p. m. at Thinnavelly in Jaffna, the largest number of soldiers to die at that time, in one single incident. The dead bodies were interred at Kanatte, in Borella, Colombo on the evening of Sunday 24th July with military honours, accorded by the government. The violence which commenced that very evening at Borella and spread throughout the country from the following day onwards was directed against the Tamils and Tamil owned properties and continued till 3rd of August 1983.

19. The mandate granted to this Commission covers ethnic violence that occurred during the period commencing from the beginning of 1981 till the end of 1984, a period of four years.

Report in Brief

20. We have referred to, later on, that religious and ethnic clashes are as ancient as time immemorial and as historical as the discovery by human beings of distinctions and differences between one another (para 232) and that Sri Lanka too has had its share of historical feuds and frictions among its people stemming mainly from 'numerical' as well as 'historical' claims to land, though by and large the several communities of Sri Lanka had been co-existing peacefully (para 233).

21. In Chapter 2 of this report, we have referred to the antecedents to the events of 1981 to 1984, drawing attention to the significant developments from the time Sri Lanka attained independence to the period mandated to the Commission. The events of 1981 to 1984 have been dealt with in Chapter 3. The burning of the Jaffna Public Library on the night of 31st May, 1981 and the District Development Council (DDC) elections of Jaffna held on 04th June, 1981 have been referred to separately, commencing from paragraph 57. In Chapter 3, we have given a political overview leading to the events of July, 1983 commencing from paragraph 80 and the eruption of violence on Sunday 24th July, 1983, commencing from paragraph 99. We have referred to thereafter commencing from paragraph 118 to the evidence of some of the witnesses who described July 1983 as seen by them. We have dealt with the events at Welikada Prison during the height of the 1983 July troubles, on the 25th and 27th July separately commencing from paragraph 152.

22. The nature, causes and extent of the gross violations of human rights and the destruction and damage to property committed as part of the ethnic violence which occurred during the period 1981 - 1984, with particular reference to July 1983 and whether any person, group or institution was directly or indirectly responsible for such violence have been dealt with on the basis of the testimony and other evidentiary material that were made available to the Commission. The nature and extent of the damage caused to the victims of such violence have been summarised in Annexure 'A' to this report. In Chapter 4 (paragraph 216 onwards), we have referred to matters relating to the determination of compensation payable to the victims, dependents or heirs of victims of the ethnic violence during the period 1981 - 1984, with the determined quantum by the Commission as shown in Annexure I (Volume II).

We have dealt with the matters relating to national unity and ethnic reconciliation in Chapter 5, commencing from paragraph 229.

The Report consists of two Volumes. Volume I contains the Report and Annexure 'A'. Volume II contains other Annexures.

Volume 11 is not for publication. This volume is available at the National Archives for purpose of reference.

CHAPTER 2

Antecedents to the events of 1981 to 1984

23. We will refer later on, under the Chapter on National Unity and Ethnic Reconciliation, to some of the historical settings and compulsions that had for over a century prior to Independence, kept the people of this Country divided on ethnic lines and at times on caste considerations. These divisions and the mindset that emerged therefrom in the body politic of Sri Lanka served as catalyst for diverting the nations priorities from economic development, peace and prosperity to communal politics, ethnic confrontations, deaths and destructions on an unprecedented scale, with the ultimate prospect of a “divided people” ending up in a “divided island”.

24. In this Chapter, we hope to draw attention to some of the political highlights that preceded the events culminating in the conflagration of July 1983, with reference to the period following the transfer of power from the British to the Sri Lankans.

Independence and Indian Tamils

25. The birth of a nation, which Independence signifies, is a significant cause for rejoicing by every citizen of the new nation. But as Sri Lanka gained Independence on 4th February 1948, the enactment of the Citizenship Act on 15th November, 1948 followed by the Indian and Pakistani Residents (Citizenship) Act of 5th August, 1949, hot on the heels of the celebrations, disenfranchised administratively the bulk of the Tamils of Indian origin and prevented by and large, the Indian Tamils of Sri Lanka joining hands firmly in rebuilding a united Sri Lanka. However, the considerable harm caused to ethnic relations by these measures has been alleviated, through negotiations with India and subsequent agreements, principally by the Sirima-Shastri Pact.

26. It was argued in the Supreme Court in *Mudanayake vs. Sivagnanasundarm* 53 NLR 25, that the disenfranchisement of the Indian Tamils violated Section 29(2) of the 1947 Constitution, a provision which debarred legislation discriminatory of any community or religion. The Supreme Court took the view that the Citizenship Act did not violate Section 29(2) holding ‘where the law was free from ambiguity their practical effect and the motive for enactment were irrelevant.’ Section 29 itself ceased to exist with the 1972 Constitution of the Republic of Sri Lanka which came into force on 22nd May, 1972.

27. Speaking on the Citizenship Bill, in the House of Representatives, Mr. S. J. V. Chelvanayagam, the Tamil leader said :

"The Honourable Leader of the House told us that race is an important factor and that we must do everything to protect the race. What race did he mean? Is it the majority of this country? I say that this is the wrong approach to the whole question. Therefore, I say on behalf of those of us in the minority community who feel frightened against this trend of legislation that I protest against this type of legislation. As long as there are activities directed against communities and as long as these communities are minority communities, they must for their self-protection bind themselves in a communal way. The moment you remove the necessity for communal organizations, these communal organizations will cease to exist."

28. The left parties, the Lanka Sama Samaja Party (LSSP) and the Communist Party (CP) opposed the Bill.

29. The legislation, coming as it did, at a historical moment of the beginning of the life of a new nation left the Tamil leadership in a state of helplessness. The Federal Party was formed thereafter. The course of this country's history might have been differently chartered if the legislation depriving the Tamil plantation workers their voting rights had not been resorted to. That legislation was enacted at a critical moment when unity and not divisiveness should have been uppermost in the minds of the new leaders. Equally unwise was the federal response of the Tamil leaders which failed to take advantage of the opposition of the country's left parties as well as a section of the Buddhist clergy to the legislation, in order to overcome the discriminatory application of the new laws. It is noteworthy that a group of Buddhist monks led by Rev. K. Indrasara Thero from Gampola had opposed the Citizenship Bill and supported the plantation workers.

Language, Legislation and Communal Confrontations

30. The next phase that drove Sri Lanka into communal confrontation was the passage of the Official Language Act No. 33 of 1956, better known as the Sinhala only Act, the introduction of which was to have the widest ramifications in the body politic of Sri Lanka. This one page law set the stage for an irreversible process of confrontations, conflicts and violence between the two main communities of Sri Lanka the Sinhalese and the Tamils. The leaders of the majority community and the Sinhala intelligentsia noticed that the country's public services and institutions of higher learning, had at that time, a much higher percentage of Tamils than their national ethnic ratio would seem to justify. We cannot be unmindful of the fact that during 400 years of foreign rule the Sinhala Buddhist had been placed at certain disadvantages making the majority community to be seen as a disadvantaged people. Nonetheless Sinhala only, far from being a just or fair remedy for these historical ills, became for years thereafter, the centre stage of Tamil opposition and protests leading to the political exclusivism of the Tamil leadership.

31. The validity of the Official Languages Act was challenged in courts. The Supreme Court however upheld its validity, when Kodeeswaran challenged the Official Language Act. Though the District Court held with the Tamil plaintiff, the Supreme Court in both the citizenship as well as the language cases gave the ruling that there was no violation of Section 29.

32. The situation worsened and tension prevailed with an extremist Sinhala group resisting legislation for the reasonable use of Tamil and the Federal Party resisting the implementation of the new law as exemplified by an anti-Sinhala 'Sri' campaign. The Federal Party launched a *Satyagraha* or civil disobedience campaign, which led to the Bandaranaike-Chelvanayagam Pact and the gazetting of the Regional Councils Bill in 1958. The Pact and the Bill received fierce resistance from the then opposition and never saw the light of day.

33. Against this background of mounting tensions, violence erupted in May 1958, leaving a number of Tamils dead, many reportedly killed brutally. Over 25,000 Tamil refugees had to be relocated in the North. The government however acted firmly to restrain the spreading inferno and the situation in the country was brought under control within six days. Following this, the Tamil Language (Special Provisions) Act No. 28 of 1958 was enacted providing for the use of Tamil Language for prescribed administrative purposes in the North and Eastern Provinces, but the problem continued.

34. The next 20 years saw Tamils, a community which took pride in education undergoing hardships - in entering the public service, in the matter of promotions and in obtaining transfers. In addition, a policy of standardization introduced for University admissions was also perceived to be disadvantageous to the education of Tamils.

35. In March 1965, the Dudley Senanayake - Chelvanayagam Pact relating to the use of Tamil, the establishment of District Councils and the grant of lands under colonization schemes was abandoned in the face of stiff opposition from the major political party in the Opposition.

TULF and the Vaddukodai Resolutions

36. The failure of the Federal Party which became known from 1972 as the Tamil United Liberation Front (TULF) to obtain relief from successive governments propelled the Tamil political leadership further towards Tamil exclusivism and chauvinism. Engulfed by mounting opposition from amongst the Tamil youths, the TULF directed itself further into the fold of political extremism, following the Vaddukodai Resolution which was adopted at the TULF's Convention in May 1976, committing the party "to establish an independent, sovereign, secular, socialist State of Tamil Eelam."

37. The Ceylon Workers Congress (CWC) of S. Thondaman, which originally joined with the Federal Party and the Tamil Congress as a constituent partner in the formation of the TULF in 1972, however distanced itself and left the TULF after the Vaddukodai Resolution.

38. The General Elections of 21st July, 1977 brought to power the UNP with Mr. J. R. Jayawardena as Prime Minister and later as President with a 5/6th majority of Members in Parliament.

39. The violence that erupted with the conclusion of the 1977 elections against the defeated supporters of the SLFP, turned against Tamils, ignited by the shooting of two Policemen at a carnival in Jaffna on the night of 13th August, 1977. The Sansoni Commission which inquired into the violence of August – September 1977 had expressed the view that the inflammatory speeches of Tamil leaders and the cry for a separate state articulated by them, which had received wide media coverage, had contributed to the spread of violence directed against the Tamils in many parts of the island.

Proximate and Deeper Causes

40. These were arguably proximate causes. But there were deeper causes, to some of which reference has already been made and which contributed to a public perception amongst the Tamils that the post-independence governance of Sri Lanka had been seeking to marginalize opportunities for Tamils through such measures as the citizenship laws, the language law, insistence on competency in Sinhala for recruitment to and promotion in the public service without the provision of adequate facilities for the study of Sinhala in the North or the East, the standardization of marks for University admissions amongst others.

41. The introduction of some of these measures had been the subject of intense debate as well as discussion throughout the country from the time of their introduction. Some of these measures had become obsolete following subsequent development and rectifications. Some of them were thought to have been brought for purposes of consolidating political power more than discriminating against any minority. Some of the measures were argued to be salutary to redress grievances of the majority community.

42. There were also further and other deeper causes that were perceived by the majority community as matters of security troubling the country, such as near proximity of Sri Lanka to its giant neighbour India and the strong dominance of minority Tamils in the country's public service at the dawn of independence. Intermixed were the impact of the genuine Buddhist revivalism taking place in a country that had been ruled by foreign powers for over four hundred years.

43. The critical factor however, was that the Tamil youth continued to perceive post-independence governance as being directed against them, as attempts to deprive them of the right to live in this country as equals with honour and dignity. This perception got further reinforced by the ethnic violence committed on Tamils. Indeed, there was a tremendous short-coming in the whole process namely, the country's leadership failed to meet and explain to the Tamil speaking people of this country,

particularly the Tamil youth of the North, the justification if any for the enactment of these measures seen by the latter as ranging from 'discriminatory' to 'oppressive'. The government failed to explain to the people of the North, particularly to the Tamil youths and engage them in dialogues. The country witnesses the emergence of Tamil militancy thereafter.

44. The post 1977 era provides adequate testimony of the arrogance of power of the rulers in handling the militancy amongst Tamil youths, which in 1981 was an unknown quantity in its infancy. We need to look at this period more closely. Coincidentally, with the UNP sweeping to power with a 5/6th majority in Parliament, the TULF emerged from the North and the East with a sweeping mandate 'to establish an independent state of Eelam.' The Leader of the TULF Mr. A. Amirthalingam became the Leader of the Opposition in Parliament, having won the largest number of Opposition seats.

45. The UNP won 139 out of the 168 seats in the National State Assembly, at the General Elections held on 21st July, 1977 while the SLEP got reduced to a mere 8 seats. In terms of the percentage of the votes-polled, the UNP secured 50.92% of the votes and the SLFP secured 29.72% of the votes. The TULF, which campaigned for a mandate "to establish an independent, sovereign, secular, socialist State of Tamil Eelam" won every seat in the Northern Province and all the Tamil predominant seats in the Eastern Province losing to the UNP seats in the Eastern Province predominated by Muslims. The TULF won 18 seats, obtaining the largest number of seats for any opposition party in Parliament.

Post 1977 UNP and Tamil Problems

46. The UNP in its election manifesto of 1977 referred to the "problems of the Tamil speaking people" as follows :

"The United National Party accepts the position that there are numerous problems confronting the Tamil-speaking people. The lack of a solution to their problems has made the Tamil speaking people support even a movement for the creation of a separate State. In the interest of national integration and unity so necessary for the economic development of the whole country, the Party feels such problems should be solved without loss of time. The Party, when it comes to power, will take all possible steps to remedy their grievances in fields such as :

1. Education
2. Colonisation
3. Use of Tamil language
4. Employment in the public and semi-public corporations.

We will summon an All-Party Conference as stated earlier and implement its decisions."

47. *The Manifesto promised under the title 'Constitution', that the "decisions of an All-Party Conference, which will be summoned to consider the problems of non-Sinhala speaking people, will be included in the Constitution."*

48. The government had a comfortable majority in Parliament, functioning as it did having been elected under the 'first past-the-post' system. The new government of Prime Minister J. R. Jayawardena, (later President) soon got down to the task of preparing the new Constitution which was ready within a year, with the first reading taking place in Parliament on 25th July, 1978. The new Constitution was adopted and thereafter certified on 31st August, 1978. Regrettably there was no All-Party Conference prior to the enactment of the new Constitution of 1978, to consider the problem of the 'Non-Sinhala speaking people' to be included in the new Constitution as pledged in the party's Manifesto. An All-Party Conference (APC) however took place five years later, in 1983, following the July 83 ethnic conflagration. The APC folded up by the end of 1983 to be succeeded by a Political Parties Conference (PPC) in 1984. But none of their recommendations found any place in the Constitution. The Muslims who were represented in the APC, found no basis for representation in the Political Parties Conference, as they had no political party of their own. Muslims formed soon thereafter, the Sri Lanka Muslim Congress to protect their interests.

49. Meanwhile, in 1980 the District Development Councils were created by the Development Councils Act No. 35 of 1980, as the government's answer to the demand for devolution of power but this move was seen as providing little decentralization and no devolution of powers, though the TULF was willing to work it out. The DDC experiment was abandoned later on, with the repeal of the Development Councils Act in 1989.

50. With a new Constitution in place by August 1978, devoid of the election pledge, the course of events being chartered to handle the Tamil problem became clearer, following the passage of the Prevention of Terrorism Act in Parliament (PTA) in July, 1979.

51. Meanwhile President Jayawardena by a written order commanded General Tissa Weeratunga, the Army's Chief of Staff "*to eliminate, in accordance with the laws of the land, the menace of terrorism in all its forms from the Island and more specifically from the Jaffna District*". The order mandated General Weeratunga a six months period, expiring on 31st December, 1979 to complete the job, placing 'all the resources of the State' at Weeratunga's disposal.

52. Thus there were clear evidence of the direction in which the government was moving in handling the problems of the Tamil people. Bereft of any meaningful solution to the Tamil problems, Tamil militancy grew fiercely from this time onwards taking with it, over 50,000 human lives from both sides of the divide, while 'separation' became the dogmatic desire of the Tamil youth.

CHAPTER 3

The Events of 1981 to 1984 with Particular Reference to July, 1983

53. In the previous Chapter, we referred to the 1977 Manifesto of the UNP, which promised the Tamil speaking people "to remedy their grievances in the field of education, colonisation, use of the Tamil language, employment in the public and semi public corporations" and to incorporate the decisions of an All Party Conference to be summoned to consider the problems of non-Sinhala speaking people for inclusion in the Constitution'. We also saw how the Government of the day headed by President J. R. Jayawardena proceeded with the enactment of a new Constitution in 1978 without addressing the Tamil grievances and proceeded in July, 1979 to enact the Prevention of Terrorism Act followed by the President's Order as the Commander-in-Chief of the Armed Forces to General Tissa Weeratunga to eliminate terrorism in all its forms before 31st December, 1979.

54. With the new Constitution coming into force in September, 1978 President Jayawardena became the first Executive President of Sri Lanka with retrospective effect from 4th February, 1978 holding wide powers under the new Constitution. He enjoyed in addition a 5/6 majority in Parliament, which no other government ever had. Further, with the enactment of the 1978 Constitution, a New Supreme Court was constituted. Thus the government commanded all the power it needed to deal with the emerging situation in the North.

55. What was however an offer to the Tamils, who had elected the TULF to every seat in the North at the previous General Elections on a mandate to establish a separate state, was the District Development Councils (DDC) enacted on a 'take it or leave it' basis in 1980, amidst protests that the DDC's did not devolve meaningful powers. Though the TULF was willing to try them out the emerging Tamil militancy did not accept the DDC's.

56. Meanwhile the mandate given to the Army to 'eliminate terrorism before end of December, 1979' remained unfulfilled, while the manner in which the armed forces handled the growing militancy in the North compounded the problems. The Civil Rights Movement of Sri Lanka in a statement on 1st August 1979, stated that the "CRM is gravely concerned at the allegations that several persons had died after being taken in to custody by the police after the declaration of emergency in the North last month. According to information available to CRM it appears clear that at least some of these persons had been tortured before they died." (Quoted in the Report of the International Commission of Jurists (ICJ), Geneva, August 1983, Page 31)

The ICJ report, states further as follows : (page 97)

"Many observers have commented that the harassment and violence by the army and police have contributed to growing support for the Tigers. Though the actual number of Tigers is not known, it appears to consist of a

small number, the estimates ranging from 25 to 1,200" (Report of mission to Sri Lanka, June 1983 by Tim Moore, M. P., Honorary Treasurer of the ICAJ Australian Section.)

"The October 1982 Presidential Election and the Referendum led to an increase in the activities of the 'Tigers', which included an attack on police and army personnel. On the eve of the presidential election a countrywide emergency was imposed and 'Suthanthiran', a Tamil Newspaper, was suspended."

"With the growing failure to prevent the terrorists' activities, the government started using the Terrorism Act more widely. For example, on November 11th, thirty people were arrested. These included 8 priests, 6 belonging to the Catholic Church and two to the Anglican and Methodist churches. A University lecturer and his wife were also arrested on the same day. On November, 17th two of the Catholic priests, Fr. Singarayar, Fr. Singarasa and the University lecturer Mr. Nithiyandan and his wife Mrs. Nirmala Nithiyandan were charged under the Prevention of Terrorism Act. They were accused of withholding information about terrorists and harbouring them. (the other six Catholic Priests were released.)"

Burning of the Jaffna Public Library and the DDC Elections

57. It became clear to the people of the North, by early 1981 that the Jayawardena government was not pursuing the course of resolving Tamil grievances as spelt out in the UNP Manifesto. The thinking amongst the political elite in the government seemed to favour destroying the Tamil militancy, still in its formative years. But that objective too was grossly mishandled by the government and the forces, which also contributed to the growth of Tamil militancy from 1981 onwards.

58. It is noteworthy that the pre 1983 Tamil militancy was not only in its formative years but is also consisted of several splinter groups at this time. The 1981 June, 4th DDC elections in Jaffna were critical. The UNP and the TULF were the major contenders. The UNP was determined to win in Jaffna. But in the North, particularly the Tamil youth were already unhappy with the DDCs and saw the UNP's efforts as an attempt to take control of the future of Jaffna politics. Evidence was placed before the Commission of a clear attempt by the government to rig the elections. Though the government made desperate efforts to win, the TULF swept the polls.

59. The DDC elections in the North and East were held for seven Councils. Everything was being prepared for the poll to be held on 4th June, 1981. On May 24th, 1981, ten days prior to the poll, a former Member of Parliament, Mr. S. Thiagarajah, the UNP's number one candidate at the DDC election Jaffna, was shot at by a lone gunman and Thiagarajah died at the Jaffna General Hospital later. A tense situation developed in Jaffna and security had to be strengthened. This was the second

major killing of a prominent leader of the Tamil community, after the killing of Alfred Duraiyappah, former Mayor and M. P. for Jaffna on 27th July, 1975.

60. On Sunday 31st May, 1981 the TULF held a rally at Nachchimar Kovil along K. K. S. Road. At this meeting three policeman were shot at, but two died. Police Sergeant 9716 Punchi Banda who was on duty at the meeting was shot dead. Constable Canagaratne 2485, a Tamil Officer also died from this shooting two days later.

61. It is in evidence that on the night of 31st May, 1981 following the killing of Police Sgt. Punchi Banda, a large group of policeman, went berserk setting fire to Jaffna's educational monument, the Jaffna Public Library, several shops in town, including the office of Jaffna's only daily, 'Elanadu' published in Tamil and the house of Mr. V. Yogeswaran, M. P. for Jaffna.

62. The Prime Minister Mr. R. Premadasa made a statement in Parliament on 10th June, 1981, on the shooting incident, which occurred at the TULF meeting held on Sunday 31st May. He said :

"That night, certain sections reacted violently against the killing of the Police Personnel. A further set of incidents took place on Monday night".

"On Wednesday evening the Leader of the Opposition (Mr. A. Amirthalingam) met the President and informed him that the trouble was caused by the temporary police staff sent up for the elections and that he feared no trouble from the permanent police and the armed forces stationed in Jaffna." Mr. Premadasa said.

Indictment on the Conscience of the Nation

63. **Mrs. Sivanandini Duraiswamy** widow of former Government Agent of Jaffna Mr. Yogendra Duraiswamy in her written representations to the Commission describes the burning of the Jaffna Public Library. "Angry policemen had torched the Jaffna Public Library with all its valuable books and manuscripts. There was a raging fire. Yoga her husband, who was the G. A., Jaffna briefly returned to request a water bowser from the Naval Base in Karainagar and the Municipality nearby in order to douse the flames. This library housed several thousands of rare manuscripts and out of date first editions. The arson attack was an attack on Tamil culture. While Yoga stood alone and helpless in the library premises, a lone Tamil Policeman came up to him and said in Tamil, "Aiyah, please do not stay here because I am not sure what the Sinhalese policemen will do to you. Please go away" he pleaded.

