The Genesis of the Sri Lankan Unitary State and the Call for Eelam Tamil Self-Determination

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List of Abbreviations

ACTC	All-Ceylon Tamil Congress
CCS	Ceylon Civil Service
CIC	Ceylon Indian Congress
CNC	Ceylon National Congress
CP	Communist Party
CWC	Ceylon Workers' Congress
FP	Federal Party
LSSP	Lanka Sama Samaja Party
LTTE	Liberation Tigers of Tamil Eelam
MP	Member of Parliament
SLFP	Sri Lankan Freedom Party
TULF	Tamil United Liberation Front
UN	United Nations
UNP	United National Party
UTF	United Tamil Front

1. Introduction

In 1972, the Soulbury Constitution, the British-designed Constitution for post-independence Sri Lanka, was abolished and replaced by a new Constitution that institutionalised Sinhala-Buddhist majoritarianism. From that moment until today, the Sri Lankan Constitution explicitly states that 'the Republic of Sri Lanka is a unitary state' and that Buddhism is given the 'foremost place' in the country. I argue that the unitary state is one of the root causes of the conflict on the island and that its genesis can be traced back to 150 years earlier, when the British unified the whole island under a single legislature and steadily solidified the unitary structure of the state with centralising power and introducing liberal reforms, starting from the first Colebrook-Cameron commission that arrived on the island in 1833. I will examine how the liberal state-building project sought to amalgamate the different national identities that were established during the British rule and how the transfer of power from the British to the colonial subjects only empowered Sinhala-Buddhist nationalism, which was increasingly entrenched in the state's centralised structures after independence, with its culmination in the 1972 Constitution. In parallel, the majoritarian policies and increasing marginalisation and violence against the Eelam Tamils led to the solidification of their distinctive national identity and an escalation of their call for self-determination, from the demand for devolution to federalism and, ultimately, for a separate state.

1.1. Present context

2023 marks the anniversary of multiple important events in the contemporary history of the island of today's Sri Lanka: 75 years ago, in 1948, then-called Ceylon gained independence from the British colonial rulers. At that time, Ceylon was considered a model country for other Asian countries regarding stability and development. In socio-economic or educational indicators, Ceylon performed second best in Asia, right after Japan.[1] But the façade started to collapse quickly. Upon independence, the institutionalisation of Sinhala-Buddhist supremacy and the legal marginalisation of minority communities paved the way for an escalation of violence and instability on the island. The Sri Lankan government's worsening treatment of Tamils, the violent repression of peaceful protests and the unwillingness to make any concessions on Tamil demands ultimately led to the demand for self-determination and a separate state called *Tamil Eelam*. The Sri Lankan state's violence reached a tipping point precisely 40 years ago, in

[1] Dayanath Jayasuriya, 'Sri Lanka, One-Time Asia's Role Model Becomes a Bankrupt Nation' (2022) 111 The Round Table 457, 1.

1983, when the largest anti-Tamil pogrom on the island called 'Black July' made international headlines. Sinhalese mobs supported by Sri Lankan security forces identified and attacked Tamils en masse. The violence erupted in Colombo and spread to the hill country and other parts of the island. Thousands of Tamils were killed, while hundreds of thousands were displaced, fleeing to the Tamil areas in the North-East of the island or abroad.[2] The 'Black July' pogrom is widely seen as the starting point of the 26-year-long war between the Sri Lankan state and the Liberation Tigers of Tamil Eelam (LTTE), which established a de-facto state administration and governance within its territory on the island.[3] Despite multiple peace talks and international peace efforts, a solution for the conflict was not found. A brutal military offensive by the Sri Lankan state in 2009, where, according to the UN, at least 70,000 Tamil civilians were unaccounted for and presumably killed within a few months, ended the war with the destruction of the LTTE and the proto-state of Tamil Eelam on the island.[4] The political conflict is exacerbated by the grievances from the long history of violence since independence. While Tamils are calling for justice and an international investigation of war crimes, crimes against humanity and genocide, successive Sri Lankan governments refuse any international accountability mechanism and continue to deny the atrocities that were committed by their military despite increasing international pressure.[5] Since the end of the war, Sri Lanka has been one of the few countries under the particular scrutiny of the UN Human Rights Council in Geneva.[6] Under the council's mandate to monitor and report on the human rights situation in Sri Lanka, the UN Deputy High Commissioner for Human Rights has pointed out the urgent need to solve the root causes of the conflict:

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[2] Kate Cronin-Furman and Mario Arulthas, 'How the Tigers Got Their Stripes: A Case Study of the LTTE's Rise to Power' [2021] Studies in Conflict & Terrorism 1, 5–7.

[3] Kristian Stokke, 'Building the Tamil Eelam State: Emerging State Institutions and Forms of Governance in LTTE-Controlled Areas in Sri Lanka' (2006) 27 Third World Quarterly 1021.

[4] UN Secretary-General, 'Report of the Secretary-General's Internal Review Panel on United Nations Action in Sri Lanka' (2012) UN Doc. ST(02)/R425/Sri Lanka, 14.

[5] Tasha Manoranjan, 'Tamils – and Justice – Can't Wait: The Need for Decisive UN Action on Sri Lanka' (*Just Security*, 19 February 2021) <https://www.justsecurity.org/74837/tamils-and-justice-cant-wait-the-need-for-decisive-un-action-on-sri-lanka/> accessed 7 December 2023.

[6] Current mandate: UN Human Rights Council, 'Resolution 51/1: Promoting reconciliation, accountability and human rights in Sri Lanka' (2022) UN Doc. A/HRC/RES/51/1.

> The Sri Lankan State has repeatedly failed to pursue an effective transitional justice process and uphold victims' rights to truth, justice and reparations. Rather, as described in our previous reports, successive governments have created political obstacles to accountability, actively promoted and incorporated some military and former paramilitary officials credibly implicated in alleged war crimes into the highest levels of government, and have failed to present a shared understanding of the conflict and its root causes.[7]

Almost 15 years after the end of the war, a political solution for the conflict is yet to be reached. While Tamils continue to demand self-determination, the Sinhalese leaders continue to defend the unitary structure of the Sri Lankan state.[8]

1.2. Demography

The island of Sri Lanka is situated under the Indian subcontinent. The island can be divided into a wet zone, which compromises the western, southern, and central regions, and a dry zone in the northern and eastern regions. The climatological difference dictates the type of tropical crops that can be grown in the country, as well as the population distribution. The wet zones are more densely populated than the dry zone.[9]

The island of Sri Lanka has a heterogeneous population of different ethnicities and religions. In 1931, the largest ethnic group were the Sinhalese, who made up about 64 per cent of the total 5.4 million population on the island and 74 per cent of the total 14.8 million population in 1983.[10] 90 per cent of them are Buddhist, while the rest are mainly Christian. The Sinhalese community can be regionally divided into the low-country Sinhalese and the Kandyan Sinhalese. The low-country Sinhalese, who make up two-thirds of the Sinhalese population, were concentrated along the western and southern seaboard, while the Kandyan Sinhalese area

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[7] Nada Al-Nashif, UN Deputy High Commissioner, 'Comprehensive Report and Interactive Dialogue on Sri Lanka' (51st Session of the Human Rights Council, Geneva, 12 September 2022) <https://www.ohchr.org/en/statements-and-speeches/2022/09/comprehensive-report-and-interactive-dialogue-sri-lanka> accessed 18 November 2023.

[8] --, 'Tamils Rally to Reject 13A and Demand Self-Determination' *Tamil Guardian* (London, 13 March 2022) <https://www.tamilguardian.com/content/tamils-rally-reject-13a-and-demand-self-determination> accessed 7 December 2023; --, 'PM Reiterates Commitment to Unitary Character of State' *The Island* (Colombo, 28 August 2023) <https://island.lk/pm-reiterates-commitment-to-unitary-character-of-state/> accessed 7 December 2023.

[9] Valli Kanapathipillai, *Citizenship and Statelessness in Sri Lanka: The Case of the Tamil Estate Workers* (Anthem Press 2009) 17.