64. Accordig to Mrs. Duraiswamy, the burning of the Library was an indictment on the conscience of the Nation. Yoga's one wish was to reconstruct it. American Missionaries had left microfilms of valuable documents and records of the Morning

Star journal published in the early part of the Twentieth Century by the Missionaries, which are still obtainable in the U. S. A.

65. "Yoga was a member of the Jaffna Public Library Committee set up to reconstruct the Library. At the inaugural meeting to reconstruct the library, convened by President Kumaratunga, Yoga as the Chairman of the Committee on Fund raising said in his introductory address "Sixteen years ago I had the misfortune to witness the Jaffna Public Library go up in flames. Despite the efforts by a few of us, we were unable to extinguish the fire. Today I am happy to function under the distinguished patronage of the President to formally inaugurate the reconstruction of the Jaffna Public Library on the same plot, on a bigger and better scale. It is a laudable act of reconciliation, which springs from a desire of the government to redress past wrongs. It is our fervent wish that this initiative of the government would lead to mutual trust and understanding between the two parties."

"As an act of reconciliation, everybody should participate in the 'brick and book' campaign to restore this Library so treasured by the people of Jaffna and valued by all Sri Lankans".

66. **Mr. Edward Gunawardena** Deputy Inspector General of Police (DIG) stated that he was in Jaffna on the day the Library was burnt. He was in charge of Colombo, but was sent to Jaffna to assist in the DDC elections. Mr. Gunawardena gave evidence that the police were restless after the incident in which two policemen were shot. He was at the King's house, when the news of the burning of the Jaffna Library came in. The Cabinet Secretary (Mr. G. V. P. Samarasinghe), Secretary, Ministry of Defence (Col. Dharmapala), the Army Commander (Gen. Attyagalle) and several others were present at the King's House.

67. **Mr. Chandrananda de Silva**, then Additional Secretary, Ministry of Lands and Land Development, said he accompanied Mr. Gamini Dissanayake to Jaffna by plane on the morning that was a day before the election to the DDC on 04.06.1981. He had not seen any of the incidents relating to the burning of the Jaffna Public Library.

68. In a document submitted to us marked D-44, the Movement for Inter-racial Justice and Equality sent a delegation to Jaffna to investigate the June occurrences. The delegation's report in referring to the arson of the Public Library stated. "If the delegation were asked which act of destruction had the greatest impact on the people of Jaffna, the answer would be the savage attack on this monument of learning and culture and the desire for learning and culture of the people of Jaffna. There is no doubt that the destruction of the library will leave bitter memories behind for many years." The 95,000 volumes of the Public Library destroyed by fire included numerous culturally important and irreparable manuscripts.

69. **Mr. R. Balasubramaniam**, an Attorney-at-Law gave evidence on the burning of Jaffna Library. Mr. Balasubramaniam was a much respected citizen of Jaffna and he was also the Secretary of the Citizen Committee. He stated that :

“The Library was very close to the Jaffna Police Station. On the night of 31.05.1981 he received information that the police were uncontrollable but no one got out of their homes through fear. I heard that many places in the Jaffna town were in flames. I got information that the Library was burnt only in the morning Rev. Father David, a respected Priest had a heart attack and died when he heard that the Library was destroyed.” Mr Balasubramaniam stated that it was not the library alone that was set on fire, but also many business establishments in the Jaffna town. The cause for the formation of the Jaffna Citizens Committee was burning of the library. The Citizens Committee met Gen. Weeratunga and during those days the Army was considered a more impartial force than the police, which had by now come to detested by the people of Jaffna.”

Wanton Criminal act by Police

70. We can conclude that on the evidence placed before us, the burning of the library was a wanton criminal act committed by a contingent of policemen who had been in Jaffna in connection with the DDC elections. There were a large number of policemen who had come from many parts of the country to ensure security for the DDC elections. The ‘Sun’ daily of 26.05.1981 reported that in the wake of the killing of Mr. Thiagarajah, Police Headquarters in Colombo intensified security operations in the North with the immediate despatch of 200 Police Officers and the deployment of another 1,000 Policemen thereafter. There is material evidence to conclude some of these Police Officers were responsible for the destruction of the Jaffna Public Library.

71. We have not received any report of any inquiry by the State into this incident or any police statements that were recorded. We have been informed by the Inspector General of Police that there are no Police records relating to this incident traceable. The government of the day failed to carry out an inquiry and prosecute the offenders. The government’s failure to prosecute the offenders who committed this grave crime, was the cause of protests and anger among the Tamil youths, who would naturally see nothing to hope for, from the Government. As much as the Police reaction had no acceptable justification whatsoever, the government showed no serious interest in investigating or prosecuting the offenders. Such indifference on the part of the government to the feeling of a people aggrieved by the wanton and criminal destruction of the Public Library of Jaffna merits serious censure, no matter the circumstances.

Accountability of the Government

72. The responsibility and the accountability of the government of the day to investigate and prosecute the persons responsible for the destruction of the library,

however does not mean that the government had any hand in the destruction of the library, We had evidence that on 3rd June Cabinet Ministers Cyril Mathew, Gamini Dissanayake and Festus Perera and several others were in Jaffna. That was a day before the DDC elections and the third day after the burning of the library. We also listened to evidence that the DDC elections in Jaffna were strongly contested by the ruling UNP as well as the TULF. Experienced political campaigners do know, that the outcome of the elections would be adversely affected if any of their party campaigners commit any act likely to outrage the people. Though, following the killing of Police Sergeant Punchi Banda on the night of 31.05.1981 allegedly by the Tamil militants, the Police went berserk setting fire to the Jaffna Public Library, we are not possessed of any evidence that any group other than the Police had any involvement in the burning of the library.

73. Many witnesses who came before us to testify about the burning of the Jaffna Library made extensive comments about the conduct of the DDC elections in Jaffna in June, 1981. They referred to the attempts to rig the polls and to the attempts to cancel staff already assigned for election duty, with a new staff of about 1,000 men brought overnight from outside, such as Kurunegala and Colombo.

74. The presence in Jaffna of a large number of Ministers of Cabinet rank added to the prevailing tension and attempts at rigging the polls. However, after giving the people of North and the East a measure of decentralisation through the establishment of the DDCs the attempts to rig the polls were seen by the Tamils as measures to deprive the Tamil people of the right to elect their local leaders by their own free will.

75. We heard the evidence of former Defence Secretary and former Commissioner of Elections, Mr. Chandrananda de Silva that the DDC elections in Jaffna were not free and fair. Several Cabinet Ministers among who were Gamini Dissanayake, Wimala Kannangara, U. B. Wijekoon, Festus Perera, Cyril Mathew were in Jaffna for the DDC elections. Soon thereafter in August, 1981, there were elsewhere in the island, widespread incidents of communal violence directed mainly against the plantation sector Tamils of Indian origin. Worst affected were the Central and Sabaragamuwa Provinces with incidents in Colombo and Negombo as well.

Growth of Tamil militancy

76. The event of 1981 - the burning of the Jaffna Library, the attempt to rig the DDC elections in Jaffna and the emergence of a small militant group the LTTE in the North were critical developments of the time. 1982 was also a period in which the UNP Administration was to face a General Election as the government's scheduled period of office was ending. Unlike in the past, there was to be two national elections. There was to be a Presidential Election and a General Election. The up-coming General Election to Parliament was to be on proportional representation, which would mean the loss of the 5/6th majority that President J. R. Jayawardena enjoyed. The Presidential Election encompasses the whole island as the electorate and every person had a vote

to select the candidate of his choice. President J. R. Jayawardena decided on the Third Amendment to the Constitution in 1982, which enabled the President to contest while Mrs. Bandaranaike was still disqualified from standing against him.

77. The Island faced its first election for the Presidency in October, 1982. Mr. J. R. Jayawardena was elected the President, defeating his nearest opponent Mr. Hector Kobbekaduwa. The voting showed that the people of Jaffna rejected Mr. J. R. Jayawardena but, voted for Mr. Hector Kobbekaduwa. This was a clear rejection of the Jayawardena administration by the people of Jaffna. The J. R. Jayawardena regime fresh from its victory in the Presidential Elections brought in the Fourth Amendment to the Constitution in 1982 by which the life of Parliament was extended for another six years without holding the scheduled elections. This helped to avoid a General Election under the new Proportional Representation (PR) system introduced by President Jayawardena's Government in the 1978 Constitution and to ensure the continuance of the 5/6th majority that the government already had.

78. The Tamil people and the TULF maintained their opposition, pressurised by the militant youth movement, which was growing in numbers. They did not see any solution to their problems and the militant youth actively embarked on their object of a separate state.

79. If a serious attempt had been made to resolve the Tamil grievances when the TULF was strong and the LTTE was a small group, the present situation of civil disorder would have been avoided or greatly mitigated. July, 1983 was significant as this month heralded the end of the Jayawardena regime's Parliamentary term. Mr. J. R. Jayawardena had received a fresh term of office at the Presidential Elections of October, 1982. The term of Parliament had been extended by the referendum of December, 1982. The Referendum was the first national poll held under an emergency. The Tamil people of Jaffna rejected Mr. J. R. Jayawardena in the Presidential Elections of October, 1982 and voted against the extension of the term of parliament in December, 1982 as well.

July 1983 – Political Overview

80. Sometime in mid-May 1983, a Tamil undergraduate at the University of Ceylon, Peradeniya was detained by the police for possessing allegedly 'subversive literature'. Angry Sinhala students sought to convert this to a general attack on Tamil students in the University. The Tamil undergraduates were soon forced to leave the University premises following the tension within the University. The CID, subsequently cleared the Tamil undergraduate, because the so-called subversive literature turned out to be some article for a journal being published in Jaffna.

81. Meanwhile, elections to the local authorities were being held on 18th May. For the first time, the LTTE called for a boycott of the elections. The TULF which was contesting the polls came under threat, while in fact 3 UNP activities and a soldier

on duty at a polling booth were killed in separate incidents allegedly by the LTTE. Soldiers retaliated amidst claims that several houses in Kantharmadam were set on fire by the army.

Terrorism and the Regulations on the disposal of dead bodies for the North

82. On 2nd June, 1983 the Working Committee of the ruling UNP adopted resolutions asking the President to suppress Northern terrorism by enacting necessary regulations under the Public Security Ordinance. The new regulations brought into effect from midnight of the 3rd of June enabled (subject to the approval of Secretary, Defence) the disposal of dead bodies by Police Officers of the rank of A. S. P. and above without recourse to the legal requirements of inquest proceedings and inquiries relating to the circumstances of the death. The TULF protested against this. The Leader of the Opposition Mr. A. Amirthalingam alleged in Parliament, that the Government by introducing these Regulations was encouraging the army in the North to kill.

Minister of State Mr. Anandatissa de Alwis at a press conference on 3rd June following the UNP working Committee decision of 2nd June, announced that "the Government is ready to reply to Terrorism" (Dawasa - 4th June, 1983, Page 1, Lead story captioned "නුස්කව්‍යයට පිළිතුරුදීමට රජය සූදානම්" (දවස - 4.6.1983).

83. The TULF saw the new Regulations under the Public Security Ordinance, restricted initially to the North, as an open license to repress the growing violence in the North. The Government gave the impression in the Sinhala Media that it was ready to combat terrorism in the North with terrorism, which impression was negated by the Prime Minister R. Premadasa speaking in Parliament on 8th July, that "Terrorism cannot be controlled by Terrorism" ('Dawasa' - 9th July, 1983).

84. On 12th June, President Jayawardena left on an official visit to Egypt and Rome and returned on 27th June, to find the Leader of the Opposition complaining on the Floor of the House, of six incidents of killing by the security forces in the North, the last of which was that some soldiers had fired at a bus transporting passengers to Jaffna, killing the driver and injuring several passengers. He complained that the Police had failed to apprehend the perpetrators.

Violence in Trincomalee

85. June 1983, also saw in Trincomalee continuous incidents of violence occurring between the Sinhalese and Tamils. There was resistance to resettlement of Tamils of Indian Origin in Trincomalee. The Resettlements were organised allegedly with assistance from foreign Non-Governmental Organizations (N. G. Os). These Tamils of Indian Origin were mainly refugees from the plantations sector, displaced by the ethnic riots of August, 1981. But the resistance appeared to be directed against any moves aimed at permanent settlement. The 'Sun' paper of 20th July, 1983 reported a meeting, chaired by Minister Gamini Dissanayake as having told the G. A's in

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attendance, "There were people with no right of settlement being trans rooted from plantations to new areas. The Government would soon be enacting new legislation to give the G. A's new powers with the support of the Police, Judicial, Ministerial and other government bodies to prevent exploitation of land resources." These and other similar statements coming from the country's leaders, continued to distinguish the Sri Lankans ethnically and sought to confer or deny rights even by enacting new legislation, overlooking the right of every Sri Lankan to be treated as Sri Lankans.

"It was sometime after this meeting, on the eve of the country-wide July, 1983 riots, that Indian Tamils living as refugees at Nilaveli, Sambaltivu, Pankulam and Trinco Town were commandeered overnight into CTB buses orgniased under the command of the Navy with assistance of the officials of the Trincomalee Kachcheri and transported back to the plantation areas, where they were dumped in places with which they had no connection."

(**'Sri Lanka the Arrogance of Power Myths, Decadence and Murder'** – authored by Rajan Hoole, University Teachers for Human Rights – Jaffna – Page 81).

86. Mr. Rajan Hoole, who testified before the Commission, had at page 55 this to say : "A gesture from the President strictly and impartially enforcing the law in Trincomalee would have gone a long way in calming the situation. But instead, the Government only took cognisance of the challenge to its authority in Jaffna and tightened the screws of repression. The Competent Authority, Douglas Liyanage, using powers vested in him under the Public Security Ordinance, prohibited publication and sealed the offices of 'Suthanthiran' and Saturday Review on 2nd July. Further, Dr. Tharmalingam and Kovai Mahesan were detained under Emergency Regulations."

87. Years later, in 1989/1990 onwards, large numbers of Tamils from the North and the East, found sanctuary elsewhere amongst the Sinhala majority. Noticeable was the case of the Muslims, nearly 75,000 of whom were driven out of the North overnight by the LTTE and who to this date, live as refugees amongst the Sinhala majority, in Puttalam, Anuradhapura and Polonnaruwa areas.

88. Meanwhile, the fact that the government had chalked out a tough course of action to deal with the growing Northern problem became apparent by early July. A growing sense of frustration of its inability to stem the tide was also getting reflected in the statements of government leaders to which we shall soon refer.

President J. R. Jayawardena's interview to London 'Daily Telegraph'

89. The government after having identified, specifically some of the grievances of the Tamils which it had promised to resolve, was now moving away in an entirely different direction. Of crucial importance was the interview President Jayawardena gave the Daily Telegraph of London of 12th July, 1983 in which he said -

"They used to speak on behalf of the terrorists. But now all that is going to cease. As long as (the TULF) remained in Parliament, its members would be consulted on political issues. But on terrorist issues, these we are going to deal with ourselves without any quarter being given. I have tried to be effective for sometime, but I cannot. I am not worried about the opinion of the Jaffna people now. Now we can't think of them. Not about their lives or their opinion about us."

Significantly, the Daily Telegraph interview was given coverage on the radio over the Sri Lanka Broadcasting Corporation (SLBC).

Extension of the Regulations on the Disposal of Dead Bodies Island-wide

90. By 18th July, 1983, a week before the communal conflagration of 23rd July was to commence, another act of significance took place. The tough new Regulations re-enacted as Emergency Regulations under the Public Security Ordinance for the Northern Province allowing the Police to deal with the disposal of dead bodies without a judicial inquiry, was brought into operation Island-wide.

Clause 15A of the Gazette Extraordinary of 18th July, 1983 provided as follows :

"It shall be lawful for any Police Officer of a rank not below that of Assistant Superintendent or of an Officer-in-Charge of a police station or any other officer or person authorised by him in that behalf to take with the approval of the Secretary to the Ministry of Defence of such measures that may be necessary for the taking possession and burial or cremation of any dead body and to determine in his discretion the persons who may be permitted to be present at any assembly for the purpose of or in connection with any burial or cremation. Any person who is present at any such assembly without permission of such officer or authorised person or who obstructs such officer or authorised person in the exercise of the powers herein before conferred shall be guilty of an offence. It shall not be necessary for any officer or person taking measures relating to the possession and burial or cremation of a dead body under this Regulation to comply with the provisions of any other written law relating to the inquest of death or to burial or cremation."

91. The regulation permitted any Asst. Superintendent of Police or above subject to the approval of the Secretary, Ministry of Defence to take control of dead bodies and deal with them, including burial or cremation and to determine who and the number of persons who can be present at such burial or cremation, without complying with the provisions of any written law relating thereto. This Gazette Extra-ordinary was issued on Monday 18th July, 1983 under the Public Security Ordinance, less than a week before the commencement of the July, 1983 riots on Sunday 24th July, 1983.

Not troubles anywhere except in the North-East

92. Mr. Edward Guanwardena, who was DIG Colombo at that time, said he had no access to any intelligence or security reports of any impending trouble in Colombo. He confessed he was unaware of this Gazette. But he was certain that there was no trouble in Colombo or any where other than the North-East, a week prior to the Island-wide riots that occurred during the last week of July, 1983.

93. The need for the Extraordinary Emergency Regulations, relating to the disposal of dead bodies by-passing inquest proceedings to be imposed island-wide at this time of relative peace, was not made clear. There were escalating incidents of violence in the North, such as the Yal Devi train to the North being set on fire in the first week of July, 1983 the Nallur A. G. A. office being attacked on 6th July, followed the same day by armed militants attacking the K. K. S. Cement Stores at Kankesanthurai and the disclosure of plans to attack Government vehicles and CTB buses plying in the North and the several incidents of Government owned buses being set on fire in Jaffna. The regulations were already in force in the North commencing from 3rd June.

94. But outside the North and the East there were no incidents of violence, as at 18th July, 1983 that could have even remotely explained the need for such regulation to be extended country-wide. The Daily Telegraph interview published six days earlier on 12th July, 1983 as reported in the Government radio disclosed the existence of a programme of action to eradicate terrorism. The radio quoted President Jayawardena as having told the Daily Telegraph, "*No need for any debate, arguments or counter arguments. Firm action will be taken shortly to uproot terrorism.*" - Dawasa - 13.07.1983. Such firm action for uprooting terrorism cannot be without a plan or programme.

95. It was also at this time, on 14th July, 1983 the Government invited the SLEP, CP, MEP and the TULF for talks on 20th July on 'eradicating terrorism'. But, the talks did not take place as planned as all four parties declined to participate, with only the UNP and the CWC attending the talks. The CWC urged the UNP to widen the agenda to address Tamil grievances, but the talks thereafter never took place.

Total censorship - Four days before the out-break of 1983 troubles

96. Four days before the out-break of the communal violence, the Government announced on 20th July, 1983 the imposition of a total censorship of all news relating to terrorism. If it was per chance based on intelligence reports of impending communal troubles, the Government had a firm duty to take all other advance precautionary measures to prevent any such troubles taking place. That there were no such measures taken by the Government was a fact witnessed by the entire country when communal troubles broke out from the evening of Sunday 24th July, 1983.

97. Meanwhile, on 19th July the Indian Government raised certain concerns with the Sri Lankan Government on the situation in Sri Lanka. Government owned newspapers of 20th July however protested that New Delhi was meddling in Sri Lankan internal affairs. On the same day, 19th July, 1983 at Inginiyagala in the Amparai District, Eastern Province, 13 Tamils were arrested being found within the high security area of the Inginiyagala Power House.

98. The only other event of significance that occurred was on 22nd July, 1983. The Government expelled Rev. Nicholas Ratnam, the Holy Sec. of the Apostolic Nunciature of Rome in Colombo, who had reportedly visited Jaffna several times and allegedly had links with certain groups operating in the North. It is against this background of events that we enter the day of the major occurrence.

Sunday 24th July 1983

99. On the night of 23rd July, around 11.30 p. m. 13 soldiers on a routine patrolling in the North, travelling in a jeep and a truck came under terrorists attack and all 13 soldiers were killed. This was at this time the largest number of army men killed so far in any incident in the North. News of the killing spread instantly on Sunday in the country. Unknown and unannounced, the army in Thinnavelly retaliated, killing on Sunday nearly 10 civilians. By evening, there were 51 reprisal killings by the armed forces in the entire North. News of the counter killings by the government forces never appeared in print. Evidence was placed before us that if the news of the avenging of the killing of the 13 soldiers had been published, the major conflagration that engulfed Sri Lanka thereafter, would very likely have been avoided. The Country's media went totally silent on this, namely that 51 (Tamils) had already been killed in response to the killing of the 13 (Sinhalese). We have no evidence that the Competent Authority Douglas Liyanage blocked this story from the media but factually there was total silence. However, notwithstanding the censorship, the killing of 13 soldiers went across the media, as if that was the news that was being awaited. No doubt the terrorist attack on the 13 soldiers was totally unforeseen. It was in all probability the happening of the unexpected. It was in fact a news that shocked the country. It was also a news that the country found difficult to accept. But what happened thereafter are matters of the greatest consequence to this country.

100. Why did the government fail to use on Sunday (24.07.1983) the censorship brought into force, only the previous Wednesday, to prevent the country-wide splash of the news of the killing of 13 soldiers ? This was the very question Mr. Sarath Muttetuwegama, M. P. raised in Parliament on 4th August, 1983. As much as publicity to the reprisal killing of 51 Tamils could have saved the unfortunate events that followed, the censorship of the death of 13 soldiers would have equally well prevented the cycle of events that ensued.

Government defaulted

101. The whole of Sunday was available for the government to anticipate trouble and take precautionary measures, as preparations went underway for a State sponsored funeral for all 13 soldiers together, in the city's main crematorium and cemetery - the Kanatte at Borella. Why were no such precautionary measures taken ? If the government's intelligence services were at work and if it had been known that the government may not have an effective control over the army, knowing the growing anger and frustration, why did the government fail to change plans and call up the Navy and the Air Force to take over the security in the city or to organize 13 separate funerals in the respective villages of the deceased ? Either way, the government was in default.

102. It was only 9 months earlier that at the conclusion of the voting for the Presidential Elections of 20th October, 1982, the government declared a State of Emergency to prevent 'post-polls violence'. Though there were no major incidents, the government imposed a precautionary curfew that day (20th October) from 6 p. m. onwards. This showed the government had tremendous experience to judge anticipated troubles and possible breakdown of law and order and to impose at the right time precautionary curfews. The government had adequate opportunity, as it prepared for the Kanatte funeral to decide on a precautionary curfew to be imposed soon after the funeral, which the government failed to do resulting in, the eruption of violence in Borella that same evening, following the funeral.

103. As the fire in Borella, raged throughout the night, easily visible from the Ward Place residence of President Jayawardena, hoodlums from nearby Wanathamulla saw truck loads of armed soldiers in the affected areas, watching the inferno without a single shot being fired. The message that night was clear, there was no question of preventing trouble-makers creating trouble.

104. Further, the question arises as to why the government failed to declare the curfew in the morning of Monday 25th July, when trouble had already broken out in several parts of Colombo, in addition to the troubles that had occurred in Borella, the previous evening ? This was another question that Mr. Sarath Muttetuwegama raised in Parliament on 4th August, for which no satisfactory response came from the government.

105. We have the evidence of the Sarvodaya leader, Dr. A. T. Ariyaratne referred to later on in greater detail, that when he spoke with President Jayawardena on the morning of 25th July, he pleaded with the President to impose a curfew immediately.

106. The Government however declared a curfew only in the afternoon of 25th July, which came into effective operation late in the evening. Mr. Muttetuwegama said in Parliament -

“Everybody knows Sir, the houses and the areas that were attacked, that State CTB buses came with thugs. Surely, I am not telling this to score some point. If you go and ask your friends in those areas you will know. Electricity Board vehicles brought thugs to Agalawatte. I am not saying the Electricity Board Chairman or somebody else or the Minister gave an order. That is not the point. The state apparatus was used.....”

Ten days of widespread of violence

107. From Monday 25th July, for ten days, widespread violence directed against the Tamils sent Tamil men, women and children nowhere to go except the refugee camps and the homes of kind Sinhala and Muslim neighbours. It is necessary to emphasise the difficulties of giving a complete picture of these events, firstly because no official records of any investigations are available ; secondly, almost all reports were censored at that time from publication and thirdly most of the victims are still living outside the country - some in South India, most of the others in Western countries. We have restricted these records to those who made representations, almost all of which were verified by a competent team of Investigators appointed by the Commission and to the accounts of those who were able to give oral testimony before the Commission. We are in no position sitting as we do, nearly 19 years after these events of July 1983 to give even a reasonably complete picture of the events of 1983.

108. The violations of human rights directed against the Tamils were unquestionably the worst in Sri Lanka's modern history. Killings, tortures and harassment of unarmed Tamils went hand in glove with the more widespread destruction and damage to Tamil homes, businesses and industries. Over 75,000 Tamils in Colombo alone and nearly a 100,000 in all, were temporarily located in nearly 27 refugee camps. Refugees in large numbers were sent to the North by ships since the government had failed to stop the violence which raged over a period of 10 days.

109. The government acknowledged a death toll of nearly 350 in all, but Tamils claimed the number of deaths to be over a thousand. We have no basis to report on the number of deaths or the extent of damage to properties, with any degree of accuracy, for reasons referred to elsewhere in this Report.

110. Amongst the more prominent of the events of July 1983 were the killings of 51 Tamils in the North on 24th July by army personnel, the destruction of 175 Tamil houses, with one death and a dozen injured in Trincomalee on 25th July by Navy personnel, the killing of 35 Tamil prisoners by fellow prisoners at Welikade Jail Colombo on 25th July, followed by the killing of a further 18 Tamil prisoners at the same prison on 27th July. We have dealt with the killings inside the Welikade Jail elsewhere. (Vide paragraphs 152 onwards).

No appeal to stop violence

111. We have faulted the then government, in several places of this report for both acts of omissions and commissions, in the run up to the events that resulted in the communal conflagration of July 1983. But more importantly, the government was guilty of gross negligence in failing to appeal to the people for restraint, peace and calm on July 25th, 26th and until the evening of July 27th. There was not a single leader of Cabinet rank to at least appeal to the law-breakers to stop violence apart from the government's failing to perform its fundamental obligations to protect the life and property of its citizens, even by recourse to force. There were witnesses who testified that this was due to the complicity of a section of the government in 'teaching the Tamils a lesson', for the terrorism in the North.

112. The Government appears to have awakened to its responsibilities only on the evening of 27th July - the third consecutive day of extensive violence, perhaps following the call from the Prime Minister of India Mrs. Indra Gandhi to the Sri Lankan president, informing him that she thought it fit for her Foreign Minister Mr. Narasimha Rao to personally visit Sri Lanka the following day, to get a first hand assessment of troubles in Sri Lanka, which he did the following day.

President's speech with no apologies

113. The Cabinet which met the same night of 27th July 1983, was appraised of the Indian Foreign Minister's visit. It was only on the evening of 28th July, 1983 that President Jayawardena made a televised speech to the Nation and appealed to the people 'to lay down their arms'. The 'Dawasa' a Sinhala daily of 29th July 1983, reported in banner headlines, the President's speech as follows :

“සිංහල අභිලාෂය ඉටු කරමි.
රට දෙකට කඩින්නට ඉඩ නොදෙමි.”

*“I will fulfill Sinhala aspirations.
I will not allow the country to be divided.”*

114. In the President's, speech there was no message to the victims and no apologies. The President however acknowledged the Government's failure to solve the Tamil problems as promised in the 1977 manifesto of his party. In the President's Speech there was a message that the government understands the feelings of those who created trouble. Shortly thereafter, on 20th July, Minister of State Mr. Anandatissa de Alwis blamed the JVP, the Communist Party and Dr. Wickremabahu Karunaratne's NSSP as being behind the violence, alleging the existence of 2nd Naxalite plot. But, there was no evidence of any left complicity in the events of July 1983 and the allegation was soon given up, without a single prosecution but only after the detention of large numbers of left leaders and activists.

115. If the Indian Prime Minister's despatch of her Foreign Minister to Colombo did give a surprise to the Sri Lanka government, it did not appear to have softened President Jayawardena's tough stand on the question of Tamil terrorism. Going by the text of the head-line given by the 'Dawasa' daily, 'Sinhala aspirations will be fulfilled and the country will not be allowed to be divided' - "සිංහල අභිලාෂය ඉටු කරමි. - රට දෙකට කඩන්නට ඉඩ නොදෙමි". It would appear that four days of intense violence against innocent Tamils in the country did not bring about any remorse or regret upon the President to convey the apology of a nation to the plight of a section of its people, even as a large number of well meaning Sinhala neighbours protected the Tamils. Indeed, the Dawasa lead story of the President's televised address to the Nation itself would have given the trouble-makers encouragement and comfort that the head of the State was truly with them, if there had been any doubt about it. The attacks on Tamils continued for five more days, even after the Head of state addressed the Nation. Sad to record that the 'Dawasa' as well as most of the other media failed to douse the flames by reflecting on the horrors suffered by the innocent Tamils, in their hour of need. To give prominence to 'Sinhala aspirations' at a delicate time when the innocent sections of a minority were trying to escape the attacks, fleeing as they did with their women and children would have doubtless given the message that the media too was united with the political leadership and the hoodlums in 'teaching lessons'. We need add, only that, the nation was at its lowest ebb with a total break-down of its moral responsibilities.

Separatism and the Sixth Amendment to the Constitution

116. When the need of the hour was to appease the Tamil people and their leaders, notwithstanding the terrorism at that time of an insignificant number of Tamils, the parliament of President Jayawardena however moved swiftly on 4th August, 1983 to enact the Sixth Amendment to the Constitution after a single day's debate. The Sixth Amendment was to disavow Separatism, but the new result of the amendment was to compel the 16 TULF MPs to vacate their seats in Parliament and to throw the political leadership of the Tamils into the 'Tiger's lap'. The amendment further reinforced the belief that there was 'no remorse nor regret' for the events that had occurred.

117. Before we conclude this section, we need to refer to one more matter.

Mr. R. Sivagurunathan, Attorney-at-law, former Editor of the 'Thinakaran' daily, giving evidence referred to the destruction of his house and the damages his family had to endure during the ethnic riots of July 1983. He also referred to his Sinhala neighbour Mrs. Gunaratna, who saved his family during those 'terrible days'. Though 'I ended up as a vagabond', Mr. Sivagurunathan deeply bemoaned the loss of a book 'Glimpses of World History' personally autographed by the author, Shri Jawaharlal Nehru, when the latter visited Sri Lanka for the Buddha Jayanthi Celebrations in Colombo. The book got fully destroyed in the fire that gutted his home. The book contained Nehru's reference to the Indian Mutiny of 1857, in the following words :

“If mobs of mutinous Indian soldiers, without officers or leaders, had been guilty of cruelty and revolting deeds, the trained British soldiers, led by their officers, exceeded them in cruelty and barbarity. I do not want to compare the two. It is also well to remember that the cruelty of a mob is nothing compared to the cruelty of an organised government when it begins to behave like a mob.”

July 1983 - As seen by Witnesses

118. **Dr A. T. Ariyaratne**, Leader of the Sarvodaya Movement testified before us. He said,

“On that terrible day, 25th July 1983, early in the morning, I came to know what was happening in Colombo. I immediately rushed to Colombo. I proceeded at once to the President’s house. I could not get in because there were so many milling around. I telephoned the President and said, “Sir, please declare a curfew immediately, otherwise what will happen today will affect our country for decades to come.” He promised to do so but when he declared the curfew it was too late. The decision was enforced late in the evening. At that time, among the victims streaming into refugee camps, were individuals of stature in the administrative and public life of this country, some of whom are present today in this hall.”

He further said that a large number of Tamils underwent tremendous hardship on account of the violence that erupted in July 1983. He also referred to the killing of civilians in 1984 in the Dollar and Kent Farm in which the Sinhalese were attacked by Tamil militants. Violence does not seem to be the monopoly of any single community. *“All forms of violence must be condemned by all right thinking people, irrespective of ethnicity”* Dr. Ariyaratne said.

Riots were orchestrated

119. **Dr. Godfrey Gunatillake** of the Marga Institute also recalled some of his experiences in July 1983. He saw a gang of people who came in a lorry. They were well organized and proceeded down the lane. “There was no question in my mind that it was orchestrated, later when we made some inquiries, it proved to be true. Thereafter they looted.” He also said that “people allege there were lists prepared earlier, which indicated that people were identified before hand. That required a more systematic level of organization. The conduct of the political parties, particularly that of the ruling party, created the environment for the perpetrators to act with impunity.”

120. We had a presentation made by Mr. S. Sivananthan, a retired Civil Servant. He said, “the appointment of this Commission to inquire into the ’83 riots, though belated, has to be appreciated by everyone.” He was the Government Agent, Matara in 1983, but he came to Colombo when he heard that his family was affected in Colombo. He said, “violence has been increasingly used as an instrument to solve

problems in Sri Lanka on a number of occasions. several instances of mass violence have occurred during the past-some of them ethnic, whereas others are non-ethnic in character. Events of this nature if not curtailed can create a tendency towards extra-judicial punishments. This is serious indictment on our society.”

121. **Dr. Uvais Ahamed**, Principal of Zahira College, a respected Muslim educationist made a presentation. He was of the view that the timing of a Commission of this nature was never too late: “Due to the scheming machinations of a few chauvinists overtaken by looters, this blessed country was set ablaze, turning the country into killing fields where innocent men, women and children from the Tamil community were killed and property plundered and destroyed.

51. Tamils killed in the North on 24th July 1983

122. **Mr. R. Balasubramaniam**, Attorney-at-Law and Secretary of the Citizens’ Committee of Jaffna in 1983 referred to the killing of the thirteen soldiers at Thinnavelly on the night of 23/24 July 1983. That very morning in Thinnavelly alone, the army reacted, killing 10 people, including a 70 year old man. Thereafter, before noon that day, 51 people all innocent Tamils were killed by the Army. The media suppressed this. He was of the view that if this was given wide publicity in the media, the anger generated by the killing of the 13 soldiers, in the Sinhala community could have been avoided and or mitigated. He gave affidavits to Dr. Neelan Tiruchelvam in this regard to be placed before Parliament. He said, “the 51 civilians killed by the Army, if that had been publicised at the same time in the same paper, then the people here may not have been much provoked.”

123. **Mrs. J. Gunaratnam**, who had travelled from Canada to Colombo gave evidence before the Commission. She said that she is an expatriate living in Canada since 1984. She was a teacher at the Hindu College, Bambalapitiya when the riots broke out in 1983. She had to take leave because of the troubles. She was not getting her pension and therefore had appealed to the Commission for redress. We referred her to the Education Ministry. We had the evidence of Mrs. Jayaweera, Additional Secretary from the Ministry of Education in this regard.

Apathy of State Officials in granting relief

124. We observe that apathy on the part of officials of the State acts as a hurdle in the reconciliation process initiated by the political authority of the State. It is clearly exposed in the case of Mrs. J. Gunaratnam, a teacher who admittedly was affected by ethnic violence of 1983 and who sought relief under the Public Administration circular No. 14/88 of 25.04.1988 for her pension rights having completed over 19 years of service from 1965 to 1984, had not been granted. The several appeals made to the Secretary, Ministry of Education by Mrs. Gunaratnam from her temporary domicile in Canada, through the High Commissioner as well as other means had not been

looked in to by the Department though her case deserves favourable attention. Mrs. Gunaratnam finally sought relief in terms of Public Administration circular No. 14/88 belatedly. The reply she got from the Education Department was that she cannot be given any relief as she has been treated as one who has vacated the post.

125. The very circular clearly provides relief even to those officers who have been served with notice of vacation of post. Therefore refusal to entertain her claim on the ground that she had vacated her post is unacceptable. This shows the lack of empathy of the officials in dealing with victims of this nature. Mrs. Gunaratnam had adduced ample reasons to show that she was a victim of the ethnic violence of 1983. The circular in question provides for grant of relief such as the option of retirement irrespective of the number of years of service, they have put in. In the case of Mrs. Gunaratnam, she had served for over 19 years at the time she left the country having obtained three months leave. This is a clear case where relief ought to have been granted under the said circles. Having failed in all her attempts Mrs. Gunaratnam appealed to the Commission. The Commission not only summoned the relevant officers of the Ministry of Education, but also briefed them as to the justification of her case for due relief. The lethargic and indifferent attitude shown by the officers of the Ministry of Education even after the intervention of the Commission is regretted. It is pertinent to note that subsequent to Public Administration circular No. 14/88 issued on 25.04.1988, the Public Administration circular No. 14/88(1) issued on 19.12.1991 gives adequate authority and discretion to grant relief in cases of this nature.

126. By letter dated 07.06.2002, the Secretary to the Commission, on the direction of the Commission wrote to the Secretary, Ministry of Education that Mrs. J. Gunaratnam deserves to be granted due relief under the Public Administration circular No. 14/88 of 25.04.1988.

Failure on the part of Ministry of Education

127. Since the Secretary, Ministry of Education has failed to act duly in granting relief to Mrs. Gunaratnam in terms of the relevant circulars, even after the intervention of this Commission, the Commission requests Her Excellency the President's kind intervention in this matter to grant relief to Mrs. Gunaratnam. The Commission is of the view that disciplinary action ought to be taken against the officers concerned for their dereliction of duty in this regard.

128. **Mr. A. Kandiah**, a trader in Kandy gave evidence before the Commission about the damage caused to his business establishment named 'Boot & Brother' and the loss of goods in his boutique. He said, "On the 27th of July, all of a sudden about 50 people broke in to my business premises and they set fire to the building. They took away my bicycle, weighing scales, typewriter and several items from the shop."

129. **Mr. K. Sunderamoorthy**, who worked at the Paddy Marketing Board gave evidence before the Commission. He was residing at No. 5 Ratnakara Place, Dehiwela. In his evidence he said that he saw mobs setting fire to several establishments all along while he was travelling in a jeep.

130. **Mr. A. Ramiah**, a Trade Union Leader gave evidence which revealed the sorry tale of how his family suffered. He was of the view that steps should be taken to prevent any recurrence of this nature. He spoke about his father-in-law, Dr. Jesuthason Nadarajasingham. His house in Badulla was burnt during the riots. His father-in-law died during the riots and his mother-in-law died the following year due to shock. His wife's two brothers-both lost their properties in the riots. His wife's sister's husband, who was an Assistant Lecturer at Moratuwa University received injuries during the riots and was admitted to hospital. He died on admission to Colombo South hospital.

131. **Ms. Fareeda Begum**, who lived at No. 113, Hill Street, Dehiwela in the year 1983, came before the Commission and gave evidence relating her experience. They had a textile shop at No. 5, Hill Street, Dehiwela. There were Tamil shops all in a row-one Saiva hotel and another shop. The rioters came in a lorry and they were armed with iron rods and petrol. They said, "We will not kill you", but they continued to attack the shops. The shops were destroyed.

132. **Mr. R. Kunanayagam**, an Assistant Accountant who stayed at 42nd Land, Wellawatte gave evidence. This incident happened on the 25th of July, 1983. At about 11.00 in the morning about 30 people came towards his house. They crashed the gate, opened the door of the house and entered. They brought kerosene and petrol cans. They poured petrol and kerosene on to the furniture and set fire. The furniture and the house all got burnt.

133. **Mr. S. Ramasamy**, a Labourer in the Railway Department gave evidence saying,

"A mob came and dragged me and my suitcase when I was leaving the house with my wife to her father's place. We had packed my wife's 'Thali' and clothes in a suitcase. I lost everything at the hands of these looters, but we managed to escape."

134. **Mr. K Kaneshamoorthy**, President of the Ex-Banker's Association gave evidence. He said, "Bank loans were given to employees of the Bank under a housing scheme. These houses were burnt during the riots. The Banks insisted that the loans be repaid. He said about 300 people were affected." He would like the relevant State Banks - the Bank of Ceylon and the People's Bank to look at this request sympathetically. He urged the Banks to waive off these claims.

Sinhalese got attacked for protecting Tamils

135. **Mrs. M. S. Fonseka**, from Panadura gave evidence. Her husband was an Assistant Superintendent of an estate in Kalutara District. They were both Sinhalese. Her husband had given protection to his Tamil labour force during the ethnic riots. An outside gang came into the Estate and shot at her husband who suffered a spinal injury. He was shot because he had given protection to his Tamil labourers.

136. **Mr. K. K. Vivekanandan** was an Accountant in the Land Commissioner's Department. This gentleman had suffered a stroke. He related his experience and said he suffered due to lack of blood pressure tablets when he was in the refugee camp. He said that he saw a crowd that came armed with clubs, knives and bicycle chains. They straightaway came towards his house. There was a Toyota-Hiace van parked in front of his house. They took some petrol out of it, povered over the van and set fire to it. They got into the house ransacked the whole place. We were taken to the refugee camp, but we could not remain there as there was information that the thugs were going to attack the camp. We were taken to the Thurstan College camp. On my way I went back to my house and I found all my wife's jewellery had been stolen. Most valuables were burnt.

137. **Mr. V. Poopendranathan** from the Local Government Service gave evidence. He was a civil engineer attached to the Colombo Municipal Council. He was staying at Anderson Flats - Ground Floor. His house was attacked on the night of 24th July an his belongings were taken away.

138. **Mr. K. Nadarajah** of Galle Road, Wellawatte related his experience. There was some thing like a bomb thrown into his house and his shop, which was also housed there. He ran to a nearby Church.

Attackers come with lists in hand

139. **Ms. Christine Sharmini Kanagarajasingham**, who lives with her family at Hampden Lane, Wellawatte related her experience an that of her family. A bus load of people with cycle chains got down and she also saw a man in a yellow robe. At that time her two brothers were out of the house. The house next door which belonged to one ponniah, was burnt as there were two gas cylinders which had caught fire. A house of a gentleman called Sinnathurai was also burnt. So was Dr Yoganathan's dispensary. A taxi driver in the area had later come and put out the fire. She was happy and very forgiving as a Christian at those events that took place. In may places, she said, that Sinhalese residents of the neighbourhood helped the Tamil people. The bitterness of what they went through does not prevent reconciliation. One of the persons in the bus had a list whit which they identified the Tamils living in that neighbourhood. Her mother prayed that no harm should be caused to her family.

140. Most of the witnesses testified before the Commission stated that the neighbours of all communities helped them and sent them to refugee camps. while the attackers were in most cases from elsewhere.

141. **Dr. Wickremabahu Karunaratne**, the Leader of the N SSP and a Lecture in Engineering gave his testimony. He said that the banning of his party, the JVP and the CP was merely for international consumption. No charges were leveled against his or any of them. Mr. J. R. Jayawardena knew all the while, that the Left parties were not involved. If he had such information they would have been banned earlier.

Most barbarous event in post-independence history

142. **Mr. D. E. W. Gunasekera**, General Secretary of the Communist Party gave evidence. He was a former Member of Parliament and at the time he gave evidence he was the Chairman of the Official Languages Commission. He made a lengthy presentation about the 1983 riots and also his own personal experiences as he was incarcerated during that period. He said,

“I would say the most unjust, the most barbarous event in post-independence history of Sri Lanka was 1983-’Black July’. Such an event should not be allowed to recur. In my judgement, it caused the virtual division of the country. It created a massive refugee problem, unprecedented in the history of our country. A number, in excess of over a million and a half, of all three communities, Sinhalese, Tamils and Muslims had to flee the country. We tarnished our international image. It made our economy unsustainable. Our defence budget had risen from less than Rs. 1 billion to Rs. 83 billion by the year 2000. It made the Executive more authoritarian. It paved the way for draconian laws to be passed of which the worst was the Sixth Amendment to the Constitution. It pushed the moderate Tamil people into the clutches of the terrorists. It alienated our neighbour India. In 1983 we had an army of 14-15,000. Today we have over one lakh. ‘Black July’ forced the Tamil people into the clutches of the LTTE.”

“I now come to events to which the Commission must give serious thought. These are the events which took place between 3rd July and 30th July 1983, the blackest week of ‘Black July.’ The Commission has to ascertain why the 13 dead bodies of soldiers were brought to Kanatte on one single day or to one single point, without allowing them to be left to their relatives in their residences. The riots started in the city on the morning of the 25th July. Why was the curfew not declared till late in the evening? You will have to inquire into it. Why did President J. R. Jayawardena not come over the State media for four long days?

“The role played by the State media, especially the ‘Dawasa’ Group was unbecoming of a responsible group in newspapers. On the 18th of July the Gazette Extra-ordinary was issued relating to the disposal of dead bodies. On the 17th July 1983 there was a headline ‘Terrorism in the South to combat terrorism in the North’. This newspaper went to the extent of stating that after 22nd July a very strong course of action will be taken to eliminate terrorism. It significantly mentioned the date 22 or 23.

“In 1981 there was some violence in Ratnapura. That was communal. President J. R. Jayawardena stated at Ramakrishana Mission. Wellawatte later, “some animals have committed some outrageous acts. I am so sorry to say that some people, from my own party have been responsible. I feel ashamed.” The ‘Dawasa’ group falsely accused the left parties on the violence of 1983 and

urged the government to take stern action and to order the closure of all the Socialist Embassies behind the iron curtain” stated Mr. D. E. W. Gunasekera.