[10] Jane Russell, *Communal Politics under the Donoughmore Constitution, 1931-1947*, vol 26 (Tisara Prakasakayo 1982) 4; Peter Lehr, *Militant Buddhism* (Palgrave Macmillan 2019) 116.

was mainly in the highland areas in the central region of the island. The coastal areas had been under European rule since 1501 and were more commercially developed and influenced by Western and Christian powers for a much longer period than the Kandyan Sinhalese areas. The Kandyan kingdom was annexed and brought under British rule in 1815, marking an essential change in the island's history, economy and demography. For the first time, the whole island was under European rule. [11] The British brought workers from South India, particularly the Tamil-speaking areas, into the fertile Kandyan areas in the late nineteenth and early twentieth centuries to work on the plantation estates and as daily paid workers for the colonial government.[12] The Indian Tamil population settled mainly in the central south-western parts of the island. The demand for Indian Tamil workers was so high during the colonial era that their population comprised 13 per cent of the 1931 population but only 5.5 per cent of the 1981 population.[13] The Indian Tamils must be distinguished from the Eelam Tamil population in the north-eastern parts of the island, which were established there for several centuries before European colonisation and made up 11.1 per cent of the 1931 and 12.7 per cent of the 1981 population.[14] *Eelam* is an ancient Tamil name for the island.[15] In academic literature, Eelam Tamils are also called 'Ceylon Tamils' or 'Sri Lankan Tamils'. The religious composition of the Tamils is mainly Hindu or Christian, with a small Muslim portion. A distinctive ethnic group are the Muslims, a large part also called 'Moors', who made up 10 per cent of the 1931 and 8.3 per cent of the 1981 population. Even though many Muslims speak Tamil, they utilise their religious identity as their primary identity, differentiating themselves from the Tamils. [16] A small percentage of the population are the European-descended Burghers and the indigenous Wanniyala-Aetto, who are also called 'Veddas'.[17]

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[11] Madurika Rasaratnam, *Tamils and the Nation: India and Sri Lanka Compared* (Hurst 2016) 33.

[12] Russell (n 10) 3.

[13] Neil DeVotta, *Sinhalese Buddhist Nationalist Ideology: Implications for Politics and Conflict Resolution in Sri Lanka* (East-West Center Washington 2007) 5.

[14] Rasaratnam (n 11) 34.

[15] Lehr (n 10) 233.

[16] Russell (n 10) 4.

[17] Lehr (n 10) 117; Wiveca Stegeborn, 'The Disappearing Wanniyala-Aetto (Veddahs) of Sri Lanka: A Case Study' (2004) 8 Nomadic Peoples 43, 1.

2. *Framework of the Unitary State*

2.1. Definition of the Unitary State

A method that is often used to describe Constitutions is by classifying them as 'unitary' and 'federal'. According to Wheare, the classification can be made by the terms by which the governmental powers are distributed between the government of the whole country and any local governments which exercise authority over units of the country.[18] In a federal Constitution, the powers of government are divided between a central government for the whole country and governments for the different parts of the country. Each of these governments is legally independent within their own sphere. The central government has its own defined area of powers and exercises them without any control from the constituent governments. These governments, in turn, exercise their powers without being controlled by the central government. The legislature of the whole country, as well as the legislature of the different parts of the country, have limited powers, as neither is subordinate to the other but rather coordinate. In a unitary Constitution, the central legislature of the whole country is the supreme law-making body. While the central legislature may permit subordinate units and legislatures to exist and exercise some powers, the central legislature retains the right to overrule them.[19]

Wheare describes examples of federal Constitutions as that of the United States of America, Switzerland, and Australia. Each of them sets out the spheres where the central legislature makes laws and reserves to the units, states or cantons, a sphere in which their legislatures may operate in legal independence from the central. The list of Wheare's examples of unitary Constitutions is much larger and includes France, New Zealand and Denmark. But he also notes that the distinction between a unitary and a federal Constitution is not easily made. While a Constitution can look unitary and highly centralised on paper, it can be almost federal in practice and vice versa. South Africa, for example has established separate councils for each province, with powers to make ordinances upon a list of topics in the Constitution. Here, a wide degree of decentralisation or 'devolution' was established.[20]

I will use Wheare's definition of the unitary state to analyse the nation-state building in Sri Lanka since the administrative unification of the island by the British colonial rulers.

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[18] KC Wheare, *Modern Constitutions* (3rd edn, Oxford University Press 1958) 27.

[19] ibid 27–29.

[20] ibid 29–31.

2.2. Sri Lankan Unitary State today

1972 the Soulbury Constitution was abolished and replaced by a new Constitution. From that moment until today, the second article in the first chapter of the Sri Lankan Constitution explicitly states: 'The Republic of Sri Lanka is a unitary state'.[21] The importance of the unitary state for Sri Lanka is reflected not only in the Constitution but also in the country's contemporary legal and political discourse. In a landmark constitutional determination, The Sri Lankan Supreme Court followed the Wherean interpretation of a 'unitary state', recognising that it is used in contradiction to a 'federal' state, where power is distributed between the centre and its semi-autonomous units. The court states that the two essential qualities of a unitary state are (1) the supremacy of the central legislature and (2) the absence of subsidiary sovereign bodies. It concludes that in a unitary state, 'sovereignty rests only with the central government'. This position has been referred to and upheld by subsequent Supreme Court decisions.[22]

In Sri Lanka, the term 'unitary' is a very politicised topic, exemplified by an interim report of the Sri Lankan Constitutional Assembly in 2017. The report states that the term 'unitary' inspired by the British model has undergone a change of meaning and might not be appropriate for the Sri Lankan context, as the British units of Northern Ireland or Scotland could move away from the union. However, the report wanted to be clear that in the Sri Lankan context, 'unitary' should mean an 'undivided and indivisible' country, showing the conflicting nature of the term for the different communities on the island.[23] Thus, Ashokbharan argues that in Sri Lanka, the discussion of a unitary or federal state is not only a legal distinction but a political battle between the majority nation, the Sinhalese, and the Tamil nation, which has historically called for devolution, federalism, and later separatism. While the Sinhalese nation's antipathy with federalism lies in the possibility of territorial secession and the mytho-historical concept of an island-wide Sinhala-Buddhist sovereign, the Tamil nation's antipathy with the unitary state lies in their quest for recognition, self-government, and the majority nation's hegemonic dominance since the transfer of power from British rule.[24] To understand the opposite trajectories of the Sinhalese and Tamil national identities, one has to explore the origins of the unitary state.

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[21] Constitution of the Democratic Socialist Republic of Sri Lanka 2023.

[22] Nalliah Kumaraguruparan Ashokbharan, 'The Sri Lankan Understanding of "Unitary State"' [2021] SSRN Electronic Journal 6–7 <https://www.ssrn.com/abstract=3931200> accessed 2 December 2023.

[23] Sanjayan Rajasingham, 'Federal or Unitary? The Power-Sharing Debate in Sri Lanka' (2019) 108 The Round Table 653, 658.

[24] Ashokbharan (n 22) 8–9.

2.3. Emergence of British Liberal Colonialism

The liberal political ideas of Jeremy Bentham, James Mill and John Stuart Mill changed Britain's relationship with its colonies.[25] The utilitarian principle, the greatest good for the greatest number of people, became a chief motive.[26] Utilitarianism promoted the ideas of democracy and liberty but also the idea of trusteeship.[27] For instance, John Stuart Mill states that in trusteeships, so-called 'backward societies' must be governed by a 'dominant country' to facilitate their transition to 'a higher state of improvement'.[28]

The ideology of imperial governance based on liberal principles crucially shaped the political development in the colonies. The ideology was emerging from the Industrial Revolution and the associated reform that transformed social, political, and economic life in Britain. These new ideas replaced the more conservative and purely extractive mercantilist nature of the previous British and other European colonial rulers. The liberal British rule was legitimised as supporting and advancing social and economic progress and development in the colonies.[29] The liberal argument during that time suggested that every society was capable of improvement but that political and civilisational advancement in the colonies must be led by the colonial rulers, as they would know the interests of the colonial subjects better than themselves. This was furthered by their 'civilisational confidence', believing that European political culture was unimpeachably superior to the rest of the world.[30]

This influence can also be seen in Sri Lanka, where the Colebrooke-Cameron Commission and its reforms marked a significant change in the political development of the colony.[31] The commission ended the administrative division based on the lines from the three pre-colonial kingdoms of the Tamils, low-country Sinhalese and Kandyan Sinhalese. The commission introduced a unitary administration of the whole island, based on the modern European state models, trying to homogenise the territory and its inhabitants to a single society and space.[32] This development

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[25] Unlike his colleagues and followers, Bentham himself was very critical of imperial rule and wrote on the emancipation of colonies. As described in Jennifer Pitts, *A Turn to Empire: The Rise of Imperial Liberalism in Britain and France* (Princeton University Press 2005) 104–106.

[26] GC Mendis, *Ceylon under the British* (3rd edn, The Colombo Apothecaries' Co 1952) 52.

[27] Nira Wickramasinghe, *Sri Lanka in the Modern Age: A History* (2nd edn, Oxford University Press 2014) 31.

[28] John Stuart Mill, *Considerations on Representative Government* (Parker, Son, and Bourn 1861) 322.

[29] Rasaratnam (n 11) 34.

[30] Pitts (n 25) 124–132.

[31] Laksiri Jayasuriya, 'The Evolution of Social Policy in Sri Lanka 1833-1970: The British Colonial Legacy' (2001) 46 Journal of the Royal Asiatic Society of Sri Lanka 1, 6.

[32] Wickramasinghe (n 27) 31.

was intensified by the 1931 Donoughmore Constitution that introduced universal franchise and the idea of territorial democracy to build a unified 'Ceylonese' identity, which, together with the centralisation of the administration, led to the unitary structure of today's Sri Lankan state.

2.4. Tyranny of the Majority and the Nation-State

The standard criticism of democratic theory is that a majority rule can be used to tyrannise numerically smaller groups. James Madison, who pragmatically introduced the Bill of Rights to the American Constitution, wrote that if a majority is united by a common interest, the rights of minorities will be insecure. To solve this problem, Madison proposed the extension of a republic with larger constituencies to make it more difficult for a permanent majority to form. Others proposed the idea of a 'fancy franchise' to give minority groups more legislative power or base representation on interests, occupations, and designated communities. But these proposals also contradict the liberal democratic principle of 'one person, one vote'.[33] An example was the communal representation in Ceylon, which had designated seats for specific ethnic groups but was later abolished by the Donoughmore Commission for territorial representation, increasing the tensions between the majority Sinhalese and the non-Sinhalese communities.

In this thesis, the term' nation' is used to describe a collective constituted by a shared historical and cultural narrative and a shared attachment to territory.[34] As Brubaker argues, nations are not naturally occurring entities but social and political constructs, as national concepts are dynamic and subject to change over time, where they involve complex processes of identity formation, often intertwined with issues of ethnicity, culture, and history.[35]

According to Eliassi, in a world where nation-states are the political standard of organised life, numerically smaller subjects are prone to experience discrimination and violence from majority rule and thus often tend to seek some sort of autonomy, federalism or sovereignty as distinct nationalities to counter majority dominance.[36] He argues that in nation-states, it is often the majority that produces the identity of minorities. At the same time, the established states reject

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[33] David A Bateman, 'Majority Tyranny' (2018) 53 Tulsa Law Review 179, 179–180.

[34] Rasaratnam (n 11) 8.

[35] Rogers Brubaker, *Nationalism Reframed: Nationhood and the National Question in the New Europe* (Cambridge University Press 1996) 14–21.

[36] Barzoo Eliassi, *Narratives of Statelessness and Political Otherness: Kurdish and Palestinian Experiences* (Palgrave Macmillan 2021) 67.

any claims of the 'minority' groups to be recognised as distinct nations as they fear that this will lead to an aspiration to statehood or separatism.[37]

This problem was even relevant during the early time of English liberalism, as John Stuart Mill noted the difficult task of having one governing body over 'different nationalities':

> Where the sentiment of nationality exists in any force, there is a *prima facie* case for uniting all the members of the nationality under the same government, and a government to themselves apart. … Free institutions are next to impossible in a country made up of different nationalities. Among people without fellow-feeling, especially if they speak different languages, the united public opinion, necessary to the working of representative government cannot exist.[38]

I will examine the origins of the unitary state and the establishment of different national identities of the Sinhalese and the Eelam Tamils during the British colonial rule and the liberal reforms, and how the transfer of power led to an institutionalisation of Sinhala-Buddhist majoritarianism, which in reaction led to the rise of Tamil nationalism.

[37] ibid 78–80.

[38] Mill (n 28) 182.

3. Genesis of the Sri Lankan Unitary State

3.1. Unification of the Island

Before the arrival of the European colonial rulers, the island was divided into three kingdoms: The Kotte kingdom in the south-west coastal regions, the Kandyan kingdom in the central highlands and the Jaffna kingdom in the northern dry zone. It can be presumed that between the kingdoms, there was mostly impenetrable jungle.[39] The colonial history on the island of today's Sri Lanka is generally differentiated between Portuguese rule (1505-1658), Dutch rule (1658-1796) and British rule (1796-1948). Conquest of the land by the colonial powers was a gradual process, from a mere presence for trade in the coastal areas to claims of power in particular areas. The Portuguese and the Dutch rulers had administrative control but maintained much of the Tamil and Sinhalese indigenous administrative system, with European officials in the higher ranks of the administration and native chiefs below them. The British rule differed from the previous colonial rules in a very fast process of institutionalisation. The main elements were the increasing importance of colonial law and administration that created courts, police, army, and bureaucracy. New technologies, medical progress, and new modes of transport changed the landscape of the island and increased the population growth.[40]

In 1802, with the Treaty of Amiens, the British retained Ceylon, and it became a Crown Colony, ending the dual rule of the British government and the British East India Company. Ceylon was now ruled by the British authorities in London through their agent, the Governor of Ceylon. He had complete executive and legislative authority, only reporting to the Secretary of State for War and the Colonies in London. The Governor of the colony had little interference from the Colonial Office in London since the Secretary of State had little knowledge of local affairs in the colony and had to deal with the Napoleonic wars in Europe. With the annexation of the Kingdom of Kandy in 1815, the basis for the modern unitary structure of the island state was laid. Until 1831, the Governor governed the Kandyan areas according to Kandyan law. This changed when Governor Sir Robert Wilmot Horton brought the whole territory of the island under a single unified legislature, furthering the centralisation of the state[41]. Two years later, the Colebrooke-Cameron Commission recommended a tighter degree of centralisation.

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[39] Kanapathipillai (n 9) 18.

[40] Wickramasinghe (n 27) 7–24.

[41] A Jeyaratnam Wilson, *The Break-up of Sri Lanka: The Sinhalese-Tamil Conflict* (C Hurst ; Orient Longman 1988) 1–2.

3.2. Colebrooke-Cameron Commission

Following emerging liberalism in Britain, debates about colonial rule brought practical, financial, and religious problems together. Pressure came from British MPs, who called out the financial implications for the British metropole from badly governed and expensive colonies. Another front of pressure came from humanitarians and abolitionists, who questioned the role of empire and supported the moral and material improvement of 'distant subjects. Britain's recent colonial acquisitions posed new questions for the metropolitan elites. Each new colony confronted the British with unfamiliar systems of government, law, forced labour and newly colonised populations. Questions arose about how Britain should govern the formerly French, Dutch, or Spanish colonies and what implications it had for metropolitan society.[42] To address these different problems, the British government introduced empirical investigations through travelling commissions to survey and reform the governance of its empire. Between 1818 and 1826, the British government appointed sixteen Commissions of Inquiry to non-European colonies and Ireland. In 1822, during a parliamentary discussion of the commissions, the undersecretary for the colonies appointed a new 'Royal Commission of Eastern Inquiry' to analyse the Cape Colony, Mauritius, and Ceylon. While there were specific concerns for the first two colonies, sending the commissioners to Ceylon was seen as less necessary but would 'satisfy the public regarding 'how its resources were managed'. The commission for Ceylon was headed by William Colebrooke and Charles Hay Cameron.[43]

3.2.1. Increasing Centralisation

The Colebrooke-Cameron Commission proposed that the colony's administration would be led by a Governor in consultation with an Executive Council.[44] Previously, there were three systems of administration on the island. In the low-country Sinhalese areas, the administration was influenced by the Portuguese and the Dutch. Similarly influenced was the Tamil administration of the areas in the North-East. The Kandyan Sinhalese areas in the centre of the island were based on ancient Sinhalese forms of government. Abolishing the existing administrative structures, the Commission proposed a Legislative Council that was entrusted to legislate the whole

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[42] Zoë Laidlaw, 'Investigating Empire: Humanitarians, Reform and the Commission of Eastern Inquiry' (2012) 40 The Journal of Imperial and Commonwealth History 749.

[43] ibid 753.

[44] Thamil Venthan Ananthavinayagan, *Sri Lanka, Human Rights and the United Nations: A Scrutiny into the International Human Rights Engagement with a Third World State* (Springer 2019) 33.

island.[45] To further remove the division of the island based on ethnic and cultural lines, the Commission proposed the reduction of sixteen provinces to five, centralising it under the rule of one administration.[46] The motivation behind the redrawing of the province boundaries was to reduce the isolation of the Kandyan Sinhalese population, allocating parts of the former Kingdoms to all five provinces. Their separate existence and the influence of the native chiefs was an obstacle to the envisaged uniform system of administration. The provinces were also renamed, replacing the traditional names with the names of the points of the compass. The new large provinces proved difficult to administrate and were again split by the creation of four additional provinces during the second half of the nineteenth century, whose borders remain the same until today.[47] Despite the centralisation of power under the direction of the Governor, the administration also had decentralised aspects with delegated decision-making power for Government Agents, who were present in the different provinces and districts.[48]

A crucial component of the new liberal imperial notion was the self-government of the colonies through representative institutions to advance them to European standards of 'civilization'. This idea was also incorporated in the Colebrook-Cameron report, where they proposed the Legislative Council, comprised of nine British officials and six unofficial members, all nominated by the Governor. The six unofficial members were comprised of three British merchants and one representative of each Sinhala, Tamil, and Burgher communities, chosen to represent the native interests. The commissioners were aware of the problems of these 'progressive' ideas, noting that the prevailing 'ignorance and prejudice' would prevent the government from adopting the views of the local representatives but that the representative legislature was still needed to maintain the policies of a 'liberal government'.[49] These posts based on the indigenous ethnic identities marked a significant policy that would impact the further development of the island, as it fuelled the consciousness of ethnicity-based identity and belonging.[50]

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[45] GC Mendis, 'The Evolution of a Ceylonese Nation' (1967) 11 The Journal of the Ceylon Branch of the Royal Asiatic Society of Great Britain & Ireland 1, 4.