No violence without political sponsorship

143. He was emphatic when he said that “ordinary” people in our country either Sinhalese, Tamils or Muslims are not chauvinistic or communalist. Acts of ethnic violence are always led by small interested groups. There would not have been an outbreak of violence, on any scale, unless there had been some political leadership or sponsorship at some level. There was no balance between media freedom and media responsibility. I referred up to now, to the print media. It equally applies to the electronic media as well. The purpose especially of the media is profit. This was stated by Mr. D. E. W. Gunasekera.

144. He related a personal experience that happened that happened on 29 July, 1983. This was about the death of a father of a friend in Kotahena, Dr. Indra Kumar. This doctor could not go to see his father’s dead body and he was hiding in a Nursing home in Park Road, Colombo. He had to perform the last rites to the body at Kanatte with a few other Sinhalese people. The family insisted on Hindu rites being performed. I did this with difficulty with a Poosari from Kotahena. I also learnt that a son-in-law of a Communist party member S. A. Vythilingam had been burnt alive while he was driving a car. I also saw many cars burnt on the road, Mr. D. E. W. Gunasekera said.,

“I was questioned by the CID after the CP, NLSSP and JVP were banned. This was called the second Naxolite plot. When I was questioned by the CID and later remanded, I remember the CID asked me who was behind the riots and I replied that J. R. Jayawardena, The President was behind the riots. I wanted this recorded. The C. I. D. was surprised, but on my insistence the CID recorded this. When in prison we had strange companions, the bugs, flies and mosquitoes.”

Mr. D. E. W. Gunasekera added,

“The delay in declaring curfew till the 25th evening and the lapse of nearly a week to appear on television was a gross neglect of duty by the Head of State. He estimates that about 479 Tamil people died and about 8,000 houses were burnt. He said in his evidence, “I think Prabakaran should be extremely grateful to J. R. Jayawardena for having passed that legislation that is the Sixth Amendment to the Constitution.”

145. Mr. Tilak Chandrasekera, a retired SLAS (Sri Lanka Administrative Service) Officer gave evidence of his experience in the rehabilitation sector of Government. He stated, “In rehabilitation, I started as an Assistant Commissioner-General of Essential Services, then became the Deputy Commissioner-General in the

Ministry of Rehabilitation.” He retired as Additional Secretary. He related his experience of July 1983.

“There was looting going on that I saw at Koswatte. When I went up and stopped my car there were people taking thing from shops whatever they could. They stopped my car and a crowd came up to me and gave me a huge bottle of sweets and asked me to take it home. There was a total breakdown of law and order.”

He also said that during the 1983 July riots, twenty thousand families were displaced in Colombo and roughly it was estimated at 100,000 persons. They were displaced persons in Kandy and Anuradhapura also. Recently, he had estimated the displaced persons in Puttalam who were mainly Muslims who had come there from Jaffna District.

I am today a vagabond

146. **Mr. R. Sivagurunathan**, a former Editor of ‘Thinakaran’ a Tamil daily printed at the Lake House Group gave evidence about his experience of July 1983. He said he was completely taken unaware by the riots. He did not expect a thing like this would happen in Wellawatte mainly because the President at that time was formerly their Member of Parliament, and he said he will not allow anything to happen in that area. He lamented as follows:

“This is a short tale of misery, I am today a vagabond ; I do not have a house to live in. I am staying in my brother’s house in Jaffna with my family. That house in Jaffna was taken over by the LTTE. At least here in Colombo, certain things were left behind, at least a broken chair. But in Jaffna, not even a coconut shell was left behind.”

He also complained that a certain section of the media had fanned the flames of communal hatred and when the curfew was enforced, it was too late.

147. **Mr. Kandiah Neelakandan**, Attorney-at-law who gave evidence in his capacity as Secretary of the All Ceylon Hindu Congress, gave extensive evidence on the damages caused to Hindu Temples and the evidence referring to that. He also made some suggestions with regard to solution of what is termed, ‘the national question’ and the causes that led to its aggravation. He referred to the fact that there was colonization of the Traditional Tamil areas especially in the Trincomalee District by the Sinhalese colonists. The Sinhala only Act, the Citizenship Laws, Colonization schemes which he highlighted as some of the causes that have estranged the Tamil people. He related some personal experience where he was taken by a friend from Hulftsdorp to Wellawatte on the 25th July 1983. He lived in Pamankade and his house was fully burnt. And another Muslim Attorney-at-Law was kind enough to

give him shelter during that period. He was in difficulty about his family. His family had gone to a neighbouring house which belonged to Dr. Abraham Kovoor. On that day, that is now known as 'Kottiya Friday' - 29th July 1983, he got out of his house to go to his office. He had to return home because there were some problems in Pettah area. He referred to the fact that a friend of his, another Attorney-at-Law Mr. D. M. Swaminathan's house was also partly burnt. It was close to Kanatte. He placed many documents that are related to ethnic confrontation and comments made by a respected Jurist and other eminent writers.

148. **Dr. M. Gopalasundaram**, President of the OPA gave some of his experiences of 25th August 1983. He lived at Soysapura Flats, Moratuwa. On the way he saw houses and shops being burnt. He was worried about his children who had gone to schools and not returned.

Events of July 1983 condemned by all

149. The events of July 1983 which occurred in the Island have been condemned by all sections of right-thinking people, both national and international. Many events took place in the year 1981 - the burning of the Jaffna Public Library and the attempt to rig the DDC elections in Jaffna in June 1981. The Tamil Parliamentary Opposition was willing to accept a bigger devolution of power by Parliamentary means. They were being marginalized by the LTTE and other militant groups which were pressing for a separate state through violence. The Jayawardena government found it difficult to suppress the emergence of the youth that was growing at that time.

150. What started at Borella junction on the evening of 24th July led to a major catastrophe especially in the city of Colombo and its suburbs on the 25th July 1983 onwards on account of the government's failure to take action on the 24th evening. On the 25th July, anti-Tamil violence spread to most parts of the country. Colombo being the worst affected because one finds a large concentration of Tamil people in the city of Colombo who were there as residents, businessman, professionals and other citizens. The violence went on on the 26th Tuesday, 27th Wednesday and on the 28th Thursday. People had been taken to many refugee camps which were housed in various parts of the city because their houses were destroyed, their business establishments looted and they were rendered homeless.

151. The riots of 1983 were perhaps not something that the majority of Sinhala people wanted to happen or to participate in. Most of the witnesses who testified before us said that when they were attacked they were helped by their Sinhala neighbours, and many Sinhala homes gave them refuge. Other than politically orchestrated groups which had their own agenda, there were the Sinhala business rivals who wanted to damage the business of the Tamil rivals and people who wanted to settle their personal quarrels who participated in the riots; there were also landlords who were Sinhalese who had the desire to get rid of the Tamil tenants; there was also

the armed forces who were anti-Tamil, especially after the Killing of the 13 soldiers. In some places, there was indifference on the part of the security personnel to take action during the early days of the riots. The physical and mental trauma suffered, especially by children due to the riots, is something that is inestimable. A large number of people who lived as refugees later went abroad. The riots in fact further strengthened the militant groups that were operating in the Jaffna Peninsula at that time.

Ethnic Violence at Welikada Prison

152. The Welikada Prison is situated within close proximity to the Borella Junction, on a 48 acre extent of land, on the newly widened Baseline Road.

From the Borella junction, the Kanatte cemetery on the D. S. Senanayake Mawatha, the Welikada Prison on the Baseline Road and President Jayawardena's residence on Ward Place are all equidistant and in close proximity to the Borella Junction.

153. We have already referred earlier in this report to the events of July 1983, commencing on Sunday 24th July with Borella junction being set on fire by unruly mobs converging from the direction of Kanatte.

154. In the course of this inquiry, we also heard evidence that Kuttimany, whose real name is Selvarajah Yogachandran, an inmate at Welikade Prison had picked up the news of the killing of 13 soldiers over the radio as well as of the tension in the city following the funeral of the soldiers. We also heard evidence that prisoners had noticed overnight, rising plumes of smoke trailing skywards from the fire at the Borella junction.

155. We also heard the evidence of Saravanaperumal Yogarajah, arrested on 18th April, 1981. He was detained at the Panagoda army camp where most of the other Tamil detainees were also kept in detention. He together with about 50 other Tamil detainees were brought to Welikada prison, after nearly two years of detention at Panagoda, during the last week of May, 1983.

Tamil detainees brought to Welikada from Panagoda in May, 1983

156. We are unaware whether it was a mere coincidence that such a large number of Tamil detainees were brought and kept at Welikada, only a week prior to a UNP Working Committee meeting of 2nd June 1983 requesting the government to bring into force Emergency Regulations to suppress terrorism, and the significant follow up announcement by Minister of State, Mr. Anandatissa de Alwis, the following day 3rd June 1983, that "the government was ready to respond to terrorism." ("ප්‍රජාතන්ත්‍රවාදයට පිළිතුරු දීමට රජය සූදානම්" - දවස 04.06.1983)

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157. It is a matter of significance that the government promulgated the Emergency Regulations that very night, 3rd June, 1983. A noteworthy feature of the new regulations was to authorize the Police to deal with the disposal of dead bodies without recourse to inquest proceedings.

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158. **Mr. Saravanaperumal Yogarajah** who escaped both massacres while in prison, gave evidence that the Tamil prisoners were kept in the Chappel section of the Prison, in wings "B3" and "C3". He was kept in "C3" on the ground floor, together with other Tamil prisoners. The other Tamil prisoners were in "C3". Yogarajah said that on the following morning, 25th July, "We could sense something, we could observe smoke outside. We were asked not to speak to anybody. The Superintedents had been told not to converse with us. So they did not tell us anything." Yogarajah said further, that on the 25th they heard a lot of noise inside the prison, signalling the beginning of the first incident. He heard people running about, shouting on the upper floors and later in the lobby areas. Sometime later, he heard the cry 'Kuttimany killed' in Sinhala. One Manickadasan, a fellow prisoner could jump and see through the window that bodies were being dragged from the Chapel to the outer side. The prisoners, whose cells were near the lobby and who could see through the bars of the gate into the lobby gave a commentary to the others as to what was going on out in the lobby. He could not see actual killings but followed up on the killings with Manickadasan's Commentaries.

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Single Prison Guard saves Tamil prisoners in on wing

159. Some prisoners were trying to break open the gate that led to wing C3 but it redounds to the credit of the Sinhalese prison guard that he would have none of it. This prison guard of wing C3 remained there during this time and told the prisoners not to worry. He said he had hidden the cell keys in the toilet. He had told the Tamil prisoners in wing C3 "I would never let this people come in". The spirit with which this prison officer guarded the detenues in C3 under trying conditions of hostility needs to be commended. His identity remains unknown.

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160. Towards the end of this prolonged period lasting over 2 hours, two prisoners on the upper floor, presumably because they failed to get past the guard in the lobby, broke through the wooden floor above the corridor and came down into the corridor of wing C. Their hands were blood stained.

161. Having come down they appear to have changed their mind or to have been prevailed upon by the guards in the corridors to get away. They shouted to the crowd upstairs not to come down through the hole. They spoke to some of those in the cells saying "We have killed enough today and we will come back another time." Yogarajah surmises that they retreated because they realized they could also get trapped in the locked corridor. Yogarajah states that he told the Magistrate that he could identify these two and another two who remained close to the opening in the ceiling.

162. Yogarajah said that bodies that had been carried out and were lying on the compound were attacked again while lying helplessly there. After some time, there was a truck in the compound and the bodies were thrown into it. He said that during this whole episode no shots were heard and no tear gas was used. He said if tear gas or the weapons available to the prison guards had been used, the massacre could have been prevented. The first day's violence seemed to have abated on its own. It was not brought under control by any action of the authorities.

163. In the middle of the night of 26/27 July, prison officers came into wing C3 and asked the inmates to collect their belongings and come along without making a noise. They were relieved thinking they were being transferred out of the prison. However, they were moved to another building within the same premises, this was the Youthful Offenders Block (Y. O. Block) which is in a separate area within the prison compound. The 28 of them were locked up on the ground floor of this building.

164. Nine other Tamil political detainees who had been held in these cells in the YO Block were moved to the dormitory upstairs to make room for the 28 survivors now transferred from the Chapel block. The nine comprised three Christian priests, one architect, three doctors of medicine including a former Mayor of Jaffna, one newspaper editor and one university lecturer. This group of nine was unaffected by the first massacre except in that they could hear the commotion going on at a distance but did not know what was happening.

Yogarajah escapes by feigning death

165. On the 27th the ordinary convicted prisoners were let out of their cells again, not kept locked in as during the previous day and were moving about freely in the prison as usual in their various working parties. In our opinion, the second massacre would not have taken place, if these prisoners were kept locked as on the 26th in view of the prevailing tension.

166. In fact, Yogarajah who was housed in the ground floor stated that they anticipated the second incident. Weapons for defence were minimal, each prisoner had two buckets - one for water and one for urine, one aluminum plate, one mug, one canvas sheet to sleep on. He said, "We had no weapons ; we had to improvise things to defend ourselves so we reserved the curries served for our meals so that we could throw on the attackers and we decided to conserve them."

167. The nine upstairs had chairs and a table which had been provided for the priests to use for Mass. They realized that these could be broken and made into implements, which they did. In the afternoon, inmates of YO Block heard the sound of a mob on the rampage approaching the building. Yogarajah gave details of how they were attacked and how each one fought back. A number of them died but he managed to escape by feigning death. A few days later he and a few other survivors from the other sections were transported to the Batticaloa prison.

168. **Mr. Lalanath de Silva**, Attorney-at-Law testified before the Commission. He said his father Mr. Alexis Leo de Silva, was the Superintendent of Prisons in charge of the Welikada Prison at the time of the occurrence of the incidents on 25th and 27th July. He was living with his parents and sister in the Superintendent's quarters on the front part of the Welikade prison. His father died in 1991. Mr. Lalanath de Silva produced a report prepared and signed by his father on 26th July 1983. We are satisfied that this document had been prepared contemporaneously following the events of 25th July. The document is titled "Death of 35 Tamil terrorist suspects and appellants in Welikada Prisons." We have annexed this document to this report. The document refers to a crowd outside the prison shouting slogans and wanting to gain entry into the prison. They wanted to do away with "Kuttimany and the other terrorists." The crowd was pacified and turned away. He says around 2 p. m. a crowd gathered again outside the prison shouting slogans and demanding "death to the terrorists." There is no evidence that this or the earlier crowd gained entry into the prison, at any time.

But simultaneously, inside the prison, crowds of prisoners broke loose, snatched keys from the prison staff, broke padlocks and gained entry to Block "B3" where Kuttimany and five others were housed and to "D3" where 29 Tamil suspects were detained.

169. Mr. Leo Silva's report states that this crowd of prisoners broke through the prison staff that had been deployed and around 2.15 p. m. broke open the padlock of "B3". The prison staff raised alarm and he with the Asst. Supt., Jailors and other staff rushed into the Chapel Section and found the entrance door barricaded by the prisoners. The staff was tremendously outnumbered by about 600 prisoners. Meanwhile pandemonium reigned inside the sections to which they could not gain entry. He refers to two Jailors firing warning shots in the air.

170. Mr. Leo de Silva has referred to the Acting Commissioner Mr. Jansz coming into this area and attempting to use physical force to restrain the attackers which were of no avail. He moved out to obtain Police assistance. He refers to seeking help from the Army contingent posted outside and from some of the army officers who came into this section but the request for help was refused, claiming orders from Army Headquarters.

171. When the Acting Commissioner Mr. Jansz arrived at the scene, the 35 Tamil suspects had already been battered and were lying fallen. The incidents of violence took place between 2.15 and 3.15 in the afternoon of 25th July. The 35 bodies were soon loaded to be transported to the General Hospital accident ward but the army did not allow the bodies to be taken out. Around 6.30 p. m. the Senior Medical Officer examined the 35 detainees and pronounced all 35 dead.

172. Mr. Lalanath de Silva testified to certain matters which his father had told him soon after the incident. He said, that his father had told him that when they were

overpowered by the crowd of prisoners, he heard the (Tamil) prisoners in the cell pleading for their safety. His father was shouting at the advancing crowd of prisoners but his father was bodily lifted by the advancing crowd who removed him out of the building altogether. He states further that for sometime, prior to 25th July, the prison was guarded at the outer perimeter by the army at several points. Prisoners had informal contacts with the army men guarding the points because they could easily see each other. When his father sought the help of the army, about 10 soldiers and a 2nd lieutenant refused assistance claiming that they had no orders from the Army Headquarters, to assist.

173. He also recalled his father telling him, that some of the 35 detainees were still alive when they were loaded into the truck. But the soldiers of the army did not permit them to be taken out (to the accident service), even after Mr. Jansz had arranged a Police escort. He recalled his father telling him after the first inquest, that the Magistrate stopped his evidence half-way, which his father believed was because his father was going to reveal the truth. At the second inquest, Mr. Lalanath de Silva said, his father was not called to give evidence at all, although he was the Officer-in-charge on that day. He gave evidence that sometimes thereafter his father was not given his promotion, his arrears of salary or his increments. He believes that this was because of his father 'standing-up and wanting to speak the truth about these incidents.' His father filed Application No. 150/88 in the Supreme Court under Article 126 of the Constitution and the case was settled by the State with his father getting his dues. He referred to paragraph 13 of the Petition in which his father had referred to the Magistrate stopping his evidence at the first inquiry and dispensed with the petitioners evidence at the second inquiry. He also referred to a departmental inquiry commenced by his father into the Welikada prison incidents which was stopped by the Department on the alleged instructions from the Ministry of Justice. The then Commissioner of Prisons and the Magistrate are no longer living. He said further, that his father was confident that he could identify the prisoners who participated in the incidents but no efforts were made to identify the miscreants.

Soldiers shouted "Jayawewa" while incidents were going on

174. Mr. Lalanath de Silva giving evidence further, said that his father feared for his life, to which he deposed in an affidavit. His father signed the affidavit before him, as a Justice of the Peace. In the affidavit, his father had testified that the "army aided and abetted, by the omission to act and by incitement, to commit mutiny and murder in the jail. He testified further that the prison was to the rear of their official quarters. He and his sister was soldiers travelling in an open vehicle cheering and saying "Victory" (ජයවේවා!) while this incident was going on the jail. That was on the 25th. He also tabled a copy of the Administrative Report of the Department which made only a cursory reference to the killings in the Welikada prison. He said if the Army had acted on the 25th, fewer people would have suffered but the killings of the 27th was definitely avoidable.

175. Mr. G.V. Kulatunga, Asst. Superintendent of Prisons, Kalutara gave evidence. He said he was a Deputy Jailor at the Welikada Prison in July 1983. On 25th Monday, as part of his normal duty, he had to take Tamil Prisoners to Hulfsdorph Courts. He took the Tamil Prisoners to Courts but in and around Hulfsdorph there was pandemonium. The Courts has adjourned early. He brought the prisoners back to the Prison safely. Thereafter, he retired to the rest room. After lunch, all of sudden he heard the alarm fire and he rushed in. He show a cmotion inside with prisoners shouting and running. He thought it was a jailbreak. I took a firearm and shouted at the prisoners who were shouting. He did not know what was going on, on the other side of the Chapel section. He said he used his firearm and two were injured due to his shooting. Normally, one or two shots in the air would have quelled the disturbance. Bit it was not so in this case. At one point, they were trying to come down in spite of the firing. They were brave and motivated, he said. He did not try to get into the lobby with the firearm because there were prisoners. Soon, he realized it was not an attempted jailbreak but it was an attack on Tamil Political Prisoners.

176. After the commotion died down, he went inside and saw a number of persons injured. The bodies were bleeding. He came to know that they were all PTA suspects. He recalled giving a statement to the Police. On the 27th, he witnessed about 100 prisoners rushing towards the YO Building inside the prison compound. He was not carrying a firearm. They threw bottles at him and were trying to attack him. He had locked himself inside a room. He said " If the Tamil prisoners had been moved out elsewhere in time, the attacks could have been avoided." He said he gave a statement to a prison official.

177. Mr. Cuthbert Jansz, Deputy Commissioner of Prisons gave evidence. He said, he was the Acting Commissioner at the time of the incidents in the Prison in July 1983, since the Commissioner Mr. D.P. Delgoda was out of the island. Mr. Leo de Silva was the Head of the Welikada Prisons, which is one of the several prisons in the island. He said the Army was brought to guard the Welikada Prison only in 1983. That was after the PTA suspects were brought to the Welikada Prisons in 1983. He could not recall why the PTA suspects were brought to Welikada. He said, it was possible for prisoners in the third or top floor to see what was going on even outside the Prisons.

178. He said prisoners have access to knives and other implements used in the prison kitchen. There is an officer-in-Charge of the kitchen and these are kept under lock and key. But during the day time, the prisoners who work in the kitchen have access to the knives and other implements which are available in the kitchen. There is also an industrial section, with a wide range of tools, saws, chisels, etc. accessible to prisoners. We have the smithy, coir goods section, etc. where too tools are used. We have the firewood section, where axes are accessible. Ordinarily these are kept under strict care and supervision.

Communal clash inside prison for the first time

179. This is the first time there was a communal clash inside a prison, Mr. Jansz said. What was happening outside was getting reflected inside the prison. One Would assume that even in a thing like this, there could have been some leadership and some type of pressure or persons behind it. When we look back and see the manner it was done, it gives on the impression that there would have been some type of leadership behind it, he said.

180. On the 25th, our institution was under severe upheaval. There was unrest in the country. Officers had transport and other difficulties in reporting for work. As far as he was aware, no one was charged for any of the incidents. The finding at the Inquest was homicide due to a prison riot and the Magistrate directed the Police to investigate.

181. Mr. Jansz said that he personally brought the July 25 incidents in the Prison to the notice of President Jayawardena. It was decided to take the remaining Tamil detenués out of Colombo. Action was taken to move them out to the Youthful Offenders (YO) building, considered more secure on the 26th night. There were in all 72 Tamil political prisoners brought to Welikada. He remembered them being brought to Welikada in June 1983. They were placed in C3, B3 and D3, some in the YO and one in the female section. He referred to the incidents of 25th July in the early afternoon and some of the details of the events as far as he could recall. When he first rushed to the Chapel Section, he could not enter. A very large number of prisoners, gathered all over were blocking the way. The prisoners were boisterous. Though he and the other prison staff including Mr. Leo de Silva, did whatever they could to shout, appeal, restrain they felt totally helpless. It was a very peculiar situation because we ourselves felt intimidated.

“Q : Were you able to ask the army personnel who had come inside, to watch, to control the mob?”

A : I cannot say that I asked them, Why I didn't ask would have been because I myself felt intimidated because I could see these armed people inside. I couldn't see the role were playing. If they were as supportive role something should have happened more positively. so I didn't consider inspite of them being there. I felt I had to do the little I could do and carry on. I wouldn't for instance ask them to do anything because it was a peculiar situation.”

182. Mr. Jansz, giving evidence fruther said that he sought the help of Borella Police but they said their hands were already full with what was happening outside.