[46] Wickramasinghe (n 27) 31.

[47] Wilson, *The Break-up of Sri Lanka* (n 41) 3.

[48] BS Wijeweera, *A Colonial Administrative System in Transition - The Experience of Sri Lanka* (Marga Publications 1988) 64–65.

[49] Rasaratnam (n 11) 35.

[50] Ananthavinayagan (n 44) 34.

3.2.2. Liberal Reforms

The recommendations of the Cameron-Colebrook Commission led to reforms in the public administration of the island but also in the educational, economic, and political spheres.

Before the British rule, the island only had a limited influence by Portuguese and Dutch educational activities. Women's education, for example, was almost non-existent.[51] In the early stages of British rule in Ceylon, education was not a priority, primarily due to a lack of funding. Nevertheless, educational activities were increasing on the island due to the arrival of Christian missionaries after 1812, like the Baptist, Wesleyan and American missions, the latter being very influential in the Tamil region, who all established dozens of private schools on the island.[52] Schools for women were established, like the Tamil girl's college in Uduvil, the first all-girls boarding school in Asia.[53] Before the arrival of the Colebrook-Cameron Commission, there were ten times more missionary-run schools than government schools on the island. The Commission recommended the government school system to follow the successful pattern of the missionary schools and to consolidate the existing educational network.[54] They emphasised the standardisation of curriculum, the substitution of English for native languages and the establishment of local English schools in all regions.[55] English was used as the primary language of administration, education, and the courts of law. Since most of the population was not proficient in English, native languages were still used in a limited way in the lower levels of administration in combination with English language records. Education and the promotion of English was seen as a tool to 'civilize' the colonial subjects. The colonial administrators also realised the functional value of having a class of English-educated native elite as an essential link between the British rulers and the masses. The commission felt that the language and education policies could absorb certain elements of the native population into the machinery of civil administration.[56] This also had an economic aspect, as the Commission thought that

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[51] Kandiah Arunthavarajah, 'A Historical View of Educational Activities of American Missionaries in Jaffna during 1796–1948' (2020) 10 ACADEMICIA: An International Multidisciplinary Research Journal 397, 1–3.

[52] Niranjan Casinader, Roshan De Silva Wijeyaratne and Lee Godden, 'From Sovereignty to Modernity: Revisiting the Colebrooke-Cameron Reforms – Transforming the Buddhist and Colonial Imaginary in Nineteenth-Century Ceylon' (2018) 6 Comparative Legal History 34, 45.

[53] Arunthavarajah (n 51) 10.

[54] Casinader, Wijeyaratne and Godden (n 52) 45.

[55] Wickramasinghe (n 27) 44.

[56] Sandagomi Coperehewa, 'Colonialism and Problems of Language Policy: Formulation of a Colonial Language Policy in Sri Lanka' (2011) 1 Sri Lanka Journal of Advanced Social Studies 27.

Ceylon could not afford a large staff of European officials.[57] The Colebrook-Cameron Commission thus recommended opening civil service to local citizens, making these reforms unique and more liberal than other legal systems of European colonies. In 1833, the Ceylon Civil Service (CCS) was established, an elite cadre where natives participated in the colony's government.[58]

Another reform was the unification of the judiciary system and the assimilation of the various legal systems on the island under one common system of law. Inspired by the metropolitan British system, provincial courts, appeal courts and a supreme court were established. The legal reform also meant the imposition of English legal values. For example, in indigenous Tamil and Sinhalese laws, women had an independent legal status and rights to own and control separate property. This was abolished by British law, which saw the inferior legal status of women in marriage or property rights.[59]

Economically, the liberal commissioners recommended introducing individual property free paid labour, abolishing local feudal systems on moral and economic grounds, abolishing government monopolies and opening the market to private investors, and establishing free trade.[60] The reforms notably changed the economic landscape of the island in the mid-nineteenth century: private rubber, coconut, coffee and later tea plantations became the most important pillars of the local economy. For this development, thousands of labourers were brought from the Tamil-speaking areas in South India.[61] Imports and exports were controlled through the capital city, Colombo. Roads and railways connected Colombo to the plantation sites in the island's centre. By the end of the century, the last isolated area, the Tamil-populated North, was linked to the rest of the island with a railway line from Jaffna to Colombo. The new infrastructure and the free labour movement made many traders seek opportunities in other parts of the island, especially in the capital, Colombo. The increasing importance of the city can also be seen as it was the centre of administration for the Governor, the Executive Council, and the Legislative Council.[62]

However, Mendis notes that the Colebrook-Cameron reforms did not work out smoothly: English as a language for instruction was seen as too difficult to implement for Tamil and

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[57] Mendis (n 26) 60.

[58] Casinader, Wijeyaratne and Godden (n 52) 27.

[59] Wickramasinghe (n 27) 43.

[60] Mendis (n 26) 53–57.

[61] Wickramasinghe (n 27) 37.

[62] Wilson, *The Break-up of Sri Lanka* (n 41) 4–5.

Sinhalese children. Tamil and Sinhalese language schools were established again, despite English being the language of government. The legal abolishment of the caste system enabled people to work in occupations outside of their caste 'determined' status. This led to conflict with those who considered themselves 'higher' in the caste hierarchy and refused to recognise others as equals. The economic changes also did not develop the envisioned 'Ceylonese' national identity. [63] Mendis argues that the reforms were not as altruistic as they appear to be. Even though the ideas stemmed from liberal motives, they primarily benefitted Britain in controlling and developing their colonies. The radical changes, especially from a mercantilist economy to a laissez-faire economy, benefitted British investors and merchants especially.[64]

Some of the reforms were also opposed by multiple sections of the island's society. The influential British merchant community, for example, who were represented by three of the six unofficial members of the Legislative Council, wanted more power to secure their demands. The government objected to these demands, avoiding that power could fall into the hands of just one section of the people. Also, the English-educated native class wanted reforms of the Legislative Council. Despite opening the civil service to all people, all key posts in the administration were still held by British or Europeans in the early twentieth century, which was also a result of rising British imperialism at the end of the nineteenth century.[65]

3.3. Donoughmore Commission

In 1931, another Commission headed by Lord Donoughmore was sent to Ceylon to examine the electoral system, followed by recommendations for a more radical constitutional change to create national cohesion. The situation on the island did not progress as desired by the Colebrook-Cameron Commission, as there was no national identity but a further divided island on ethnic and cultural lines.[66] Multiple representatives from the different communities wanted to meet and influence the commissioners, who observed the growing hostility between the different groups and noted the interest of the Sinhalese leaders in eliminating the safeguards of the minority communities.

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[63] Mendis (n 45) 7.

[64] ibid 8–9.

[65] ibid 10–11.

[66] BH Farmer, *Ceylon: A Divided Nation* (Oxford University Press 1963) 56.

3.3.1. Institutionalising Communalism

The communal identities were institutionalised in the first half of the twentieth century. In 1919, the Ceylon National Congress (CNC) was established by native politicians inspired by the Indian National Congress. The CNC was committed to a secular nation-state and wanted to gain self-government using Western liberal language. The members were thus from the urbanised English-educated elite class and from multiple communities on the island, but predominantly Sinhalese. A few years later, Tamil politicians left the party, saying it would exclusively further the interests of the Sinhalese community. The CNC developed itself into a party dominated by the low-country Sinhalese elite in the 1920s and was merged into the United National Party (UNP) led by Sinhalese leader DS Senanayake in 1946. In 1924, the All-Ceylon Muslim League was formed to represent the Muslim interests. In 1939, the Ceylon Indian Congress (CIC) was established to represent the Indian Tamils, especially the plantation workers and was later changed into the Ceylon Workers' Congress (CWC) in 1950 after the disenfranchisement of the Indian Tamil community.[67] The Eelam Tamils had multiple smaller groups and organised Tamil national conferences from the mid-1920s onwards to discuss their demands, but they didn't have a unified organisational framework until the formation of the All-Ceylon Tamil Congress (ACTC) in 1944, which also supported the demands of the Indian Tamils. Up until then, the founder of the ACTC, GG Ponnambalam, was virtually seen as a one-man campaigner for Tamil interests.[68]

3.3.2. Further Reform and Centralisation

The Donoughmore Commission concluded that communal representation must be abolished to overcome the perceived ethnic and cultural divisions. The commission thus recommended the creation of a State Council, which would have both legislative and executive functions. Three British non-voting members were appointed as State officials. Together with the Governor, they concentrated a large part of the power with their key portfolios: public services, external affairs, defence, budget, finance, and justice, reflecting the limited self-government under the new Donoughmore Constitution.[69]

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[67] Jakob Rösel, *Der Bürgerkrieg auf Sri Lanka: Der Tamilenkonflikt: Aufstieg und Niedergang eines singhalesischen Staates* (Nomos 1997) 57–58.

[68] A Jeyaratnam Wilson, *Sri Lankan Tamil Nationalism: Its Origins and Development in the Nineteenth and Twentieth Centuries* (UBC Press 2000) 3.

[69] Wilson, *The Break-up of Sri Lanka* (n 41) 13.

For the other members of the State Council, fifty electorates based on territorial representation and up to eight appointed members to speak for non-represented groups were introduced. The State Council, which was the legislative body, was split into seven Executive Committees, each in charge of a department with an elected chairman becoming a Minister. The seven Ministers and the three State officials constituted the Board of Ministers, representing the executive body.[70]

The new electoral system with territorial representation introduced the rule that each constituency should have a population between 70,000 and 90,000. This re-demarcation had the effect that the south-west quadrant of the island, with its largest concentration of Sinhalese population, had the most constituencies and thus received the most seats in the State Council. Once again, the unitary importance of Colombo, which is part of the southwest quadrant and the location of the new State Council, was strengthened. Constituents who wanted to get things done had to travel to Colombo, as their representatives and the whole ruling class network were located there. The capital's political and economic power was difficult to challenge from any outside force.[71] Another indicator of the centralisation in Colombo was the rapid growth of bureaucracy, as the relative number of civil servants in the provinces and districts compared to Colombo was significantly reduced from sixty to thirty per cent.[72] The Donoughmore Commission itself recognised the excessively centralised polity and thus suggested exploring the possibility of creating coordinating bodies to which certain administrative functions of the central government can be delegated. They recommended the creation of Provincial Councils, acting under the authority and regulations of the central government. Another recommendation was that State Council meetings should be held in Kandy, the principal city of the Kandyan Sinhalese, and Jaffna, the principal town of the Eelam Tamils, to keep the Colombo class in touch with the citizens in the peripheries of the island. However, neither the Provincial Councils nor the sessions outside Colombo were implemented. [73] In conclusion, the Donoughmore Commission reforms escalated the centralisation of the state since the Colebrooke-Cameron Commission.

Another fundamental change was the introduction of universal suffrage. The commission noted a stark gap between the rural workers and the 'Westernised classes of Colombo' and considered universal suffrage as a solution to prevent a powerful elite that would not act in the interest of all people. The proposal of universal suffrage was not welcomed by most of the native politi-

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[70] Farmer (n 66) 56–57.

[71] Wilson, *The Break-up of Sri Lanka* (n 41) 13–14.

[72] Wijeweera (n 48) 71–74.

[73] Wilson, *The Break-up of Sri Lanka* (n 41) 14.

cians, but Sinhalese leaders were especially willing to accept it as a quid pro quo for the change of communal electorates towards territorial representation[74]. One of the concerns of the Sinhalese politicians was the enfranchisement of the Indian Tamil labourers on the plantations in the central highlands, fearing that they could dominate the polls in these areas.[75] The Tamil political leadership was also dismayed by the newly proposed policies. GG Ponnambalam from the ACTC opposed the proposals, arguing that the communal representation coupled with universal franchise would mean 'death to the minorities', as the Sinhalese would receive over half of the seats.[76]

The first elections under the Donoughmore Constitution in 1931 were boycotted by the Tamils in the Northern Province due to the call for boycott by the Jaffna Youth Congress, a youth group that was inspired by the anti-colonial struggle in India and wanted more radical change. After the first election, two members of minority communities, an Indian Tamil and a Muslim member, were elected to the Board of Ministers as chairmen of their respective executive committees. The two minority representatives were not cooperating with their Sinhalese colleagues to present a unanimous request to the British for further constitutional reform. The two ministers wanted a guarantee that any future constitutional reform would properly safeguard the minorities. The reaction of the Sinhalese members forecasted the future of the country: To avoid any dissenting opinions, the executive committees elected only Sinhalese members to the Board of Ministers after the second general election in 1936, where the Tamils of the Northern Province participated again. The pan-Sinhalese Board of Ministers secured an 'artificial unanimity of opinion' on constitutional reform, as the body was the main discussion partner with the Colonial Office in London.[77] The development was seen by the Tamils and other non-Sinhalese communities as confirmation of their concerns that universal franchise within a unitary form of government would only lead to the unleashing of populist, ethnically driven mass politics. While Tamils and other non-Sinhalese communities were fighting for a more balanced representation in the current constitutional framework, they were also alarmed by increasing self-government, which was seen as a transfer of power exclusively to the Sinhalese. For

[74] Russell (n 10) 16–17.

[75] Stanley Jeyaraja Tambiah, *Sri Lanka: Ethnic Fratricide and the Dismantling of Democracy* (The University of Chicago Press 1991) 187.

[76] Russell (n 10) 20.

[77] Wilson, *The Break-up of Sri Lanka* (n 41) 15–16.

example, Tamil leaders demanded that the powers of the colonial Governor should be retained, a position supported by other non-Sinhalese political actors.[78]

To summarise the aftermath of the Donoughmore Commission reforms, one can refer to the words of historian Frederick Rees in 1954, six years after Ceylon's independence: 'The Donoughmore Commission decided in favour of territorial representation perhaps without fully realising the effect of the impact of a Western idea on a traditional structure.'[79]

3.4. Soulbury Commission

By the late 1930s, the more radical wing of the CNC began to demand full independence from Britain. In 1941, the Colonial Office announced that further constitutional reform would only be considered after the end of the Second World War. The Board of Ministers, then led by DS Senanayake, often reminded the British officials and the Colonial Office of Ceylon's efforts in supporting the Allied against Japanese expansionism. Their uncritical support persuaded the Governor of the island and his officials to advocate for further internal self-government at the Colonial Office in London. The office was committed to offering Ceylon's political leaders' full responsibility for government under the Crown in all matters of Civil administration' while retaining the responsibility for external affairs and defence. From London's perspective, Ceylon was still undergoing tutelage, and full self-government was seen as still too early.[80]

3.4.1. Minority Safeguards

One of the main debates in Ceylon since the Donoughmore reforms was the one about minority protection from majoritarian rule. The drafting of the new Soulbury Constitution saw different approaches. Ceylonese lawyer Joseph AL Cooray suggested a justiciable bill of rights inspired by the American constitutional traditions. British lawyer Ivor Jennings was opposed to the idea, saying it would give too much power to the courts to mandate and limit the agency of the state. He argued that judges in the American tradition tend to defend the interests of private property over the 'common good'. Jennings, who became the principal advisor of DS Senanayake in

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[78] Kumaravadivel Guruparan, 'Flawed Expectations: The Executive Presidency, Resolving the National Question, and Tamils' in Asanga Welikala (ed), *Reforming Sri Lankan Presidentialism: Provenance, Problems and Prospects* (Centre for Policy Alternatives 2015) 431–433.

[79] As quoted by Russell (n 10) 18.

[80] Roshan De Silva-Wijeyeratne, 'Dominion Status and Compromised Foundations: The Soulbury Constitution and Sinhalese Buddhist Nationalist Responses to the Founding of the Ceylonese State, 1931-1956' in Kevin YL Tan and Ridwanul Hoque (eds), *Constitutional Foundings in South Asia* (Hart Publishing 2021) 133.

constitutional matters, later accepted the inclusion of a minority protection provision in the Constitution, which he likely saw as less interfering than a fully formed bill of rights. At that time, colonies were seen as a testing place for new approaches and models of nation-state building, especially a model colony like Ceylon, which was developed on the basis of liberal and utilitarian motives.[81] For Jennings and other constitutional lawyers, the monistic state that the Soulbury Constitution left behind was seen as the teleological consequence of the liberal administrative reforms initiated by the Colebrook-Cameron commission, which envisioned a new secular and 'Ceylonese' national identity, constructed by the various administrative and socio-economic reforms.[82]

Tamil and other non-Sinhalese leaders asked the commission for a revision of the territorial representation introduced by the Donoughmore Commission to recover the position they had lost.[83] The Commission and the Governor had to face the ongoing campaign by GG Ponnambalam for a balanced representation called fifty-fifty: half of the seats in the legislature would be allocated to the Sinhalese and the other half to the other communities. The Governor declared total opposition to the balanced representation and instead suggested a modified form of cabinet government as a replacement for the executive committees. He also initiated the idea of weightage in representation for minority communities as a compromise to balanced representation.[84] Apart from the Indian Tamils, other non-Sinhalese minorities were reluctant to support the demand for balanced representation. The Muslim parties, for example, despite internal divisions, gradually accepted the dominance of the Sinhalese on the island while they were careful not to be assimilated within the category of the Tamil-speaking communities, stressing their distinctive Muslim identity.[85]

The Soulbury Commission noticed the constitutional problem of 'reconciling the demands of the minorities for an adequate voice in the conduct of affairs' as well. However, consistent with the liberal project initiated by the Colebrook-Cameron Commission, the Soulbury Commission saw the demands of the Tamil people for specific constitutional protection in contradiction of their democratic understanding of equal representation.[86] Despite their acknowledgement of Tamil and other non-Sinhalese complaints of discrimination, they were optimistic that an

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[81] ibid 133–134.