183. **Dr. M. S. L. Salgado**, JMO, Colombo gave evidence of the Post-mortem examinations he carried out on the Tamil detenués killed in the prison. The detenués,

he said, were identified by prison officials, who were familiar with them. Dr. Salgado gave detailed evidence on the nature of the injuries sustained by each of the victims killed.

184. Ms. Suriya Wickremasinghe, General Secretary of the Civil Rights Movement (CRM) of Sri Lanka, gave evidence. She said the 83 riots must also be looked at from the perspective of the general lawlessness of the country and not merely as an attack on Tamils. The alarming trend in recent years of a rapid erosion in the respect for the law, and the atmosphere where persons with political protection act with impunity, must also be assessed. The CRM expressed outrage at the massacre of 53 Tamil Prisoners, on two days, 35 were done to death on the first and in the second, another 18 Tamil prisoners were battered to death. She said some families of the victims had approached the Jaffna Home for Human Rights in order to ascertain what had happened, since not a single prosecution was initiated by the authorities. The Jaffna H.R. body wanted the assistance of the CRM to file some civil cases. "We agreed. We filed 30 separate cases in the District Court for damage on the basis that the State failed to take care of the prisoners. "The State settled all the cases by paying compensation without admitting liability."

Army obstructs injured being taken out for treatment

185. Ms. Wickremasinghe said that the CRM found the conduct of the army on the 25th very strange. They seemed to have obstructed every attempt to control the situation and to let the injured be taken out for treatment. She said that according to the inquest proceedings, the Chief Jailor Karunaratne had said at the second inquest that in the morning he had information of a planned jail break and of another attempt on the Tamil prisoners. But no action had been taken to provide adequate protection. Mr. Karunaratne is no more amongst the living. She said, in a prison, jail guards know almost every prisoner. All the Jail guards gave evidence at the inquest that they could not identify a single assailant.

186. The survivors were transferred to Batticaloa. From there, they escaped to various parts of the world, excepting for Fr. Singarayar and Dr. Dharmalingam, both of whom refused to run away, wanting to prove their innocence. "we interviewed Fr. Singarayar later at the Welikada prison. We also travelled to Madras, where we managed to trace most of the others and we interviewed them," she said.

She also referred to the standards that they maintained in conducting the interviews with the survivors to elicit the truth individually and separately and they tested the veracity of each version with the other. She prepared contemporaneous notes of each interview and gave evidence based on the notes.

187. There were amongst them persons who had survived both massacres and were able to refer to how each of the massacres took place and how they survived. In

all, we interviewed in Madras 15 of the survivors. Most of the interviews were conducted by her in the company of Mr. K. Kandasamy, another lawyer who is no more and Mr. Desmond Fernando P.C. one interview was conducted with Mr. Javid Yusuf, Attorney-at-law being present. She referred to the interview she had with Velumylum Sivasubramaniam, one of the survivors. He referred to the first incident on 25th July, in which "B3" and "C3" wing Tamil prisoners were attacked. One Robert Rajendram had told him that an Asst. Supt. of Prisons had put his foot on the padlock of the door to wing C3 and had told the prisoners "If you want to go on, you will have to kill me first. Mrs. Wickremasinghe pointed out, that it was also possible for one prison officer taking a strong stand to prevent an attack on whole wing in which there were Tamil prisoners, all of whom were saved on the 25th.

188. **Sivasubramaniam** had also referred to Magistrate and a number of Police Officers recording statements. When he was with the Police officer, he heard the radio announcing the names of those who died, on the first day's massacre. Sivasubramaniam mentioned further that he knew the Sinhala language and a prison officer had told them later on in Sinhala that he had drunk Kuttimay's blood and that he was going to give us Kuttimay's flesh. He also refers to the army coming and using tear gas on the 27th July and dispersing the prisoners who were trying to break into the YO building. The army allowed the prisoners to run away without arresting them, he had said.

189. Ms. Suriya Wickremasinghe also referred to an interview she had with another prisoner who escaped the violence at Welikada, namely Nadarajah Alexander Jeyakoddy. Jeyakoddy had joined the TULF Youth wing in 1979. Later, he joined the TELO. He was involved in the robbery of the Puloly Bank and later released on bail. While the case was going on, he worked for the Norwegian funded Ceynor from 1978 to 1980. He was convicted by the Colombo High Court in 1981. He was serving a 10 year jail term in the "B" wing of the Chapel Section of the Welikada prison.

Kuttimay and other prisoners attacked amidst cries of "Jayawewa"

190. He has given details of the incidents of which he saw during the incidents of July 25 and 27, including the incident in which an unconscious Kuttimay was dragged onto the playground and stabbed; that other unconscious prisoners were also similarly brought out and stabbed further amidst the cry of "Jayawewa" by prisoners; that seven or eight officials were watching the incidents on the playground; that army personnel on duty outside came inside and watched the events and that this went on for about 2 1/2 hours and that thereafter the officials blew whistles and got the prisoners back into the cells.

191. **Mr. Jeyakody** had said that his name would have been thought of as Jeyakody and that could have saved him. He also referred to what he had seen on July 27, when he heard loud noises and shouts "Kotiya Maranawa" and he saw prisoners

running towards the YO building. He saw the army in camouflage uniforms tear gas the YO Block area. He also saw the Superintendent of Prisons, trying to chase the prisoners away. Later, he saw dead bodies from the YO building being brought out in stretchers and removed to the front side.

Mr. Jeyakody had said he could identify many of the attackers on both days. He was dispatched to Batticaloa prison a few days later, together with the other prisoners who had escaped, the Welikada massacre.

192. Ms. Wickremasinghe said, that she interviewed Dr. S. A. Dharmalingam, who was 78 years at that time, living in London with his wife. He had given details of the incidents at Welikada in July 83. She had interviewed him in London.

193. Dr. Dharmalingam had submitted in an affidavit chronicling the events. He had also said, a jail break took place at the Batticaloa prison on 23rd September, 1983. He declined to join the jail break. He was released on 5th November, 1983 without any charges. Thereafter he emigrated to England.

194. Ms. Wickremasinghe also gave evidence that her inquiries relating to the name "Sumitharatne" referred to as one of the assailants, revealed that there was no Jailor by the name Sumithratne and there was a Jailor by the name Sumith Ratgama. She also referred to an interview she had with one of the detainees who escaped, Manikkathasan, who had referred to two Jailors (Unidentified) telling him, "Balamu, today is your last day-You people are powerful only in Jaffna, but we have our people - So today is your last day". She also said with reference to the 28 interviews she, together with Mr. Kandasamy Attorney-at-Law in most of the cases and Mr. Desmond Fernando PC and Mr. Javid Yusuf, Attorney-at-Law in the other, had conducted, that she certainly felt that the record of her interviews (Statements) constituted a very good account of what happened at Welikada. She said she was on the governing body of the Amnesty International (AI) for 8 years, the last three years of which she was the Chairperson of AI. She added that as a rule, the nationals of any country in the AI do not participate in any discussion concerning their respective countries.

195. Ms. Wickremasinghe also referred to President Jayawardena having indicated, according to Paul Segart's report to the ICJ that, in January 1984 the President was about to appoint a Judge of the Supreme Court to carry out an inquiry into the Welikada Prison incidents but, she said, no such appointment was made, thereafter. She also said that repeated requests by the CRM for a Commission of Inquiry went unheeded. It is a matter for regret that President Jayawardena failed to appoint a Commission of inquiry into the Welikada Prison incidents though he had promised Paul Segart that a Judge of the Supreme Court would be appointed to carry out an inquiry into the incidents of Welikada Prison.

196. Mr. Desmond Fernando PC, gave evidence corroborating the evidence of Ms. Suriya Wickremasinghe. He referred to the statement of Manickam Rajan referring to two jailors telling Manickam Rajan, "Indala Balanna", that several escapees referred to the presence of Sepala Ekanayaka during the attack, the statement of V. Subramaniam referring to the utterance by a prison officer that he had drunk Kuttimany's blood and he was going to give him Kuttimany's flesh to eat. He also referred to the conduct of the army doing nothing to prevent the attack and the failure to apprehend or deal with any of the assailants.

53 Tamil Political prisoners brutally done to death

197. There can be no doubt that the events that occurred within the Well-secured precincts of the Welikada Prison particularly on the 25th and 27th July 1983 in which 53 political prisoners belonging to the Tamil community were brutally done to death and the traumatic experiences of those who escaped death would constitute the most agonizing moments of challenge to the collective conscience of our nation.

198. It is 19 years since the occurrence of those shocking events. Most of those connected directly or indirectly with the events are no more. Some of those who gave evidence had difficulties in remembering the sequence of events. Nevertheless, there is no denying that 35 Tamil detainees on the 25th July and a further 18 on the 27th July were brutally killed, while on the 29th July, the balance 19 Tamil prisoners who escaped death were dispatched to Batticaloa and that all of them went through very tragic and brutalizing moments.

199. The events that occurred outside the prison, particularly in Borella on Sunday 24 July evening onwards, dealt elsewhere in this report, have had a chain effect everywhere including the prison. On the 25th July and for nine days thereafter, there was clearly a total break-down in the law and order situation in the country.

200. There is evidence that 'nothing was secret inside the prison, that prisoners were aware of the killing of the 13 soldiers in the North, that they could virtually visualize what was happening in Borella that Sunday night', that on Monday 25th unruly mobs from outside the prison had tried to enter the prison twice that day demanding the "terrorists".

201. A remarkable difference between what happened outside in the country and what happened within the well secured boundaries of the prison is that the means and measures to prevent and protect the happenings within the prison were more easily available inside than outside. The prison itself was fully secured with army guarding necessary points, were since the Tamil prisoners were brought from the Panagoda Army camp. There were weapons in the armoury at the disposal of the prison officials within the prison itself. They were trained to handle any situation inside the prison.

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202. We, the Commissioners visited the Welikada prison and observed for ourselves the scene of the events of July 1983. The Chapel area of the prison comprises the Death Row as well, the best secured part of the Welikade prison. The Tamil prisoners brought from Panagoda had been kept in this area.

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203. The evidence was that on the afternoon of the 25th July, a crowd of prisoners variously described as ranging from 200 to 1,000 in number stormed the Chapel area armed with improvised weapons and broke through padlocks and forced themselves into Wing "B" while in the adjoining wing "C3", a prison ASP was able to prevent the same crowd doing any harm by putting his foot on the padlock of the door to the wing and telling the crowd of prisoners, "If you want to go in, you will have to kill me first." We are satisfied that there is credible material to act on this statement of Robert Rajendran, a Tamil prisoner who escaped the attacks. This incident brings to light, that even under circumstances of a general break-down of the system, dedicated officers who are expected to perform their duties even under trying circumstances, could prevent, if not minimize possible human suffering. It is to the credit of such officers that 28 Tamil prisoners housed in Wing C3 escaped death in the first incident of 25th July, 1983.

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204. Though there is evidence that individual officers including the Commissioner Mr. Jansz, the Supt., of Welikade prisons Mr. Leo Silva and a few others attempted to restrain and bring the situation under control, there is also material to conclude that certain prison officials had complicity in the attacks carried out on Tamil prisoners by the other prisoners on the both 25th and 27th July.

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205. There is no evidence that the prison authorities had attempted to control the attack in any organized or co-ordinated manner, with most officials seemingly lost in the confusion. On the 27th incident, for instance, the army had used tear gas on the prisoners and thereby succeeded in preventing the massacre of a number of Tamil prisoners who escaped death. The prison authorities, who had reasonably adequate means and methods to control such occurrences such as prison riots, failed to undertake any organized measures to deal with the situation.

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206. If in fact, there was an attempted jail break as originally suspected by the government and the prison authorities and not a communal attack against the Tamil prisoners, it would have been far more easier for the prison authorities to mount an operation to counter any jail break. On the contrary, the army posted at the gates, in failing to assist the prison authorities and appearing to share with the prisoners 'their satisfaction' of the attacks by uttering 'Jayawewa' later that day, would demonstrate the falsity of the jail break story.

207. If the jail break story had been in fact seriously believed and acted upon, the events of July 25th, in which 35 lives were lost, could have not occurred.

While it would have been difficult to obtain Police assistance to quell the disturbances of July 25th in view of the widespread violence outside, the conduct of the armed soldiers readily available in the prison perimeters in not making any attempt to suppress the troubles, as they did by tear gassing on July 27th, has to be pointed out as a serious lapse on the part of the army.

State in grievous default

208. We are of the view that while there might have been some mitigating circumstances in the failure to control events of July 25th, though by no means excusable, the failure of the State to prevent the recurrence of a similar massacre on July 27th committed, this time with better and more effective weapons, needs to be identified as a grievous default on the part of the State. The evidence of the JMO Dr. M. S. Salgado who conducted the post-mortems of the victims of both incidents supports the position that "improvised weapons" had been used in the first attack, unlike in the second.

209. Mr. C. T. Jansz, the Deputy Commissioner testified that 53 prisoners (35 prisoners on the 25th and 18 prisoners on the 27th) were killed. Mr. Jansz stated that the incident that took place on the 25th were in fact brought to the notice of the President himself, that the Tamil prisoners were attacked while in the custody of the State. He said that he himself brought this to the notice of President J. R. Jayawardena. He was asked whether the President took any special action to prevent the recurrence of that. He replied that a decision was taken that the Tamil prisoners be transferred out of Colombo. After the decision, in the light of what happened on the 25th, the Tamil prisoners were removed to the Youthful Offenders section within the same prison. But these prisoners too ended up being attacked on the 27th. The most dastardly and inhuman episode was the cold-blooded murder of the 18 prisoners who were in the Y. O. section of the Welikade prison. Thus, there was the massacre of a total of 53 Tamil prisoners in two separate incidents - the first on the 25th July and the other two days later, on the 27th July. About 200 - 400 armed prisoners had broken out of their cells and attacked the 35 Tamil detainees killing them. The failure of the State prison authorities to ensure the safety of the prisoners and to quell the riots is aggravated by the second massacre in which 18 Tamil prisoners were battered to death, notwithstanding the forewarning arising from the first massacre.

210. The most fundamental of all human rights is the individual's right to life. A prisoner deprived of personal liberty remains entitled to all his civil rights except so far as they are taken away by legislation. Justice cannot stop at the prison gate. Convicts are not by reason of their conviction denied of all the fundamental rights which they are otherwise entitled to, except only those 'necessarily' lost as an incident of imprisonment. Article 13(4) guarantees to every person the protection of life. The

idea of fundamental rights involves rights against the State and Government. Article 4(d) of the Constitution mandates that the State to respect and secure the fundamental rights of citizens. Their rights are guarantees against the State and its instrumentalities and it is obligatory on the State and its instruments and officials to take necessary action to safeguard or protect those rights. The failure of the President to ensure the protection of the Tamil prisoners in Welikade prison from being killed on 27th July 1983 after he was warned by Mr. Jansz of the murder of the Tamil prisoners on the 25th is a serious breach of duty. Had he taken any action to see that such incidents do not recur, the helpless Tamil prisoners who were locked up in Welikade prison would not have met with their death on the 27th. It is unfortunate that the President failed in his obligation as Head of the State to take protective measures to ensure the safety of the Tamil prisoners. This omission on the part of the President has compromised the State.

Government failed to prosecute

211. In the massacres that took place inside the Welikade prison, there is no evidence that persons from outside the prison participated in any of the two attacks. The assailants were the prisoners who acted with the complicity of certain prison officials and were able to act because of the complicity. The assailants were all from within the Prison and were in the custody of the State even after the incidents. The victims who escaped were available to testify until their escape from Batticaloa prison at the end of September, 1983. Suspects such as Dr. Dharmalingam who remained in custody were discharged because there was no prosecution. We wish to observe that all available evidence in relation to the incidents of July 25th and 27th had not been placed at the inquest proceedings.

212. We regret to find that the government had failed to prosecute those involved in the crimes of July 25th and 27th. The domestic inquiry initiated by the Head of Welikade Prison Mr. Leo de Silva was not proceeded with. There is no evidence that investigations commenced by the Borella Police had been proceeded with, beyond the stage of the inquest. The efforts of the commission to trace the police records turned futile, with the IGP informing that these records were not traceable. It is the responsibility of every government to ensure that perpetrators of crimes are punished and that no one acts with impunity or gets away without accountability. The government of the day has failed to discharge these obligations.

213. In concluding this Chapter, we wish to make reference to Mrs. Suriya Wickremasinghe, Secretary of the Civil Rights Movement of Sri Lanka for the salutary contributions she had made ever since the tragic events of July 1983 to unravel the events that occurred at Welikade and make available very useful material which throw light in this regard. We wish to record our appreciation of Ms. Wickramasinghe's contributions. We also wish to record our appreciation of the late Mr. Leo de Silva, Superintendent of Prisons, Welikade for the contemporaneous notes he had thought fit to keep of the events of 25th July 1983. These notes turned out to be very useful in

the absence of other official records, in assessing the sequence of these traumatic events.

214. We give below the names of those killed in Welikade Prison on 25.07.1983 :

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| 1. Kuttimany Yogachandran | 19. Yogachandran Kili |
| 2. N. Thangathurai | 20. S. Subramaniam |
| 3. Nadesathasan | 21. Mylvaganam Sinniah |
| 4. Jegan | 22. G. Mylvaganam |
| 5. Sivarasaa | 23. C. Sivanatharajah |
| 6. Sivan Anpalagan | 24. T. Kandiah |
| 7. A. Balasubramaniam | 25. S.Sathiyaseelan |
| 8. Suresh Kumar | 26. Kathiravetpillai |
| 9. Arunthavarajah | 27. Easvaranathan |
| 10. Thanabalasingam | 28. K. Nagarajah |
| 11. Arafat | 29. Gunapalan Ganeshalingam |
| 12. P. Mahendran | 30. Anbalagan Sundaram |
| 13. K. Thillainathan | 31. Ramalingam Balachandran |
| 14. S. Kularajasekeram | 32. K. Thavarajasingham |
| 15. K. Uthaya Kumar | 33. K. Krishnakumar |
| 16. S. Sivakumar | 34. R. Yoganathan |
| 17. A. Rajan | 35. A. Uthayakumar |
| 18. S. Balachandran | |

215. Names of those killed in Welikade Prison on 27.07.1983 :

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| 1. Muthukumar Srikumar | 10. Gnanamuthu Navaretnasingham |
| 2. Amirthanayagam Philip | 11. Kandiah Rajendran <i>alias</i> Robert |
| 3. Kulasingam Kumar | 12. Dr. Somasunderam Rajasundaram |
| 4. Selachami Kumar | 13. Somasundaram Manoranjan |
| 5. Kandasamy Sarveswaran | 14. Arumugam Seyan <i>alias</i> Appu |
| 6. A. Marianpillai | 15. Thamotheampillai Jegamohanandan |
| 7. Sivapatham Neethirajah | 16. Sinnathamby Sivasubramaniam |
| 8. Devanayagam Paskaran | 17. Sellay Rajeratnam |
| 9. Ponniah Thurairajah <i>alias</i>
Thangathurai | 18. Kumarasamy Ganeshalingam |

Chapter - 4

Compensation to Victims, Their Dependents or Heirs

216. This Commission was required by the Mandate to inquire into and report, among other matters, on what compensation or solatium should be granted to the victims, dependents or heirs.

217. It is now an accepted principle that victims of violations of human rights have a right to compensation. Such victims have suffered a multiplicity of losses. It would not be ordinarily possible for victims of ethnic violence, in circumstances of a general breakdown in law and order, to identify the assailants or to pursue claims and damages by recourse to normal judicial proceedings. That is primarily because of the prevalence of hostilities for a considerable period of time even after the cessation of actual violence. In any event, this does not absolve the State of its obligations for reparations as the overall authority responsible for the maintenance of law and order and the protection of the life and properties of all persons within its jurisdiction.

218. The Truth and Reconciliation Commission of South Africa in its report referring to the international obligations for the payment of compensation, states as follows: (Vol. 5/pages 172):

'The right of victims of human rights abuse to fair and adequate compensation is well established in international law. In the past three years, South Africa has signed a number of important international instruments, which place it under an obligation to provide victims of human rights abuse with fair and adequate compensation. The provisions of these instruments, together with the rulings of those bodies established to ensure compliance with them, indicate that it is not sufficient to award "token" or nominal compensation to victims. The amount of reparation awarded must be sufficient to make a meaningful and substantial impact on their lives. In terms of United Nations Conventions, there is well established right of victims of human rights abuse to compensation for their losses and suffering. It is important that the reparation policy adopted by the government, based on recommendations made by the Commission is in accordance with South Africa's international obligations. The reparation awarded to victims must be significant.'

219. It is worth bearing in mind the paradigm within which the Commission approached the question of compensation solatium or reparation. The Commission seriously felt that in terms of reparation a framework must be created to deal with all claims, especially those based on deprivation of property or shelter, with a view

to bring finality to such matters. Very early on, it was decided to call for claims in order to accomplish this Mandate. The response was encouraging and there were a large number of claims and applications. Victims of violations who had suffered trials and tribulations intimated their tales of woe to the Commission. A total number of 1,276 persons submitted their claims which were separately filed and each applicant who had made an application to the Commission had to be located in order to test the veracity of the claims.

220. Inquirers were appointed by the Commission to go to the length and breadth of the country in order to visit the scene of the events and to interview the victims. It was a harrowing tale of each victim telling his/her story to the Commission via the Inquirer, supported with contemporaneous police statements that most of the claimants had faithfully preserved. It is noteworthy that there were a number of cases in which persons in the neighbourhood had confirmed the victims version. Their claims were meticulously investigated and the summary of the Inquiries helped the Commission to arrive at the truth of their stories.

221. The Commission has made its recommendations after a careful consideration of all the circumstances and having perused the complaints, other corroborative material, particularly complaints to the Police made at or about the relevant time and the recommendations of the Inquirers who had visited the scene of the incidents. The Commission has not recommended payment of any compensation in respect of 253 cases, as the claims were outside the mandate of the Commission or there has been no proof or corroborative material in support of the claims made. In respect of 37 cases, the Commission has recommended for further investigations before these claims could be finalised and in respect of 37 cases there is no compensation sought. The Commission accepts the claims 949 cases and determined to recommend payment of compensation.

222. In determining the compensation payable, the Commission formed the view that the compensation, even though inadequate must be a fair and reasonable sum and not a mere token or nominal award. We have considered it necessary that every effort must be made to restore the human dignity of the victims by compensating them in a manner that will render it possible for the victims to rehabilitate themselves. In doing so we have assessed the loss in a fair and just manner to make the victim feel that he is not being doled out any charity but is rightly getting his minimum legal dues.

Compensation as of right and not as a matter of charity

223. The prospect of national reconciliation can be greatly enhanced through a genuine process of healing, which can come only when the victim is made to feel that he is being honoured, though belatedly, that he is being recognized as a worthwhile human being worthy of rehabilitation and reparation though inadequately, and that he received his minimum entitlement as of right and not as a matter of charity.

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224. In assessing the compensation payable, the Commission has been guided by the actual cost of the loss as at 1983. We have been mindful of the possibilities of exaggerated claims. We have been able to verify both directly from oral testimony and from the process of investigations conducted through the Inquirers and to arrive at the compensation determined by the Commission as reasonable in all the circumstances of the case.

225. In determining the compensation payable, the Commission has taken note of the payments if any received by the victims from such Institutions as Rehabilitation of Persons, Properties and Industries Authority (REPPA) and deducted such payments in arriving at the sum payable. The Commission has however not deducted any payments received by the victims as repayable loans as the Commission is of the view that any sum received as loans should not affect the victims' right to a fair compensation. The Commission, however, in determining the entitlement of any victim to compensation has not insisted on strict proof of actual loss. Where the Commission has been satisfied that the victim has in fact suffered loss, for which purpose specific tests were applied, the Commission had considered it unfair thereafter to insist on strict proof of actual loss particularly nearly 19 years after the occurrence of the losses.

Compensation should be paid with legal interest

226. We need to add that the Commission strongly recommends the payment of simple legal interest on the amount of compensation determined by the Commission, calculated from 1984 till payment in full, as such payment will be a reasonable solatium for the delay in the discharge of the obligations of the State in paying compensation.

227. We are aware that a large number of victims of the violence that occurred between 1981 and 1984, are living abroad. It is possible that the Commission's public notices calling for claims may not have reached all the victims in due time. We would therefore recommend that fresh opportunities be given to all those who could not avail this opportunity to make their claims, through an acceptable process to be determined.

228. In conclusion, we wish to record that the recommended compensation with the recommended solatium be made as expeditiously as possible as per Schedule. The compensation determined by the Commission in respect of the losses suffered by the victims who or whose dependents or heirs had made claims to this Commission are set out in Annexure iii (Volume II) of this Report. We strongly urge that the compensation determined by the Commission together with the recommended legal interest be paid as early as possible.

Chapter - 5

National Unity and Ethnic Reconciliation

229. The Commission was required to inquire into and report among other matters, on the institutional, administrative and legislative measures which need to be taken in order to prevent a recurrence of such violations of human rights and destruction or damage to property in the future and to promote national unity and reconciliation amongst all communities.

230. As a preliminary observation, we wish to advise on the paramount need for all concerned, including the state, the legislature, the executive, the clergy, the civil society and the media to relentlessly engage themselves in identifying, establishing and sustaining all measures which need to be taken:

- (a) to prevent the recurrence of such ethnic oriented violations of human rights, and destruction or damage to property in the future; and
- (b) to promote national unity and reconciliation among all communities.

231. The Commissioners are of the humble view that there cannot be any, ever - lasting, permanent and / or entrenched measures that could prevent for all time any recurrence of violence, ethnic clashes or violations of human rights. The relentless pursuit of promoting national unity and reconciliation among all communities by all the concerned parties, opinion makers and stakeholders would greatly reduce and minimize the chances recurrences, particularly wide - spread recurrences of ethnic clashes that have caused inestimable losses to the country in general and ethnic groups in particular.

232. Religious and ethnic clashes, frictions and tensions are as ancient as time immemorial and as historical as the discovery by human beings of distinctions and differences between one another. The interplay of these differences and distinctions based on birth, colour, language, ethnicity, power, opinion, whether religious or political have throughout the ages and throughout the globe contributed immeasurably to human sufferings from man-made disasters of one kind or another.

233. Sri Lanka too has had its share of historical feuds and frictions among its people stemming mainly from "numerical" as well as "historical" claims to land. Many wars had been fought over the centuries between inhabitants and invaders as well as between and amongst the inhabitants of the island themselves. However, it is to the credit of the Sri lankan people that by and large they had been co - existing peacefully and living in harmony, throughout the course of this country's history.

Jane Russell in her research work "*Communal Politics under the Donoughmore Constitution, 1931-47* (1st Edition - 1982) under the Chapter on "*The Cultural Roots of Communalism*" (page 130) has this to say:

"The cultural roots of communalism did not merely lie in the proliferation of quasi-political organizations and newspapers, which sprung-up in the twenties and thirties. These were only the materialisations of what was essentially an emotional commitment.

The roots of culture lie in the emotions, in feeling rather than thinking. Culture is the subjective realm of politics. It is involved with the value system or basic beliefs that underline the social structure. These beliefs, what sociologists call "core-values", are central to the identity of the communities as a whole and to the self-expression of the individuals within each community. When the English educated class began to search for their roots, in order to find an alternative identity to the British model with which they had been saturated they turned to the communal traditions. These traditions were repositied in the pastoral paddy culture which had remained virtually unchanged in 2,500 years.

"One of the planks of the English educated communalists during the Donoughmore era was the cry for "purana swaraj" or "traditional freedom" a phrase first enunciated by Gandhi in India in the twenties. "Purana swaraj" was the call of the atavist. It was in effect a call for a return to the greatness of the past, but it also encompassed an attempt to formalise and modernise the relationship between religion and social life in traditional society. It was in effect an attempt to update the tradition.

"The Sinhalese were of course at an advantage in the resurrection of the traditional norms for the longest and most hallowed of the extant traditions was that of "Dhammadipa" or "Island of the Dhamma". Together with the twin concept of "Lankadipa", sometimes referred to as "Sihaladipa," it reached back to several centuries before Christ, and was moreover substantiated by written evidence in the guise of the ancient chronicle, the Mahawamsa. The Ceylon Tamils had no written document on the lines of the Mahawamsa to authenticate their singular and separate historical authority in Sri Lanka a fact which Ceylon Tamil communalists found very irksome. However, what many Tamil communalists overlooked was the fact that the identification of Sri Lanka as the island of the Dhamma has so permeated the consciousness of the culture as a whole that it had overflowed into and stained all the other elements of the traditional culture, including that of the Tamil Hindu. The top-heavy kshatriya dominated caste system which prevailed in Jaffna for instance, was quite distinct from the pyramidal system which operated in South India, a fact attributed to the modifying influence of the Theravada Buddhist rubric. On the other hand, the perpetuation of caste distinctions within the Sinhala-Buddhist community was a definite result of the very extended cross-cultural synthesis between Buddhism and Hindunism. Syncretism between the two communities was quite overt. Cross fertilization between the Sinhala and Tamil languages in Sri-Lanka could be clearly traced. The very severe demarcation of cultures which communalists in both camps were prone to make, was not in fact a historical reality. But nationalism is unfortunately a rather black and white-

concept; it works on the principal of "he who is not with us is against us". The Sinhalese and Tamil communalists who were trying to impose the essentially alien idea of nationality onto their communities fell prey to this exclusivism.

"As it so happened, the Sinhalese community's return to "traditional freedom" was buttressed by the non-traditional mechanism of universal franchise which guaranteed their position of power. The Ceylon Tamil expression of traditional norms and values on the other hand, was considerably constrained by the same mechanism with the result that a negative defensiveness and resentment became increasingly the primary characteristic of the Ceylon Tamil cultural revival."

234. At page 136,

"In ethno-cultural terms, the leading Ceylon Tamils recognized India to be their spiritual home and they frequently referred to "Mother India" in their speeches and writings. As Selvadurai said at the inaugural meeting of the Jaffna Oriental Music Society: 'In literature and music, the Tamil people are culturally one with the people of South India', and S. Nathaniel enunciated this more clearly when he wrote in 1931:

"Jaffna is vitally connected with South India, even as the limb of a body is connected with the heart." (*Morning Star*, August 21, 1931)

"The architects and stonemasons required for the building of temples and temple sculptures were provided by South Indian Tamils, and - South Indians being the greatest exponents of Carnatic music and Bharatha Natyam dancing - promising Jaffnese students went to study under South Indian teachers. So, when Tagore urged a Ceylon Tamil audience in Jaffna in 1934 not to follow the example of the Sinhalese, whom he described as being "in the vagabondage of imitation", but instead to cultivate and use the vernacular as a medium of expression and to "think against the continental background" he was at least in the last in the reference preaching to the converted. It is in reference to this exhortation by Tagore that S. Nathaniel made the comment that 'we in Jaffna can adopt a pharisiac consciousness of superiority over our brethren in the South'. It is interesting that this note of self-righteousness *vis a vis* the Sinhalese frequently crept into Ceylon Tamil discussions comparing the preservation and state of their culture with that of the Sinhalese - Buddhists, and it became another recurrent characteristic of the nature of the Ceylon Tamil revival.

235. In 1940 Ponnambalam Ramanathan exhorted the Sinhalese to speak Sinhala with these words:

"The man who speaks Sinhalese like the two reverend monks whom we have all had the pleasure of hearing a few minutes ago, without any admixture of foreign words who can roll out sentence after sentence in pure Sinhalese, charged with sober sense, inspiring and grand to hear, is a Sinhalese man indeed. It is your duty to cultivate the study of the Sinhalese language to the best of your power and to speak it ignoring the English language on all occasions, and at all places where

English has no business, if you do not do so and delight in donning the external and ephemeral phases of western civilization and 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. The nation will be ruined and we must await with trembling knees the early destruction of the Sinhalese language."

236. We have quoted Jane Russell at length not because we necessarily agree with all the observations that she has so carefully compiled but more because of their intrinsic relevance to a proper understanding of the background to our problems, coming as they do from a foreign observer.

Over a hundred years of communal politics

237. There is reasonable material to conclude that for several decades even prior to independence, Sri Lanka had been afflicted by communal politics and ethnic rhetoric which had invariably dictated the course of political developments in this country even after its independence, down to this day. Over four centuries of colonial rule by three successive European powers of the time could certainly be assessed as having contributed indirectly to the rise of Sinhala - Buddhist revivalism in Sri Lanka while, Jane Russell has in addition chronicled the role of the "American Protestant Missionaries" in North Sri Lanka from the middle of the 19th century onwards, as having propelled the Tamil - Hindu revivalism amongst the Tamils of Sri Lanka.

238. We are of the considered view that there is no question of promoting national unity and reconciliation among the communities, without recognizing the depth to which communalism has overtaken every community in Sri Lanka for at least a century with racism predominating most political decisions and actions and the consequences thereof permeating all communities and all walks of life.

239. It is well to remember that this persistent preponderance of racial considerations in most matters of life amongst all the communities has cost and will continue to cost enormously the economic advancement of Sri Lanka and the quality of life of its people.

Constitutional and legal protections alone are inadequate

240. To hide these truths and to pretend that constitutional and legal protections available are adequate remedies would only help to keep the cloud of gloom over Sri Lanka for decades to come.

241. We understand that racialism is the dogmatic belief in the superiority of one's race. The practice of racialism can lead to antagonism between peoples. All religions invite mankind to do good, to be good and to forbid evil. Religions have an ideology and a vision to do good and to forbid evil. Every religion is open to all mankind. Racialism on the other hand is referable to one's birth and not to one's conviction. Racialism knows no ideology other than one's belief in one's own

superiority. It emanates from perceptions of inferiority and insecurity. It had often been used as a dangerous tool. The advancement of racism can invariably be harmful and damaging. The advancement of the religions can do good even though the exploitation of the religions by people have caused great harm, both to the religions and to everyone else.

242. For centuries before the advent of the Universal Declaration of Human Rights, religions have given human values to society while racists have always destroyed them.

Religious antagonisms, extremism and fanaticism have no doubt existed but that had been invariably when religions had been exploited by the racists.

True national unity begins where racialism, fanaticism and terrorism end

243. If any attempt is to be made to prevent ethnic clashes, violations of human rights and destruction or damage to property in the future every effort must be made -

- (a) to eschew racialism, fanaticism and terrorism;
- (b) to advance universal human rights as well as human values;
- (c) to promote and ensure a just and fair order of society and good governance ;
- (d) to revert one's heart and mind to those of the innocence of the new born.

However, pursuing a utopian ideal would be akin to chasing after a mirage in the desert. But if we do recognize, that indeed, we are in the midst of a desert, we would realise that we have no choice but to keep on chasing after the mirage until we reach the oasis. Surely we will, hard though our way! And oasis, there are!

244. True national unity and genuine reconciliation can begin from where racialism, fanaticism and terrorism end. The achievement of these ideals must become the country's priority.

245. In the course of its work the Commission invited several respected citizens of the country to make their submissions on the matters before the Commission. There were several others whom the Commissioners wished to hear but due to time constraints, it was not possible to invite all of them.

246. Of those to whom we were able to listen to -

Dr. A. T. Ariyaratne, Leader of the Sarvodaya Movement of Sri Lanka made his submissions and said,

"I believe that, even belatedly, appointing the Truth Commission, to go into what happened between 1981 and 1984, was long overdue.

When President Nelson Mandela appointed the South African Truth and Reconciliation Commission, all he wanted was to see that those who suffered the victims - had an opportunity to relate their story and those who committed these atrocities be given an opportunity to repent for their actions.

We had to get to the root causes for these events. There had been a number of people whether civilians or in the armed forces or the police who committed these atrocities and contributed to them. I know a number of them, if not the majority had suffered in this life itself for the atrocities they had committed. There are others who had not. Their Karmic forces will look after them.

Factors causing degeneration must be removed

“We accept that mere political solutions alone are inadequate to re-establish national peace and harmony. While the initial steps towards a political solution are taken and the preliminary attempt towards arresting the deterioration addressed, efforts should be made to remove the factors that caused the degeneration of society.

“Some approaches are:

- * First, re-establish our own value system;
- * Second, comprehensively reform the present education system;
- * Third, regenerate social respect for moral and ethical principles;
- * Fourth create a suitable climate in the country for the state law to be effective, function justly and impartially, devoid of interference;
- * Fifth, promote a sense of stability, discipline and peace in all sectors of society, inclusive of political leaders, spiritual and lay community leaders;
- * Sixth, grant the necessary freedom to the members of the public service and the defence services in order that they may be effective in the discharge of duties, unhindered and in keeping with the law of righteousness and the state law;
- * Seventh, re-establish a suitable economic lifestyle, simple, plain and sustainable and promote, in particular, the psychological - well - being of the younger generation, without accepting western modes blindly and with open arms;
- * Eighth, create, without any further delay, an alternative political system in keeping with our values and needs, in place of the party based system which is a western product, being one of the primary causes of the degeneration causing ills evident in present day society.

Apologies heal emotional wounds

"In conclusion, healing can be achieved only by acknowledging the Truth. In South Africa, President Nelson Mandela established a Truth and Reconciliation Commission (TRC) with a mandate to collect and investigate accounts from all affected parties and offer amnesty, where required to those who confess their part in atrocities and to make recommendations on reparations for the victims. The purpose was to use the healing power of Truth. We must put to rest brute power. I agree, the South African TRC, denied the necessary time and resources, could not satisfy everybody's need for justice but it helped many victims and their families. Apologies, sincerely offered play a vital role in healing emotional wounds and restore injured relationships. African Bushman, for example, place great importance on apologies in their dispute resolution. I thank you for your patient hearing."

247. Dr. Godfrey Gunatillake, Chairman Human Rights Commission of Sri Lanka made a detailed presentation. He said:

"I must at the very outset, emphasise a point. Truth Commissions are not only concerned with making recommendations for national unity and reconciliation. What they do is to make the Truth Commission itself a process of reconciliation leading to national unity. It would be important to bear this in mind, for ourselves as citizens - who not only look to you for the findings of the Commission but also look at the process which the Commission will set in motion when it meets. I also realize, when I reflected on it, that the PTC is undertaking a momentous task, in fact a historic responsibility. The PTC will be looking into events which were the most traumatic we experienced since independence. Events which had such far reaching consequences, nationally and internationally, which changed the history of our country. I view the deliberations of the PTC as historic as setting a process in motion, not just a once and for all Commission but an enduring process which will go on. We want not one Truth Commission, but Truth Commissions, which will continue, until the process of reconciliation is complete."

Promoting reconciliation an onerous task

Let us try to apply the experience of the South African TRC to the Sri Lankan Truth Commission. How do these criteria apply to the work that our own Truth Commission has undertaken? The Commission is required to investigate in to gross violations of human rights and the destruction and damage to property that was part of the ethnic violence within a relatively short period of 1981 - 84 with special attention to the events and crimes of July 1983. The Commission's work is therefore focused on a particular set of events, within a long - standing conflict which is still on going. Therefore by the very nature and scope of its work, the Sri Lankan Truth Commission is quite different from the other Commissions, those that have been established following a peaceful settlement of an on - going conflict where all parties have committed themselves, politically, to a process of co - existence and reconciliation which has to be achieved. The Sri Lanka Truth Commission has the much more onerous task of really promoting the process of reconciliation and

co existence. One of the elements, which forms part of a Truth Commission, provided in its terms of reference, is dealing with perpetrators and granting them amnesty. The Sri Lanka Truth Commission is not entitled to grant amnesty. If such a provision were present it could have provided a motive for full disclosure by perpetrators, an example being for those officers controlling the riots in 1983.

The South African TRC was able to get a detailed testimony of victims who were named and which pointed to the perpetrators and also named them. There was motivation for them to come forward and give their account. The real point which again I wish to emphasise, is that the South African TRC was a process of reconciliation. It did not just inquire and recommend measures. We have to convert our own Commission to a process of reconciliation to a process of healing. I wish to re - draw attention to two aspects of it, that is having this Commission when the country is in a deep political crisis with all kinds of party rivalries exacerbated and deep antagonisms coming to the surface. Yet, I would still argue that, although the Sri Lankan Truth Commission has not been established with the same conditions essential for a classically created Truth Commission, it does not prevent the Sri Lanka Truth Commission from fulfilling some of the functions of a classical Truth Commission. In this difficult situation I can assure you and convey to you. Honourable Commissioners, that many, in the community of civil society here composed of eminent persons of proven integrity, are sure that you given the freedom, will probably make the Commission the kind of Truth Commission it should become and which the process for reconciliation would I become entrenched.

Political parties, media and individuals have inflamed communal passions

If the whole truth were to be obtained, it would be necessary to also get at the other actors. Important among them are the political parties media and individuals, who by their speech and writing indulged in advocacy which inflamed communal passions. A process of truth and reconciliation must encompass all these elements. What was most disturbing was the failure of most political parties to come out strongly against the violence and mobilize their supporters to prevent these actions.

To my mind it would be easier for the Commission to deal with the reconciliation part rather than the Truth part. What I mean by it is that in an on-going conflict you may not have the perpetrator coming forward, willingly, as they would do when the conflict has ended. Therefore, the Commission may not be able to get the whole Truth. Take an example the Thinnaveli incident; this was an important incident because it triggered off a whole course of events. There is another party to that incident, probably from whom you may never be able to get evidence. It is possible to try, it forms part of the terms of reference of the Commission but success would be unlikely. But in the way the Commission looks at emerging evidence, it could fix the responsibility of different parties. If the responsibility of the state is determined for that should cease from the killing of innocent civilians, the Commission would set in motion the process of reconciliation. There would be an acceptance that the norms of human justice have been recognized. This is important for a Truth Commission the affirmation that there is a body to, even

belatedly, upholds the norms of justice. the Truth Commission could do so by examining every incident. I do not think that the type of reconciliation which would come at the very end of a conflict, would emerge from the proceedings of a Truth Commission”.

248. **Rev. Fr. Mervyn Fernando** in his presentation said:

“When I see the situation today in the light of what I had known earlier, I feel so sad. I specially feel sad for the younger generation, because I work very closely with them. They do not have the experience of being Sri Lankan, the way it was 30-40 years ago. But being an optimist, I feel that we will get over this crisis and come out of it stronger, sometime in the future, with a better socio - political condition, where all the religions and races could live again, peacefully in a united way. But very much will also depend on what we do today for the emergence of a new Sri Lanka in the future. What we are doing here, in this Truth Commission today is one major step in that direction, because we can build a solid nation or a solid country only on the basis of Truth. In other words, we must look at the Truth in its totality, namely the truth of the past the Truth of the present and what truth will be in the future.

Violence have caused deep hurts

I am not an expert in politics but I want to emphasise the need to look at the psychological aspects of this problem. It is no secret that the violence and the harsh conflicts that have taken place since 1958, the destruction of property and violence to the people on both sides - have caused deep hurts and have alienated, psychologically and emotionally the two major communities and also to some extent the Muslim community. I have seen for myself, how these Sinhalese- Tamil conflagrations have literally killed people and burnt houses. I myself was involved in trying to throw water to douse those fires. There were several occasions when the psyche of both the Sinhalese and Tamil people have been deeply injured and hurt. And I know very close friends of mine who are Tamils who are really well intentioned who are very patriotic and love Sri Lanka having been very badly alienated through these hurts. They feel they are not wanted, as they are second class citizens. Therefore my strong conviction is that while we look for a political solution, through the constitution, other legal structures and arrangements, which will bring about justice to our people, we must also address the emotional and psychological needs for reconciliation of the two alienated communities. Therefore the first step is to recognize that there is a situation like this and bring it out into the open.

On the other hand we cannot simply say lets forget the past. Some people take that stand. But that is not humanly possible. When there have been deep hurts is not possible psychologically, to just forget them. Therefore, I think it is very important, first of all, for each side to acknowledge that each had made mistakes has committed offences and have been in the wrong, not merely to justify what the Sinhalese have done to the Tamils or the Tamils have done to the Sinhalese, not to just justify but say, yes we have made mistakes, we have wronged the

other side. It has to be acknowledged, not only privately but also in some public way, in some public forum perhaps, at least symbolically. I do not think that kind of gesture has been attempted up to now."

249. **Dr. Uvais Ahamed**, Principal Zahira College Colombo made submissions to the Commission upon invitation. He said;

"In my experience, I have known a similar Commission at an international level. It was an international investigation commission, appointed by the UN to investigate the damage done by the atomic bombing of Hiroshima and Nagasaki. This Commission was appointed in 1977, 32 years after the bombing. I am happy to say that I was a member of this 11 member Commission, which included two Nobel Prize Winners. The point that I am trying to make is that although it was 32 years later still there was a report to discuss, fully and comprehensively, the question of the Atomic bombing. The report was to be submitted to the Disarmament Commission of the UN. The investigation and its outcome showed very well that although it was late, it was useful. We can conclude that this Commission is never too late.

Compartmentalisation - an unfortunate trend

The unfortunate trend in Sri Lanka, ever since we received independence from the British, is one of compartmentalisation. The people of this country, who had been mixing freely with each other, irrespective - of the community to which they belonged who were able to close ranks to wage a struggle against the British to win freedom, began to withdraw into their private enclaves of communal living, fully cloistered from other interactions. They began to develop parochial and not national interests, which were uppermost in their minds. Today we see a proliferation of Muslim Associations, Hindu Associations, Christian Associations, Buddhist Associations etc., in this country. I am not, in anyway, decrying the importance of these organizations which have done yeoman service to their respective religio - cultural entitees. But what is lamentable is that not many people have taken the initiative to develop organizations, which could forge bridges between various ethnic and cultural groups. It is the absence of such bridges that have made the different communities easy prey when contentious disruptive issues come to the fore. They become easily manipulated by unscrupulous self - seeking individuals and parties. In the present context when the country is being torn apart what is important is building bridges.