[82] ibid 139.

[83] Mendis (n 45) 18.

[84] Wilson, *The Break-up of Sri Lanka* (n 41) 17–18.

[85] Wickramasinghe (n 27) 151.

[86] De Silva-Wijeyeratne (n 80) 138.

ethnically inclusive form of politics would naturally develop post-independence. They assumed that the minority communities constituted a powerful enough bloc to counter Sinhalese majoritarian initiatives. Recognising how the ethnic perspective continued to dominate politics, the commission recommended institutional safeguards. They introduced a two-chamber parliamentary system with a cabinet government and territorial constituencies.[87] The executive committees were abolished, and executive power was to be vested in a Prime Minister and a Cabinet. A clause suggested by the Soulbury Commission later became a provision in the Constitution which prohibited legislation infringing on religious freedom or discriminating against persons of any community and religion. The creation of multi-member constituencies was also seen as a safeguard against majority domination. Another safeguard was the requirement of a two-thirds majority in the House for any change in the Constitution or other legislative pieces aimed at discriminating against an ethnic or religious group.[88] The Soulbury Commission estimated that with these safeguards, the Sinhalese parties would need the support of minority communities to get a two-thirds majority in parliament.[89] Despite the Commission's institutional safeguards for minorities, it lagged far behind the demands put forward by the political leaders of the non-Sinhala communities. The safeguards were introduced in good faith that the Sinhalese majority would not use its superior strength in numbers to lever out the protection provisions.[90]

What the Commission didn't include in its calculations was what became true after independence: A huge shift in representation after disenfranchising a large section of the population, making the majority group the sole ruler of the country.

3.4.2. Citizenship Issue

The Soulbury Commission deliberately avoided the issue of defining the criteria for citizenship in their report. By avoiding the issue, Britain side-stepped a messy political issue in the final years of its rule.[91] When Sinhalese leader DS Senanayake travelled to London, he obtained a concession from the Colonial Office that all problems relating to citizenship would fall within the realms of the government elected under the new Constitution.[92]

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[87] Rasaratnam (n 11) 104.

[88] Wickramasinghe (n 27) 175–177.

[89] Wilson, *The Break-up of Sri Lanka* (n 41) 18.

[90] Kanapathipillai (n 9) 31.

[91] Kenneth D Bush, *The Intra-Group Dimensions of Ethnic Conflict in Sri Lanka: Learning to Read Between the Lines* (Palgrave Macmillan 2003) 76.

[92] Wickramasinghe (n 27) 175–176.

Most minority groups put aside their concerns and prepared to collaborate with the majority leaders, but the Tamil leadership stayed principled. One of the critical issues was the citizenship and franchise rights of the Indian Tamil population, which prevented a compromise between the Sinhalese leaders and the ACTC, which spoke on behalf of both Eelam Tamils and Indian Tamils. While the Soulbury Commission recognised the permanent presence of the Indian Tamil people in Ceylon, their report did not touch upon the issues of citizenship. Several demands were made by Indian Tamil politicians, such as the full unrestricted adult franchise, rights of citizenship and the rights of representation according to their proportion in the whole population. The Tamil leaders offered unreserved support for these demands.[93]

The citizenship of the Indian Tamil population was a heated topic for the Sinhalese parties. Already after the recommendations of the Donoughmore Commission, strong concerns about the full enfranchisement of the Indian Tamil population were voiced by the Sinhalese leaders, even though they had different motives. While Kandyan Sinhalese groups were fearing a weakening of their electoral power in the central regions where they had been living alongside the Indian Tamils since British colonialism, the low-country Sinhalese groups had other reasons. One of their fears was that the enfranchisement would strengthen the political leverage of the plantation community or the Tamil community. Another and more ideological reason was the Sinhalese leader's conceptualisation of citizenship in an independent nation-state. Because of their recent arrival on the island, the Indian Tamils were seen as too alien and not loyal to the country by the Sinhalese leaders. Despite the long division between the two Sinhalese communities, the debate and politicisation of the Indian Tamil citizenship created solidarity among them. Both came together in 1928, protesting the Indian Tamil franchise. Where previously, especially the Kandyan Sinhalese, saw themselves as a distinct nation, now both communities began to come together by their shared language and religion to see each other as Sinhala and Buddhist.[94] The new political alliance between the Sinhalese communities also committed to a common set of symbols to represent their concept of nation, notably the lion flag from the era of the Kandyan kingdom as the national flag.[95]

3.4.3. Independence and Disenfranchisement

In 1947, London announced that Ceylon would receive Dominion status, and the first election on the road to independence was held. The main contenders were the UNP and left-wing parties.

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[93] ibid 175–178.

[94] Kanapathipillai (n 9) 28–30.

[95] Rasaratnam (n 11) 137.

The UNP was established by DS Senanayake and other conservative-minded politicians. The party had support from almost the entire national press, wealthy families, business owners and higher and middle-rank government officials.[96] Surprisingly, the results were not as clear as hoped by DS Senanayake, and he was barely able to find a coalition with independent MPs from non-Sinhalese communities to form a slim majority government. With the support of the Indian Tamil plantation workers, the contesting left-wing parties made significant gains at the election. For DS Senanayake and the UNP, the ties between the Indian Tamils and left-wing parties were seen as a confirmation of their fear that the Indian Tamil franchise would threaten their political rule.[97]

In 1948, DS Senanayake from the UNP coalition government became the country's first Prime Minister. The coalition was formed with members from the Sinhala Maha Sabha, the Muslim League, and the ACTC. The Sinhala Maha Sabha represented the educated lower middle classes from the Sinhalese community, the Muslim league represented the Muslim community, and the ACTC mainly represented the Eelam Tamil people in the North-East but also supported the demands of the Indian Tamil community. Reflecting the broad coalition, MPs from the different communities were part of the first Cabinet of Ministers under Prime Minister DS Senanayake. The opposition in the first parliament was formed by the left-wing parties, namely the Lanka Sama Samaja Party (LSSP) and the Communist Party (CP).[98]

Despite the diverse outlook of the coalition, it was still an elitist group that lacked the support from the masses in the fashion of the Indian National Congress. Thus, the Soulbury Constitution was a compromise between the colonial state and the English-educated class.

The liberal rationale of the Soulbury Constitution was soon undermined by the introduction of the Ceylon Citizenship Bill, which disenfranchised most of the Indian Tamil population, weakening the leftist opposition while also succumbing to the Kandyan Sinhalese hostility towards the presence of the Indian Tamils in the hill country.[99] A legal battle against the disenfranchisement ended with the Sri Lankan Supreme Court and even the British Privy Council dismissing the case, showing the weakness of the institutional safeguards.[100]

Already in the foundational moment of the newly independent state, the Sinhala-Buddhist polity revealed the profound anxiety about the presence of a perceived 'outsider' group, which later

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[96] A Jeyaratnam Wilson, *Politics in Sri Lanka, 1947-1979* (2nd edn, Macmillan 1979) 117.

[97] Kanapathipillai (n 9) 32.

[98] ibid 39–40.

[99] De Silva-Wijeyeratne (n 80) 142.

[100] V Navaratnam, *The Fall and Rise of the Tamil Nation* (The Tamilian Library 1995) 56–58.

would be extended to the Eelam Tamil and Muslim people on the island.[101] The following section will explore the origins of the exclusivist Sinhala-Buddhist national identity.

[101] De Silva-Wijeyeratne (n 80) 143.

4. *Entrenchment of Sinhala-Buddhist Majoritarianism*

4.1. Myth of Ancient Enemies

To understand the political and legal development of the Sri Lankan state and its Sinhala-Buddhist nature, one must look at its ideological roots. DeVotta argues that Sinhala-Buddhist nationalism, as we currently know it, is a reactive phenomenon to the later stages of European colonialism.[102] Kanapathipillai argues that in the social formations of the kingdoms before colonisation, the people lived within a complex amalgam of kinship, caste, religious and cultural identities, rather than the categories of ethnicity in modern nation-state concepts.[103] According to her argument, these relations began to change only with the arrival of the European colonisers and were heavily impacted by the measuring, quantifying, and categorising of populations by the unifying tendencies of European rulers. The statistical representation and the concept of modern nation-states brought an end to the pre-modern concepts, where identities were more shifting and less exclusive than now. The bureaucratic exercise of classifying people into understandable categories for Europeans became problematic when it was tied to the distribution of privileges. For example, ethnic categorisation became the basis of Ceylonese representation in the Legislative Council proposed by the Colebrooke-Cameron reforms, sharpening the consciousness of ethnic differentiation.[104] Other historians argue that the question of 'who arrived first' on the island, often raised in superficial discussions on the ethnic conflict, was a 'non-issue' before European colonialism.[105] Neither the classics of Tamil literature of two millennia nor Tamil folk traditions reflect a fundamental hostility between the two communities. Just as in many other regions of the world, there were numerous wars but also decades of peace and cooperation between the ruling sovereigns. The wars were a product of local dynastic rivalry rather than ethnic animosity. Similar to European aristocracy, Sinhalese and Tamil rulers had inter-ethnic marriages according to their 'higher' position in the social ladder. Even during most of the time of European colonialism, the more significant social and political division on the island was related to class and caste rather than ethnic-based issues of language or religion. The anti-Tamil sentiment that is reflected in the Sinhala-Buddhist' Mahavamsa' literature is seen as a political construct that was kept alive and used by Sinhalese leadership for political purposes from time to time.[106]

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[102] DeVotta (n 13) 14.

[103] Kanapathipillai (n 9) 18.

[104] ibid 18–19.

[105] William Clarance, *Ethnic Warfare in Sri Lanka and the UN Crisis* (Pluto Press 2015) 26.

[106] ibid 26–27.

The *Mahavamsa*, a Buddhist chronicle written around the sixth century and updated in the following centuries, claims that 'Lord Buddha' visited the island of Sri Lanka multiple times and even died on the island, making it the holy land of Buddhism. The chronicle also describes multiple mythological events, like the battle between the Sinhalese King Dutugemenu and the Tamil king Ellalan. According to the myth, Ellalan and his large army were defeated by Dutugemunu, who carried a spear containing a relic of Buddha himself and was accompanied by five hundred ascetic Buddhist monks, emphasising his Sinhala-Buddhist identity. When Dutugemenu laments over the thousands he has killed, Buddhist disciples console him, saying the killed were unbelievers, beasts, and men of evil life. The ethno-religious framing of this battle adds to the myth that Sinhalese and Tamils have been ancient enemies and justifies the killing and dehumanisation of the Tamil people to protect and propagate the Buddhist doctrine. Sinhala-Buddhist nationalists in the nineteenth and twentieth centuries used the Mahavamsa mythology to frame their majoritarian policies as a continuous struggle to protect the Sinhala-Buddhist people.[107] The Mahavamsa is still being used by Sinhala-Buddhist politicians to push the narrative that the island was a flourishing paradise until it was invaded by Tamils from India, destroying the pristine Sinhala-Buddhist civilisation.[108] The politicisation of the Mahavamsa and other Sinhala-Buddhist mythologies can be traced back to Buddhist revivalism, a counter-movement triggered by the Christian missionary work in Ceylon during the colonisation.

4.2. Sinhala-Buddhist Revivalism

Just like their Hindu and Muslim equivalents in India and Ceylon, the Buddhist monks in Ceylon started a revival movement of their religion to counter the aggressively expanding European Christian missionary work, which regarded the native religions as inferior, irrational and superstitious.[109] In the early era of European colonialism, native communities on the island, including the Sinhala-Buddhists, were tolerant of Christian missionaries when Buddhist monks even hosted missionaries and provided venues to preach their gospel. The hospitality did not elicit gratitude from the foreign Christian missionaries. Instead, the monks were seen as careless, indifferent, and illiterate. To counter the missionaries, the monks created associations, like the Society for the Propagation of Buddhism in 1862, established printing presses and resorted to public debates to counter Christian teachings. [110] One of the eloquent orators during these

[107] DeVotta (n 13) 5–9.

[108] Rasaratnam (n 11) 174.

[109] ibid 83.

[110] DeVotta (n 13) 15.

public debates with Christian missionaries was the monk Migettuvatte Gunanda Thera, who was seen as the leader of the Buddhist revivalist movement at that time. His rhetoric was well preserved in pamphlets and reached the American Colonel Henry Steel Olcott, who was impressed by the Buddhist teachings and went to visit Ceylon in 1880 to meet his Buddhist pen pals.[111] Olcott was the co-founder of the Theosophical Society, an occult spiritual movement that claimed to contest the alliance of Evangelical Christianity and imperialism. He collected original Buddhist scriptures and composed a 'Buddhist Catechism', which was translated into Sinhala and is still used in present-day Sri Lanka. His work in Ceylon had a profound impact on the rise of Sinhala-Buddhist nationalism in the country.[112] Olcott's Theosophist Society publicised the British mistreatment of Buddhists and established Buddhist schools and associations in the Sinhalese districts to break the dominance of the Christian missionary school system on the island. Olcott encouraged his Buddhist audiences to use the methods of Christian missionaries, such as newspapers, schools, and associations, to expand and solidify organisational Buddhist activities. One of his followers was Don David Hewavitarne, who was initially educated at Christian schools but later acquired his propagandist skills in association with the Theosophists.[113] Later, he changed his name to Anagarika Dharmapala, adopted celibacy and devoted his life to the revival and propagation of Buddhism. Dharmapala claimed that the Sinhalese were the 'sweet, tender, gentle Aryan children of an ancient, historic race' that were now 'sacrificed at the altar of the whiskey-drinking, beef-eating, belly-god of heathenism'. He blamed the British for corrupting the Sinhalese and destroying their race. He claimed that 'no other nation has had a more brilliant history' than the Sinhalese and argued that Buddhism was the only reason why they were not met with the same fate as 'the Tasmanian, the African savage, or the North American Indian'. He ridiculed Sinhalese, who adopted British customs, dress, religion and even names. Dharmapala was also the editor of a Sinhala-Buddhist journal, where his writers not only attacked British colonialism but also the non-Sinhalese communities on the island.[114] In 1912, his journal claimed that: 'From the day the foreign white man stepped in this country, the industries, habits, and customs of the Sinhalese began to

[111] Lehr (n 10) 122.

[112] Peter van der Veer, *Imperial Encounters: Religion and Modernity in India and Britain* (Princeton University Press 2001) 75.

[113] Rasaratnam (n 11) 84–86.

[114] DeVotta (n 13) 14–16.

disappear, and now the Sinhalese are obliged to fall at the feet of the Coast Moors and Tamils.'[115]

In 1915, the first act of ethnic violence took place on the island, where Sinhalese groups attacked Muslim traders in the central and low country areas of the island. The reason for the riot was associated with the inflammatory Sinhala-Buddhist writings, in particular Dharmapala's magazines and periodicals, that portrayed the Muslims as foreign invaders, usurping the rightful place of the Sinhalese.[116] After the riots, some of Dharmapala's journals were banned for carrying the inflammatory statements that helped fuel the riots. Following the riots, Dharmapala wrote to the Secretary of State in London demanding a royal commission to investigate the riots, denouncing the 'alien' Muslim community as the agitators who came to Ceylon to marginalise the Sinhalese whom he calls the 'sons of the soil'.[117]

Lehr argues that Dharmapala's exclusivism can be understood as a mirror image of the Christian missionaries' stance that no other religions or even creeds can be accepted.[118] Contrary to the more tolerant reading of Buddhism by Olcott, Dharmapala propagated an intolerant and exclusivist view of Buddhism, 'othering' the other communities on the island, specifically the Tamils, who were seen as a direct challenge to the Sinhalese claim of being the first and sole inhabitants of the island.[119] Dharmapala's influence on the modern Sinhala-Buddhist identity was massive. Thousands joined his call to change their European names to traditional Sinhalese ones and adopted the native dress instead of Western attire.[120] Dharmapala also propagated the unity of the Sinhalese people to overcome the divisions by caste, class, region, and religion. In the early nineteenth century, Sinhalese activists organised commemorative events to celebrate their 'past glory' and to advocate for a new united Sinhala-Buddhist future. The Kandyan kingdom and the Kandyan identity were increasingly viewed as authentic representations of a glorious Sinhalese identity. Kandyan symbols like the lion, which represents the Sinhalese people, were used to unite the Sinhalese community under one flag and identity.[121] Dharmapala's vision of the island saw a hierarchical ordering of the different ethnic groups, where Tamils and others

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[115] As cited in Stanley Jeyaraja Tambiah, *Buddhism Betrayed? Religion, Politics, and Violence in Sri Lanka* (University of Chicago Press 1992) 8.

[116] Rasaratnam (n 11) 94.

[117] Tambiah (n 115) 8.

[118] Lehr (n 10) 124.

[119] ibid.

[120] DeVotta (n 13) 16.

[121] Rasaratnam (n 11) 96.

are only secondary. He claimed that other races only came from outside to the island to pursue commercial activities, while 'for the Sinhalese, there is only this island'. The overarching Sinhalese conception of national identity thus excluded the Tamils. [122] The nineteenth-century Sinhalese political elite has transformed the overarching Sinhala-Buddhist identity to a distinct nationality, which even includes Christian Sinhalese, who accept the majoritarian narrative of a Sinhala-Buddhist ancient kingdom that flourished on the island a millennium ago. The mytho-historical narrative and the Sinhala-Buddhist national identity were strengthened throughout the twentieth century with numerous policies introduced by Sinhalese leaders. Another pillar of the Sinhala-Buddhist nationalist narrative is the perception that the Sinhalese are disadvantaged to the minority Tamils. The claim is that Tamils have achieved a superior position in professions, government service and business due to their character traits and favouritism by the British colonial rulers. Tamils are seen as an extension of the large Tamil population in South India, thus a threat to the Sinhalese nation.[123] Tambiah describes this perspective of the Sinhalese as 'a majority with a minority complex'.[124] Despite the apparent myth of an age-old Sinhalese-Tamil conflict and the instances of apparent collaboration between the Sinhalese and Tamil political class during British colonial rule, the problem of reconciling the established Tamil and Sinhalese national identities remained conceptually unavoidable.