It is indeed important to take cognisance of the fact that what is of primary importance, are organizations which could transcend cultural boundaries in this country. I was very happy to see in the Daily News a photograph of students and teachers from Jaffna standing with the President of this country at the Presidential Palace. This is what is important in this country.

Missed opportunities

Another matter I like to stress is of not missing opportunities that come our way, to solve the ethnic problem. Opportunities do not come all the time but when they do come one must grab them and see the best is got from those opportunities. Whatever the antecedents of the conflict may be, Sri Lanka as a whole, will for a long time repent the missed opportunities of 1977. In 1977, the UNP was elected to Parliament with a 4/5 th majority that could have strengthened the elbow of any regime. Such a regime would fearlessly have addressed the disillusionment of the Tamil youth and resolved the conflict, finally and comprehensively. While the disaffection and the frustration of the Tamil, especially that of the youth of that community were real and lying dormant with all signs of blowing up at any time, the regime that came into being, without using this marvellous opportunity to marshal its resources and resolve the conflict, once and for all, began to preoccupy themselves with other issues on which the government spent its entire time.

It has, of course been to the credit of that regime to set in motion a vast economic recovery programme, which gained momentum in 1988 and is going on unfettered, even to this day, though rather tentatively and haltingly, despite the total mismanagement of the social problem, the ethnic problem. Politicians were, unfortunately not sensitive or not sensitive enough to understand that for any form of development to take place there should be first, and foremost, peace and harmony in the country.

In Malaysia the conflict between the Malays and the Chinese was very, very bad. But they took a hard look at them and found out ways and means of solving them without allowing them to fester. One of the things that they did was to appoint Peace Committees in every village and every town. These committees were composed of three nationalities. Open discussions on certain subjects were taboo, not allowed. They could not talk about their race; they could not even talk about the existence of their king. And very soon all fell into line. Perhaps the leadership of Malaysia knew the importance of peace and peaceful - co - existence, as being of paramount importance for bringing about economic development."

250. **Mr. Subramaniam Sivananthan**, a former Government Agent and who retired as Additional Secretary, Ministry of Public Administration, gave evidence. He said :

"The ethnic violence has, no doubt left an indelible mark in the minds of the victims. The normal tendency for a victim who is denied justice is to harbour a lifelong grievance and if the wounds are left unattended, they tend to fester. In dealing with this type of a situation, the usual practise has been to institute a probe through a Commission with little or no impact, often ending up as an academic exercise. Due to this unpalatable experience, people have by and large lost confidence in such probes.

It appears that this Commission is entrusted with a unique task. Unlike past Commissions it is not a fault-finding one meant to mete out punishment to anyone but aimed at ascertaining the truth, make recommendations for creating an atmosphere for reconciliation between the different ethnic groups and recommend relief to those affected. In a sense it may be considered as having a religious flavour.

Violence as a means of solving problems

Violence has been increasingly used as an instrument to solve problems in Sri Lanka on a number of occasions. Several instances of mass violence have occurred during the past, some of them ethnic whereas others are non-ethnic in character. Events of this nature if not curtailed, can create a tendency towards extra-judicial mass punishment. This is a serious indictment on our society. In order to prescribe a remedy to this recurring problem it is important that the nature of this violence is diagnosed thoroughly. In doing so, it may be useful to ask a few questions. Firstly is this violence spontaneous or pre-meditated and organized? In what manner does it differ from earlier instances such as the ethnic violence of 1958 and the post-election violence that took place in the past?

The manner in which such instances of violence were handled bespeak a lot. In the past, it is evident that invariably little or no overt action was taken by the authorities to track down the culprits and deal with them. This tantamount to condoning such action and has given wrong signals to perpetrators paving the way for recurrence. Besides, it also erodes the citizen's confidence on the state which is responsible for the protection of his life and property regardless of his ethnic affiliation."

Ten point programme for National Reconciliation

251. Mr. Sivananthan suggested the following for promoting national reconciliation:

- * There is also an urgent need for moral re-armament at both individual and society level. Democratic values have to be reinforced and strictly adhered to. Resolution of conflicts through peaceful means has to be encouraged. Religious institutions have to play an active role in this task;
- * The role of the press, the fourth estate, which is the guardian of society, is very vital in this regard. It has to actively participate in surfacing instances of violence and human rights violations and mobilise public opinion against the perpetrators;
- * Fortunately, we live at a time where there is a fund of new knowledge emerging in fields such as Emotional Intelligence which throw new light on management of emotions in human beings. These have to be incorporated into the school curriculum so that future generations will imbibe those new values;

- * As far as the ethnic groups are concerned affirmative legislation has to be enacted enshrining the rights of citizens and to provide legal remedies to affected parties. Such measures have been adopted in countries such as Australia in overcoming racial discrimination;
- * A large number of affected people lost not only their properties and employment, but also their income security. Several of them have left the shores of this country in disgust being deprived of their rights to their retirement benefits. No doubt most of them are bitter about the shabby manner in which they were treated. As a gesture of goodwill such lost rights should be restored to them regardless of their place of stay.
- * As a confidence building measure, we should extend dual citizenship to all Sri Lankans living abroad by entering into agreements with governments of countries where such a facility is not available at present. This will enable those who wish to maintain contact with their mother country to do so honourably. This will also demonstrate to them our Sincerity of purpose.
- * At the political level, it is imperative that an understanding is reached between the contending parties. In the meantime, opportunities have to be afforded to the public through creation of a common forum for promotion of inter - ethnic understanding and amity. Creation of Voluntary friendship associations with Sinhala, Tamil and Muslims "SI THA MU" as members if actively encouraged would serve such a purpose. The state may have to support them financially to undertake programmes. The Australian government assists similar bodies formed by ethnic communities with success.
- * At the level of the Administravive Service it is considered desirable to encourage officers to serve in a cross - cultural environment for at least two years before such an officer is promoted from the basic grade to the next grade.
- * At the level of the public service creation of a bi -lingual clerical service drawing from serving officers fluent in all three languages would help to bridge the gap between communities.
- * The Official Languages Act is amended to provide avenues for aggrieved individuals to seek legal remedy would enable speedy implementation of the provisions."

252. **Mr. D. E. W. Gunesekera**, General Secretary of the Sri Lanka Communist Party and a former Member of Parliament gave a very exhaustive analysis of the background to the incidents of July, 1983. He said:

"I would say the most unjust and the most barbarous event in post independence history of Sri Lanka was the 1983, 'Black July.'" Such an event should not be

allowed to recur. I believe that the people at large are not aware adequately and sufficiently, as to what really happened and what forces were behind them. They have not been sufficiently exposed to the truth.

“Black July” 1983 caused virtual division of country

“Black July”, in 1983, signalled the outbreak of the on going civil war. In my judgement, it caused the virtual division of the country. It created a massive refugee problem, unprecedented in the history of our country. A number, in excess of over a million and a half, of all three communities - Sinhalese, Tamils and Muslims - had to flee the country. For the last 18-20 years they continue to be refugees. It had a terrible psychological effect on society: we still suffer the consequences of this turbulence.

We tarnished our international image. It made our economy unsustainable. Our defence budget had risen from less than Rs. 1 billion to Rs. 83 billion by the year 2000. It made the Executive more authoritarian. It paved the way for draconian laws to be passed of which the worst was the Sixth Amendment to the Constitution. It pushed the moderate Tamil People into the clutches of the terrorists. It alienated our traditional neighbour, India. In 1983 we had an army of only 14-15,000. Today, we have over a lakh. No one can estimate the loss of life and property.

Just a few months prior to “Black July”, in October, 1982 about eight months prior to “Black July”, we saw how the Tamil people used the secret ballot, voted in the North and the East. Despite a boycott campaign of the Tamil United Liberation Front (TULF) and other Tamil groups, over 50-80% of the Tamil people of the North and East went to the polls. Even in Jaffna, over 50% cast their votes. This is the most significant, that 60% of the people, out of those who voted, cast their votes to Sinhalese candidates. Our candidate, Hector Kobbekaduwa, coming from a feudal family in Kandy, secured the highest vote. That is remarkable. In Vavuniya over 85% voted for Sinhalese candidates. Trincomalee 89% Batticaloa 60%, Digamadulla 95%. This was the response of the people of the North and East to the Sinhalese leaders, just eight months prior to 1983. Let the people on the South note this stark fact of history. All this goodwill evaporated after “Black July”. The entirety of the Tamil people was pushed, nay driven, into the clutches of the LTTE.

Role of Media during black July

Another important aspect concerns the role of the media during this “Black July” period. There was a lot of disinformation, distortions, exaggerations, inflammatory bloating of events: they all led to an escalation of domestic violence. I would specially refer to a newspaper that is no longer in print, that of the Dawasa Gruop. Much before “Black July” on 17 July 1983, there was a headline, “Uthure Thrasthawadaya madinna Thawath Thrasthawadayak”, (Translation: Top Counter Northern Terrorism, there is going to emerge another Terrorism). It was a banner headline. This newspaper went to the extent of stating that after the 22nd of July a very strong course of action will be taken to exterminate or to defeat terrorism. It significantly mentions the date, “after 22nd and 23rd”.

There should be a proper balance between freedom and responsibility. This was observed in the breach, particularly by the Sinhalese editorialists. It is my position that, as much as the politicians in this country, both sides, the media too, are responsible for the present position in this country. If you do some research work from 1947 to 2001, on the media, you will come to the correct conclusion that the media too contributed to the present problem.

Ordinary people are not communalist

I wish to make one more observation Ordinary people, in our country, either Sinhalese, Tamil or Muslim, are not chauvinistic or communalist. Acts of ethnic violence, even a semblance of it cannot take place, unless there had been some political leadership or sponsorship at some level.

Ours is the only country in the world where there is no Broadcasting Authority and a Broadcasting Act imposed. As far as the private sector is concerned, there is nothing to govern them. There are no guidelines, there are no standards, there are no criteria, there are no regulations. There is complete freedom with little or no responsibility. In a multi-cultural society like ours, if the media is not going to behave in conformity with those concepts, you will not be able to expect what really is sought from them in maintaining national unity or national integration. You will not succeed. That's why I say that it is absolutely necessary to ensure the cultural security of the country and it can be done. The biggest role can be played by the media.

I am happy, that at least now, all the political parties have realised the need for some political solution. There is only one party, out of 49 parties in the country, which does not. There is only one party, which says that we must have a military solution, a pure military solution. All the other parties take up the position that they accept there is an ethnic question, they accept the fact that a solution should be found and it must be a political solution. Terrorism, you can curtail through military means, to some extent, but the problem cannot be solved. In the case of international terrorism it is also the same."

Unless a Palestinian State is set up there won't be peace in the Middle East. Israel was set up in 1948. Simultaneously a decision was taken to set up a Palestinian state. 58 years have gone. Palestinians are without a state and Israel is a very big, a very wealthy country today. Unless you tackle that problem, you won't be able to solve it, though militarily, you can have all the sophisticated equipment. I apply that argument to our country. You have to find a solution and through that can you win over the Tamil people, the Tamil speaking people onto our side. There is no other solution.

Media should not incite people in a multi-ethnic country

My view my personal conviction is that the media contributed to a great extent to committing crime, not only in this country, but in the whole world. That is why I am taking the position that media is yet another industry. It could be another

industry but we cannot allow it run like another chocolate factory or a biscuit factory. We are dealing with communicating with people. Radio stations have 20 odd channels. We are dealing with 18 million population daily, round the clock. The government is unable to control them, they are more powerful than the government. In a multi-ethnic country they should behave in a way to promote national unity, promote national integration, and not to incite the people.

I shall give an example in Sinhala. "*Pathareta dhaanawa Muslim minihek ahuwuna horek. Dhan, Muslim kiyalla vadak na ne. Ayee ehemea hiyanne? Ayee Dravida Thradhavadiyek kiyanne.*" (Trans: The papers report that a Muslim thief had been caught. It is of no use to report that a Muslim thief had been caught. It is of no use to report that he is a Muslim man. Why is such a report made? Why say that an arrested man is a Tamil terrorist?) When you say a Tamil terrorist, the connotation, the meaning sent in the message is that fellow is a Tamil. Whether he is a Tamil or Sinhalese that fellow is a thief but you don't say *Sinhala horek. Ahuwuna. Paththere kohewath kiyala ne. Kohewath liyala ne. Sinhala Thrasthewadeyek ahuwuna?* (Trans: No where is it said a Sinhalese robber was caught. No where do the papers report that a Sinhala terrorist was caught.) Then JVP *kale Sinhala Thrasthawadi Kiyala dhamme ne.* They did not say Sinhalese terrorists did it when the JVP was caught. That was reported as an unknown man or various other terms were used. That is why I am speaking of responsibility.

No regulations are necessary really: the media proprietors, the media barons, if they want to do it, they can. But they never want to do it. They will never do it unless some standard criteria are set up by an authority, a Broadcasting Authority. In the United Kingdom there is a Broadcasting Authority. Sri Lanka is the only country in the whole world where there is no Broadcasting Authority. There is a free movement, full freedom of the wild ass is available for the media. They may behave but not as far as ethnic relations are concerned. We should not allow the media to tamper with that. This is what we are proposing. This is my point of view. The media can come out against the government, it can topple the government but it should not do anything to disturb ethnic relations. That is my point.

Federal Party was created after the Citizenship Act

If you examine the political scene in the North and East in the post independence period of Sri Lanka, you will observe along with the straining of ethnic relations the growth of a tendency amongst the Tamil - and even the Tamil speaking peoples - to sway from the mainstream of politics. From 1947 onwards you find this gradual moving away. Take the birth of the Tamil congress the birth of the Federal party. The federal party was created immediately after the Citizenship act the following day. Its creation was very important and very relevant.

The historical development was due to the failure on the part of the ruling parties to understand the genuine grievances of the Tamil people. In 1977, when the Jayawardena government was returned to power with a 5/6th majority, the people and the minorities reposed confidence in him. I quote from the same book under the heading "Problems of Tamil speaking people" page 296, that is, the manifesto

of the UNP, presented to the people in 1977. What does this manifesto say? It says, 'We shall strengthen the democratic institutions, we shall establish the rule of law, we shall see that the Members of Parliament, and the bureaucracy, will not be allowed to victimise the people for political reasons.' Wasn't the Sixth Amendment an action by which they have victimised the Tamil MP's for holding political beliefs, for political reasons. They were politically victimized.

It is after 'Black July', after the Sixth Amendment, that the TULE, the moderate Tamil party lost its base in the North. It is these conditions that created a man like Prabakaran. I think Prabakaran should be eternally grateful to Mr. J. R. Jayawardena for having passed that legislation, having created all these conditions. Prabakaran must erect a statue for J. R. in the North to respect and worship him day and night.

Cultural fears must be erased

It is my understanding that there is a gross injustice done to the country, a gross historical injustice. I'll enumerate the failures. We have had the B- C Pact a failure. The Dudley Senenayake - Chelvanayagam Agreement - a failure because we did not address the genuine grievances of the Tamil speaking people. We are also a party to it, self - critically. I'll say the 1978 constitution was a failure with all the promises given in the Manifesto, the Thirteenth Amendment had to be imposed from the outside, by Rajiv Gandhi. The collapse of the North - Eastern administration, we tried an experiment but under President Premadasa they chased away and it collapsed. The collapse of the LTTE - Premadasa talks, the collapse of the PA - LTTE talks. There is mutual fear. Mutual suspicion. We have to erase cultural fears. this distrust between the Sinhalese and Tamil, the Tamils and Muslims, and the Sinhalese and Muslims. Unless this is eradicated, you will not be able to find peace with these conditions. These conditions should be created by the ruling party.

Finally, I'll say that I am more concerned with the appalling silence of the good people than the misdeeds of the wicked. I expect the Truth Commission to bring sanity to the good people, inquire why they are keeping silent, get them to come out, wake them up and try to solve the problem.

Unscientific history is being taught

I believe the reality, as it exists now, you can't unmake things you have made earlier. Who knows who came first whether Tamil or Sinhalese? That is immaterial. We are all living here, at least from the Thirteenth Century. We are all living here. At least that fact is correct. We all know it. Most of this suspicion, distrust, misconception, all have arisen from unscientific history that has been taught to our people. Yes, unscientific history.

There is so much confusion, so much of misconception and distrust here. It has been built over generations and generations. It is also so among the Tamil community, it is so among the Muslim community. We are in a multi - ethnic society. That

is why, at least among the intellectuals, the educated people, among the good people, there should be sanity. But my impression is the ordinary Sinhalese and Tamil man, are not chauvinistic. It is the middle - class the upper class of all three communities, who are arousing communalism and trying to destroy this country, not the ordinary worker, the ordinary Sinhalese and Tamil worker. They live together nothing happens to them. It is the so called upper and middle classes who are rousing others for greener pastures, they are the people doing it, that is my understanding."

253. Mr. A. Ramiah, General Secretary, Ceylon Plantations Union gave evidence. He said :

"During the July 1983 riots, his wife's sister's husband, an assistant Lecturer at the Moratuwa University was killed at Kalubowila, Dehiwala. In Badulla, meanwhile his father-in-law's house was burnt and his father-in-law Dr. Jesudason Nadarajasingham died. His mother-in-law died the following year consequent to the shock. His eldest son who was studying at St. Thomas College, Bandarawela, was moved out to a temporary camp, following the attacks on the house. His second son, a three - year - old child, staying with his grand parents lost an eye due to the attack on the house. His wife had two brothers. Both lost all their properties due to the riots. One died and the other brother left the country for good. He said, that like in Germany where the Nazi ideology caused catastrophe, in Sri Lanka too, there was an "ideology' behind these riots."

He referred to a visit to a refugee camp in the area with Mr. Sarath Muttetuwegama, MP. Thereafter they also visited a Buddhist monk in the area. After these visits, Mr. Sarath Muthettuwegama asked me,

"Do you know what they were telling me in Sinhala? If the Tamil Community wants, they can live as second class citizens. Otherwise, you cannot live peacefully."

I told him that, "I understood the message. This is the ideology behind the riots."

254. Mr. Ramiah further said:

"Whereas in Germany, after the 2nd World War, there was concerted effort to fight "racism and the "super - nation theory" in Sri Lanka, these theories are allowed to spread. Riots can take place even in the future, because sections of the population are told that riots are justified. Those who take the law into their own hands also gain financially."

"The government is morally bound to protect the people and their property. However, there is no way to compensate when a life is lost. But at least, the economic motivations behind the riots such as wrongful gain, must be eliminated. The government must pay full compensation as a means of preventing riots in the future, Mr. Ramiah asserted.

Sections of the then ruling party and Sinhala media behind riots

There are large sections of the Sinhalese who wish to live in peace. The Sinhalese and others have helped a number of Tamils in distress during the riots. It is a small minority amongst them, who engineer these riots. The engineers might not have anticipated the magnitude of the final outcome.

Sections of the then ruling party were behind the riots. The Sinhala media is also guilty of this. It is important to not only fight for compensation but also against racial superiority inferiority and discrimination", he concluded.

255. **Mr. Kandiah Neelakandan**, Attorney -at-Law, General Secretary of the All Ceylon Hindu Congress gave evidence. He said, 'successive governments discriminated against the minorities.' He highlighted the main issues, namely:

1. Language Policy ;
2. Deprivation of Citizenship to Plantation families ;
3. Colonization of the North - east provinces by the Sinhalese ;
4. Standardization for admission to Universities ;
5. Attitude of government servants and politicians towards minorities.

He analysed these issues in greater detail. He referred in addition to the extensive damage and destruction caused to Hindu Temples in the country and urged the Commission to consider adequate compensation. He also submitted the need to enact legislation that will debar anyone including the police and armed force personnel from violating the sanctity of the Temples by entering with their boots or shoes on thereby desecrating the temple. The cost of cleaning and purifying the Temple by conducting "Kumbabishekam" is very high Mr. Neelakandan said.

Media whipping-up anti-minority feelings

He also referred to the damning role of the media in whipping up anti - minority feelings in the country and the need to legislate to prevent such acts.

256. The following further remedies have been recommended by the All Ceylon Hindu Congress in their written representations dated 12 November, 2001:

- * There should be a political solution to satisfy the aspirations of the Tamils, a majority of whom are Hindus;
- * Any type of propaganda on racial or religious basis should be banned;
- * Sri Lanka should be a secular country giving freedom and equal rights to all religions;
- * Equal opportunities to all irrespective of race of religion should be assured.

- * Recruitment to all public and semi - public institutions should be guaranteed in proportion to the ethnic ratio;
- * Tamil remains an official language only on the statute books. Tamils should be able to carry out work in government departments and the courts in the Tamil language;
- * Suitable legislative and administrative measures should be introduced to arrest violations of human rights based on racial or religious basis.

Remove human right violators from public office

257. We now wish to refer to a report of the TRC of El Salvador. The Truth Commission of El Salvador in its report (15.03.1993) to the United Nations on the violations of human rights in El Salvador between 1980 and 1991, have made wide ranging recommendations aimed at removing human right violators from public offices, reforming the justice system and the armed forces as well as to promote human rights democracy, the rule of law and national reconciliation.

258. On national reconciliation, the El Salvador Truth Commission has recommended as follows:

"The Commission believes that justice also demands that the victims of human rights violations by all sides in the war be publicly recognized and given material compensation. The report lists the names of more than 18,000 victims it received testimony on. The report calls for a special fund to be established for this purpose. It will be given resources by the government and be supported by a recommendation that one per cent of all foreign aid be directed to the fund. the Commission expresses the hope that the international community will assist the government of El - Salvador to carry out this recommendation. A national monument should be erected, listing the names of all victims of the war. A national annual holiday should be declared to remember the dead and celebrate reconciliation".

Convince Security Forces - No secrecy, no cover-up

259. Justice Albie Sachs, Judge of the Constitutional Court of South Africa, in a recent address (30.01.2000) on the South African Truth Commission had this to say:

"How do we prevent these things from recurring in the future? Part of the answer is to convince the security forces that they cannot expect secrecy and cover - up in the future. The security forces must never feel that they can rely on being protected by the state, come what may. The TRC has achieved this at least for our generation.

Another part of the answer is to develop a new culture in the country at large. The TRC process has sunk into the consciousness of the nation. Hopefully the report will be integrated into school curricula and its conclusions will

radiate South african thinking generally. Evil and cruelty must be seen for what they are; protecting the state against some imagined terrible evil from outside cannot justify it violating all moral norms and committing greater evils itself.

A third safeguard comes from having strong institutions in place dedicated to defending Fundamental Human Rights. Our constitution gives great significance to such institutions, One of them is the Constitutional Court, of which I have the honour to be a member."

260. In August 1983, within a month of the communal violence of July 1983, the **International Commission of Jurists** republished a report on "Ethnic Conflict and Violence in Sri Lanka" by Prof. Virginia A. Leary after her mission to Sri Lanka for the ICJ following the communal clashes of July - August 1981.

In republishing, the ICJ updated the report with a Supplement prepared by the ICJ staff, on the ethnic violence of July 1983, in Sri Lanka. The updated ICJ report states as follows:

"After the general election in which Mr. Jayawardena came to power, the TULF became the main opposition party in the Parliament. In May 1979, the Parliament approved a Bill banning the Liberation Tigers" and empowering the President to proscribe any organization which advocated the use of violence or was engaged in any unlawful activity. The TULF and the Sri Lanka Freedom Party (SLFP) opposed the Bill on the ground that it could be used for suppressing all political opposition. In reply the Prime Minister, Mr. Premadasa, gave assurances that the new law would not be used against democratic and law abiding organizations and that the government did not suspect the TULF of being behind the "Liberation Tigers".

Sending refugees to North - significant step towards partition

Paradoxically, the government's action in threatening to ban the TULF and in sending Tamil refugees to the North is a significant step towards a de facto partition of the country. The implications are very grave for the future.

The increase in population in the North due to the influx of the refugees from the south will increase the pressure on resources including land, water, food and employment opportunities. In such a situation it appears that the Tamils will be left without any representatives or any party to negotiate their demands.

The communal violence of July 1983, compounded by government ineffectiveness and illegal counter - violence by the armed forces has resulted in the death of hundreds of Tamils, rendered thousands homeless, caused a major refugee movement to the North of the island and devastated the economy of the country.

It is clear that animosity between the Sinhalese and Tamil communities has now reached a level which makes the role of the government exceptionally difficult. The actions of the government during the recent violence appear to have been responsive to pressures from the armed forces and the majority Sinhalese community. Yet, the expressed desire of the government to maintain a united country can only be expressed desire of the government to maintain a united country can only be accomplished if the government represents the entire population and affords equal protection to all, not only to the Sinhalese majority”.

261. According to Christian Tomuschat, the Coordinator of the Guatemala Truth Commission,

“No one can today ensure that the immense challenge of reconciliation through truth can be met with success. In order to do so, the historic facts must be recognized and assimilated into each individual consciousness and the collective consciousness”.

(Quoted by Robert I. Rotberg in Truth Commission and the Provision of “Truth, Justice and Reconciliation from “The Atrocity Findings: The Historic Facts Must be Recognized,” New York Times, 26 February 1999)

Genuine fears and false misconceptions

262. Apart from recognizing historic facts, there are also inescapable realities that need to be understood. One such reality, which has contributed to the spread of genuine fears as well as false misconceptions is the geographical location of Sri Lanka, a comparatively small island, within close proximity to the vastly huge Indian sub - continent. India has a population ratio of 100 Indians to 2 Sri Lankans, Acutely compounded from Sinhala perspectives by the presence, within a range of two hours by boat across the Palk Straits, of a population of over 50 million Tamils in South India with ethnic Links to the 1.2 million Tamils in North and East Sri Lanka.

263. Another reality is the strategic location of Sri Lanka in the Indian Ocean, which had over the centuries evoked on this Island more than a casual interest amongst the world’s powers of the time. Having been successively ruled by foreign powers namely the Portuguese, the Dutch and the British, the people of this country had to endure many facts of Divide and Rule” policies that best served the interests of foreign powers, contributing to the emergence of communal and at times caste politics from as early as the first half of the 19th century.

264. Prof. K. M. de Silva, in his article titled, “Some Early Pioneers in the Agitation for Elective Representation In the Universal Franchise, 1931 - 1981, the Sri Lankan Experience (Commemorative Volume) states at page 4:

“ In retrospect, it would appear that Colebrooke’ s concept of the role of the Council was too restrictive. For the really remarkable feature of

the Legislative Council established in Sri Lanka in 1883 was not so much the existence of an official majority, as the presence of unofficials.

Unofficial representation, as it existed in Sri Lanka in the 19th century, was nominated representation, that is to say, appointment by the Governor. And nomination was on a communal basis. This was natural because the whole point of the Council was to elicit knowledge of local conditions: the ratio was fixed by convention as three Europeans and one each from Sinhalese, Tamils and Burghers though there were quite often deviations from this pattern with regard to the nomination of Sinhalese, Tamils and Burghers on this precise ratio. (Emphasis ours)

265. **Dr. R. A. Ariyaratne**, (University of Colombo) in his contribution to the Commemorative Volume referred to earlier, has this to say:

‘But the immediate appearance of a serious communal rift in the reform movement was prevented by a number of fortuitous circumstances. For one thing, the subsequent decision of the secretary of state following Mccallum’s recommendation to grant an additional Tamil representative considerably allayed their fears of a possible Sinhalese domination of the unofficial representation. More significant was the totally unexpected result in the election to the educated Ceylonese seat, where the rival candidates were Ponnambalam Ramanathan, a Tamil leader and Marcus Fernando, a Sinhalese. The high educational franchise restricted the electorate to 2,957, of them the majority were Sinhalese. Since those who qualified for the burgher electorate were barred from voting in the educated Ceylonese electorate, the Sinhalese would have had no difficulty in electing their representative had the contest been strictly on communal lines. But on the contrary, Ramanathan was elected with an overwhelming majority.

‘On the face of it, Ramanathan’s victory seemed to testify to the generosity of the Sinhalese and was solid proof of Tamil-Sinhalese harmony. But interpretation differed as to how deep unity ran. No doubt Ramanathan’s distinguished personality had considerable effect in swaying Sinhalese voters from the less prominent Fernando. Equally significant was the caste rivalry that lay not far beneath the surface between the *goyigamas* and *karavas* to which Ramanathan and Fernando belonged respectively. Mccallum had no doubt that the election was fought purely on caste lines, the *goyigama* Sinhalese who loathed to see a *karava* being elevated to a place of political prominence putting their weight behind Ramanathan, a view shared by his colonial Secretary, Hugh Clifford.

“Whatever the motivating factor, communalism was evidently not the predominant issue, as was shown in the next election in 1917 when Ramanathan won again - but this time in a contest with a *goyigama* candidate. If communal sentiments had been uppermost in the minds of the Sinhalese elite, the Sinhalese candidate would not have been subjected to so ignominious a defeat.

“By demonstrating that the Sinhalese were not using their numerical strength for their exclusive benefit to the detriment of the Tamils, the outcome of the

election helped to allay Tamil fears. Nevertheless, there was one unforeseen but deeply significant consequence. Although Ramanathan was elected on a non-communal vote, the number of Tamils in the Legislative Council was in practice raised to three, giving them parity with the Sinhalese. While allowing it to assuage their deeper fears the Tamils seized upon the result as confirmation of their permanent right as confirmation of their permanent to be represented on an equal footing with the Sinhalese despite their numerical inferiority. In their subsequent memoranda they invariably cited the advantageous position they enjoyed between 1911 and 1920 to buttress the demand for maintaining a communal ratio in representation."

266. Prof. K. M. de Silva, in another contribution titled, "*Constitutional Reform and Elective Representation in the 1920's*" published in the same Commemorative Volume states at page 38:

"The prime beneficiary of the shifts and changes in the political scene was Manning. The initiative was now unmistakably with him and he seized it with unconcealed pleasure to fashion the complete discomfiture of the Congress. In this he had Ramanathan as his collaborator. In mid - November, 1921 two conferences were held in a desperate bid at reconciliation between the Sinhalese and Tamil leadership but these broke down because of one crucial issue - the Tamils were not prepared to relinquish their claim to a special reserved seat in the Western Province. Manning's political instincts were as sharp as ever and throughout 1922 and 1923 he contrived to keep this issue alive with occasional but well timed public expressions of support for the Tamils on it. The support of other minority groups was more easily obtained. Their political survival depended on the continuation of communal representation and they viewed the Congress demand for a legislature in which a clear majority of members were to be representatives of territorial electorates as a threat to their interests."

267. Throughout this period, communal representation and communal politics in the then available political process had remained a determining factor. In 1931 the Donoughmore Commissioners, nearly a hundred years after the Legislative Council of 1833, made a bold effort to abolish communal representation.

268. The Donoughmore Commissioners stated that "It is our opinion, that only by its abolition will it be possible for the diverse communities to develop together a true national unity. But seventy years after the Donoughmore Constitution, the country is still grappling with the problems on a scale far more serious than ever before. The trend, the tone and the direction in which the country was destined to proceed had already been set.

269. The introduction of universal suffrage in 1931 continued to exacerbate ethnic tensions. According to Prof. K. M. de Silva, 'Throughout the period 1931 to 1946, the voting rights of Indians resident in the island continued to be a highly sensitive political issue. No one was more closely identified with, outlining the Sinhalese attitude on this and in defining their priorities on the Indian question than D. S. Senanayake over the whole period from the late 1920s to 1948. (page 78 - Commemorative Volume) .

Leaders of the Nation set in communal moulds

270. As we received independence in 1948, the leaders of the nation were already set in communal moulds, against a background of over a century of communal manoeuvrings.

271. In the very first year of Sri Lanka gaining independence, the Ceylon Citizenship Act became law on 15th November, 1948, followed by the Indian and Pakistani Residents (Citizenship) Act of 1949 prescribing very difficult conditions for acquiring citizenship, while the Ceylon Parliamentary Elections (Amendment) Act of 1949 restricted franchise only to citizens of Ceylon. The vast majority of estate sector Indian Tamils lost the franchise following these laws.

272. Thus ethnicity continued to be the central theme around which the political issues of the newly independent nation began to revolve. Ethnicity continued to pervade political thoughts and influence political actions. This undoubtedly was unfortunate legacy inherited by accidents of history.

273. There existed, a crying need to break away from this historical chain, which years later were to take Sri Lanka towards death, destruction and separation. Regrettably, this nation did not yield statesmen who could have prevented the predicament of a nation in disintegration.

274. The entry of organized parties on the political scene, however minimized the break up of the people upon ethnic lines because political parties began enveloping within their ranks, members of all ethnic groups. Thus national political parties became the common platform for all, uniting everyone together, like in Sports Clubs and similar institutions. But the overriding communal undertones in these very same political parties as well as the resultant emergence of communal groups and ethnic parties continued to destroy all prospects of national unity and amity for a long time more.

275. Notwithstanding these limitations, the need for governments to act justly and fairly by all its citizens remains a universal desideratum. Governments and all those exercising state power must resist the temptation to discriminate amongst citizens based on grounds of race, religion, language or caste indeed on any ground. It must however, advance the backward and disadvantaged groups within its jurisdiction.

Every citizen must feel that he has nothing to fear from his own government

276. Governments may be elected by a majority of votes but it should remain to the last, the government of every person. Every citizen must feel that he has nothing to fear from his own government and that there would not be any need for him to go in search of other governments for his safety or security. Needless for us to emphasize how paramount it is, for the protection of our own borders that every citizen must feel assured that he is neither a second nor third class citizen.

277. Governments at the helm alone, cannot achieve such desired objectives. The executive, the public service, the police and the armed forces must share these common goals. The truth is that a large number of them, invariably unwittingly, have contributed in no small measure for the divisions in Sri Lanka. They must cease to promote separatism by the process of perpetuating distinctions and discriminations. They should do so without any delay. They must realise that with every act of discrimination they commit a "Sri Lankan" may cease to exist and a communalist may come into existence. They must therefore forthwith cease to contribute to the division of the country, by eschewing all forms of discrimination.

Schools should not perpetrate ethno - religious discriminations

278. Schools also should not perpetuate ethno-religious discriminations whilst respecting religious and cultural distinctions. They must recognize that distinctions do not justify discrimination.

279. The Media has a singularly unique role in achieving national unity and reconciliation. The media wields enormous power; it can unite as well as divide the people. The media must discipline its ranks to prevent the commission of any mischief in the performance of its role.

280. As we look back over the past five decades or so of independence, the question arises whether our governments, our political parties our leaders our public service, our police, our armed forces, our media, our schools, our universities and each of us have let down our country? Have we not failed to break that vicious historical chain of ethnic confrontations?

Some questions that require honest answers

281. Should we not answer honestly the questions that are being raised?

Did we handle correctly the problems of citizenship and language?

Did we handle justly and fairly the problems of providing equal educational opportunities in our schools and in our universities to all?

Did we do the right thing in the distribution of state resources without committing any discrimination?

Did we do the right thing in dealing with communal violence that led to deaths and destruction?

Did we promote genuine national unity?

Are we not accountable for failing to answer some of these questions honestly?

Though we have resolved some of these wrongs, several still remain.

282. For national unity and reconciliation to be achieved, many more Truth Commissions need to be established to organize and sustain the process of reconciliation and to pave the way for national unity. Unveiling truth, achieving national unity, ethnic reconciliation, peace, love and justice in a free State must be recognized as an on - going process.

283. It is to be noted that the **The South African Truth Commission** had a working staff of over 750 to assist the Commission. They had specialists and other advisors. The media gave their work nation-wide coverage which enabled the country, as a whole to participate effectively and positively in the process of reconciliation as well as in rebuilding trust confidence and hope amongst the mass of the people.

Need for fresh Truth Commissions

284. That **The Presidential Truth Commission of Sri Lanka** did not have all the facilities is no reason for diluting the process. But as our mandate comes to a close in end September 2002, one year and one month after the warrant constituting the Commission was issued by Your Excellency, we have to emphasize the necessity to setup fresh Commissions that would continue this mission of healing and sustaining over a period of years in the immediate future, the difficult process of reconciliation and the challenging task of rebuilding national unity.

285. A vital factor that requires to be kept in mind is that the **South African Truth and Reconciliation Commission** was established in 1995, after the "tyranny of apartheid" was removed in 1994, and Nelson Mandela had come out, after 27 years in prison to take over as the first President of South Africa. President Nelson Mandela himself gave leadership to the national healing process with a TRC headed by Bishop Desmond Tutu. It is to be noted that apartheid in South Africa as an organized movement was already dead, when the TRC commenced its work of national reconciliation.

286. In Sri Lanka the situation is entirely different, with ethnic tensions still prevailing. Questions of suspicions are still present. None of the confrontational issues have been, as yet addressed. No effort has been made to create the background in the country essential to promote peace negotiations. For a nation already confounded by political conflicts, ethnic confrontations and constitutional turmoil, the mood for reconciliation can be unnecessarily edged away, by failing to effectively support national reconciliation at the grass root level as an on going process parallel to the peace negotiations.

Negotiations must take people into confidence

287. We must re-emphasize that the process of negotiations, if it is to succeed, must take the people into confidence. Any break down in trust and confidence amongst the people could result in the process of national reconciliation being jettisoned.

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288. We do therefore recommend that :-

1. the President and the Prime Minister must give leadership to a new era of ethnic reconciliation and national unity;
2. the support and participation of the people of the country in the towns and the villages must be obtained and sustained by the country's leaders for the above purpose;
3. legislation similar to the South African, Promotion of National Unity and Reconciliation Act No. 32 of 1995 be enacted to establish the legal framework for sustaining the process of ethnic reconciliation and to provide for the elimination of all forms of racism and ethnic related discriminations;
4. the leadership, support and cooperation of religious leaders, the civil society, the media, the schools the police and the armed forces be ensured in the process of reconciliation and national unity;
5. the national unity and ethnic amity be fostered with due regard and recognition for pluralism and diversity;
6. the establishment of a just and fair governance that will eliminate all forms of racism and discrimination be promoted with perpetrators of discrimination losing the right to hold any public office for specified periods of time;
7. the media be made to recognize that sections from amongst them did contribute to the sustenance of ethnic misgivings and that they have a major responsibility to support and promote national unity and ethnic reconciliation with due regard for pluralism and diversity advertising on media which fail to promote ethnic reconciliation must be discouraged by the State as well as the private sector;
8. the government must pay full compensation to the victims (or their dependents) on the basis of the Commission's Recommendations by publicly recognizing the trauma and sufferings the victims had to endure and as a warning to the perpetrators that economic destruction will be fully compensated: and strongly recommend that the government includes legal interest on the determined compensation as from 1983 till payment in full;
9. an Investigation Division of officers with police powers functioning entirely under the direction of the Human Rights Commission to apprehend and prosecute persons holding public office acting in violation of fundamental rights with particular reference to ethnic related discriminations be established with adequate legal powers;

10. the Human Rights Commission, in all cases on its own or upon complaints of unsatisfactory investigations by Police relating to ethnic violations or issues must take over and conduct investigations through its Investigations Division and ensure appropriate action;
11. the perpetrators of ethnic violence whether they be members of the public the police, the armed forces or the public service be prosecuted whenever any ethnic violence occurs in the future. The government must on the occurrence of any ethnic violence in the future forthwith appoint a high level National Committee reflecting as far as possible an equivalent number of persons of all ethnic groups and comprising the attorney - General, Inspector General of Police Service Commanders, Secretaries to the relevant Ministries, Retired Judges of the Appellate and High Courts Chairman of Human Rights Commission, the Civil Society and the Media charged with the task of ensuring immediate action on all ethnic related violence. The National Committee must ensure that there is no cover - up of prosecutions;
12. Truth Commissions be appointed mandating to cover ethnic violence during the post - 1984 period and to compensate all victims of ethnic violence and to achieve national unity and ethnic reconciliation.

289. We need to refer now to another matter of relevance. Following the communal disturbances of August 1977, retired Chief Justice Mr. M. C. Sansoni was appointed as a One - man Commission. In the concluding part of the Report (*Sessional Paper No. VII of 1980*) he quoted from the evidence of Rev. Fr. Paul Caspersz S. J.

"The immediate solution lies in all the leaders of our country, the leaders of all political parties, of all communal and religious groups getting together to provide the climate for the rapid socio - economic development of our country. These leaders today belong to the middle class. They must realise that communal conflicts which since 1956 have been recurring periodically, are inimical to the socio - economic progress of our country. Indeed they are inimical to the interests of the middle class itself. The leaders of the majority community and the majority religious group must realise that the minorities have their rights and that the redress of their grievances need to be given full weight. They must remember that parliamentary democracy is the rule of the majority with the consent of the minorities. The leaders must start their deliberations at a round - table or elsewhere on two unalterable premises. The first is that the country should never again witness events such as those of August 1977, which are a disgrace to a country which professes to live by the ideals of Metta, Karuna, Mudita, premise is that the country should not fritter away its time and its energy in inter - communal violence and conflict while the main task that waits it is the liberation of all our people from poverty, unemployment, hunger ignorance and disease."

290. Though we have not had the benefit of listening to the evidence of Fr. Caspersz in these proceedings we quote with approval his observations - for it has great relevance to the process of national reconciliation and ethnic harmony.

291. But sadly those and other valuable comments observations and studies have been lying dormant, much to the detriment of this country, which had witnessed many incidents of communal disturbances thereafter including the major communal conflagration of July 1983, which could be rightly termed the watershed in the current history of inter communal relations in this country.

292. Before we conclude we need to quote from the testimony of Dr. Rajan Hoole, (the author of "SRI LANKA: THE ARROGANCE OF POWER - MYTHS DECADENCE AND MURDER" July 2001). He said in simple language -

"In my view the Sinhalese and the Tamils must live together. If the Tamils cannot live with the Sinhalese then they cannot live with anybody else.

At the same time, the Sinhalese must realize that the Tamils have grievances and that these grievances must be resolved."

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ACKNOWLEDGEMENT

293. Finally, we wish to express our gratitude and appreciation for the contribution the Commission received from Messrs. (1) Dr. A. T. Ariyaratne, Chairman, Sarvodaya Movement, Sri Lanka, (2) Dr. Godfrey Gunatillake, Chairman Human Rights Commission, (3) Dr. Uvais Ahamed, Principal Zahira College, (4) Rev. Fr. Mervyn Fernando. (5) Mr. D. E. W. Gunasekera, ex - Member of Parliament and former Chairman, Official languages Commission, (6) Mr. S. Sivananthan, Retired S. L. A. S. Officer, (7) Mr. Tilak Chandrasekera, Retired S. L. A. S. Officer, (8) Mr. A. Jayaratam, Secretary, Ministry of Rehabilitation, Reconstruction and Resettlement, (9) Ms Suriya Wickramasinghe, Secretary Civil Rights Movement of Sri Lanka, (10) Mr. Desmond Fernando P. C., (11) Prof M. S. L. Salgado. (12) Dr. Rajan Hoole, Mathematics Lecturer, University of Jaffna, (13) Mr. Lalanath de Silva, Attorney - at - Law and (14) Mr. Sabapathy Thillairajah of Bethesda U. S. A.

294. We are also thankful to Mr. S. M. J. Senaratne (*Retired SLAS Officer*) the Secretary to the Commission; Mr M. I. S. Ahamed (*Senior Assistant Secretary, Ministry Assisting Vanni Rehabilitation*) the Assistant Secretary; Mr. M. Somasundram and Mr. Tilak Chandrasekera (*Retired SLAS Officers*) who functioned as Resource Officers. A list of Staff Members is attached to this report.

295. A special word of appreciation is due to Mr. A. H. M. D. Nawaz, State Counsel, representing the Hon. Attorney - General in assisting the Commission by leading the evidence before the Commission.

296. We also extend our thanks to the Field Inquirers who ascertained the truth of the complaints received by the Commission. A list of the Field Inquirers engaged by the Commission is also attached herewith.

297. Thanks are also due to Mrs. D. S. Sakalasuriya, Mr. M. Z. M. Marzook and Mr E. Anandanadarajah the Sworn Interpreters who assisted the Commission in the proceedings; Mr. N. G. A. L. D. S. de Silva Wijesekera and Mr. K. J. A. Perera Editor, Hansard Parliament of Sri Lanka who assisted the Commission in transcribing the recorded proceedings of the Commission; Mr. V. M. Jesuthason (*retired SLAS Officer*) who edited the transcriptions of the proceedings. Thanks are due again to Mr. N. G. A. L. D. S. de Silva Wijesekera and Mr. V. V. Thiruchelvam who assisted the Commission by way of researching and retrieving all relevant news reports from the National Archives.

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299. Acknowledgement and appreciation are due to the print and electronic media for the coverage and publicity given to the proceedings of the Commission.

300. Our profound respect to Her Excellency the President, Chandrika Bandaranaike Kumaratunga for reposing confidence in us and entrusting us with this task.

Dated this 30th day of September, 2002.

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Retired Chief Justice
Chairman

(Sgd.) **S. S. Sahabandu**,
President's Counsel
Member

(Sgd.) **M. M. Zuhair**,
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1	Mr. J. Jayatilaka	1	Mr. J. Jayatilaka
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2. Mr. M. Somasundram	Resource Officer (Documentation)
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