4.3. The consolidation of the Sinhala-Buddhist Unitary State

The Mahavamsa ideology and Sinhala-Buddhist nationalism, in general, became the only consistent threads that ran through the contemporary history of the Sri Lankan state. After Ceylon's independence, increasing discriminatory policies and state-sponsored violence against the Tamils from the 1950s to the 1970s led to an increasing mobilisation of Tamil mass resistance to the Sri Lankan state, which again led to more violence and hostility from the majority population. In parallel, a de-facto two-party political system was established between the UNP and the Sri Lankan Freedom Party (SLFP), a party founded by SWRD Bandaranaike. Both used Sinhala-Buddhist narratives to mobilise the masses and to gain the support of the powerful Buddhist clergy, a strategy that steadily chipped away the liberal core of the Soulbury Constitution.[125] Government leaders who came to power with majoritarian campaigns tried to

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[122] ibid 95.

[123] Patrick Peebles, 'Colonization and Ethnic Conflict in the Dry Zone of Sri Lanka' (1990) 49 The Journal of Asian Studies 30, 31.

[124] Tambiah (n 75) 53.

[125] De Silva-Wijeyeratne (n 80) 144–146.

soothe the tensions with concessions towards Tamil demands. The compromises with Tamil leaders were immediately attacked by the opposition party and Sinhala-Buddhist nationalists, pressuring the government to backtrack from its promises.[126]

Shortly after independence, Sinhalese politicians started to attack the Soulbury Constitution as an imperial construct and wanted to introduce an 'autochthonous' Constitution to have full 'freedom and democracy'. In 1970, the SLFP-led coalition that campaigned for a new Constitution won the elections and introduced a new Constitution in 1972.[127] The government framed the process as a completion of post-colonial self-government, as Prime Minister Sirimavo Bandaranaike stated in parliament that it is time for a Constitution that is 'set up by us as a free, sovereign and independent people who have finally and forever shaken off the shackles of colonial subjection.'[128]

With the new republican Constitution, the relationship with the British colonial rule was formally ended. The name of the country was changed from Ceylon to Sri Lanka. Despite the change of the legislature to a unicameral body, the representative democratic system continued. As the skeleton of a liberal democratic state was maintained on paper, multiple changes to the previous Soulbury Constitution articulated the authoritarian nature of the state. The checks and balances envisioned in the Soulbury Constitution were weakened by introducing a parliamentary executive through a Cabinet of Ministers, with the argument that it would accelerate decision-making. The Cabinet of Ministers, which now oversaw the previously independent civil service, gained important control over the bureaucracy. With the introduction of the Public Security Ordinance, the Cabinet could rule without accountability during times of 'national emergency', as executive acts were protected from parliamentary scrutiny and judicial review was even prohibited.[129]

The supremacy of the parliament naturally weakened the other branches of government. The President was just the symbolic head of state nominated by the Prime Minister. The new Supreme Court, which was supposed to decide if any legislation goes against the Constitution, was neither powerful nor independent, as its members were appointed by the President and had limited tenures, taking away any security to stay in their position if they were critical of the

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[126] Rasaratnam (n 11) 2.

[127] WA Wiswa Warnapala, 'Sri Lanka in 1972: Tension and Change' (1973) 13 Asian Survey 217, 219.

[128] As cited in Ananthavinayagan (n 44) 77.

[129] Radhika Coomaraswamy, 'The 1972 Republican Constitution in the Postcolonial Constitutional Evolution of Sri Lanka' in Asanga Welikala (ed), *Reforming Sri Lankan Presidentialism: Provenance, Problems and Prospects* (Centre for Policy Alternatives 2015) 127–132.

government.[130] Another power of the legislature was its ability to override the court with legislation if it was passed with a two-thirds majority.[131]

Not only the separation of powers but also the minority safeguards from the Soulbury Constitution were disabled when the collective protection clause from 1948 was replaced with a bill of rights. The Constitution had a wide-ranging provision restricting the guaranteed fundamental rights and freedoms for the interests of 'national unity and integrity, national security, national economy, public safety, public order' and other state interests. During times of emergency, the bill of rights was even fully suspended. Interestingly, six of the eight years under the 1972 Constitution were declared as times of national emergency, paving the way for the arbitrary use of state power by the government.[132]

The unitary structure of the state was explicitly declared in the Constitution, including a prohibition of the legislature to delegate any law-making power or create any authorities with legislative power, stifling all demands of the Tamils for devolution and federalism.[133] The most symbolic changes were the constitutionalising of Sinhala as the sole official language and declaring that Sri Lanka would 'grant to Buddhism the foremost place, and accordingly, it shall be the duty of the state to protect and foster Buddhism', consolidating the rise of Sinhala-Buddhist majoritarianism since independence.[134] In the following section, the reactionary rise of Tamil nationalism will be traced along the increasing Sinhala-Buddhist majoritarian politics of successive governments.

[130] Warnapala (n 127) 220–222.

[131] Coomaraswamy (n 129) 135.

[132] ibid 135–136.

[133] Rösel (n 67) 97.

[134] Rasaratnam (n 11) 140.

5. *Rise of Tamil Nationalism*

5.1. Tamil Revivalism

Similar to Sinhala-Buddhist revivalism, Tamil revival activities were rising in the nineteenth century. They differed in the sense that they did not produce a clear sense of Tamil identity or a shared narrative. Unlike the Sinhala-Buddhist nationalist narrative, where Tamils were seen as a threat to their unified identity, the Sinhalese were largely absent in Tamil revival concepts. Tamil revival activities were also not pushed to promote a specific religion while excluding another one. Tamil identity during that era was promoted more broadly under the concept of a long tradition of 'Tamil culture', which encompassed Tamil language, literature and arts, a concept that was compatible with both Saivite and Christian Tamil identities. Still, the lack of a unified Tamil political identity can be explained by the fragmented Tamil organisational activities, as no single association was able to mobilise mass support from all ranges of Tamil society to establish a unified narrative of national identity. The societal division along the lines of caste still dominated Tamil society at that time. This changed during the time of independence when the dominance of caste division among Tamils was abruptly overshadowed by the threat of Sinhala-Buddhist domination over the Tamils.[135]

While there was a consensus among Tamils that they were a distinct ethnicity, the political strategies differed a lot among the groups. The dominant strategy among Tamil political leaders in the nineteenth and early twentieth centuries was to create a pan-ethnic and secular Ceylonese nationhood while retaining each distinct culture, religion, and language. One of the early Tamil political leaders, Arunachalam Ponnambalam, became a co-founder and the first president of the CNC, a pan-ethnic alliance inspired by the Indian National Congress. Arunachalam was the first native person to enter the CCS and held numerous positions in the British administration. But only a short time after founding the CNC, Arunachalam was disillusioned by broken promises from his Sinhalese colleagues for a special Tamil seat in the Sinhalese-dominated Western Province and left the party in 1921 to create the Ceylon Tamil League.[136] Despite this incident, there was no deep Sinhalese-Tamil political divide, as Arunachalam and his brother Ramanathan Ponnambalam still collaborated with Sinhalese leaders on different issues.[137]

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[135] ibid 86–89.

[136] Wilson, *Sri Lankan Tamil Nationalism* (n 68) 51–54.

[137] Rasaratnam (n 11) 95.

5.2. Emergence and Split of the All-Ceylon Tamil Congress

The departure of the Ponnambalam brothers from the political scene left a vacuum in Tamil politics until the rise of Tamil politician GG Ponnambalam in the 1930s. He gained popular support from the Tamil masses when he advocated for balanced representation in the context of the Donoughmore reforms, which introduced territorial representation and universal franchise. Despite the lack of success on that matter, he established himself as the new leader of the Tamils, not only getting support from the public but also from other Tamil politicians. After the Tamils called off the boycott of the Donoughmore Constitution, GG Ponnambalam was voted into the State Council and continued his uncompromising campaign for his 'fifty-fifty' demand of balanced representation until independence.[138] The only other minority group that supported the Tamil demand for balanced representation were the Indian Tamils. In 1944, their alliance was formalised with the creation of the ACTC.[139] When the Soulbury report was published, ACTC President GG Ponnambalam was not present during the debate in the House. He was in London making a last-minute bid to convince the British policymakers to rethink their decision to transfer power to the Sinhalese majority without ensuring adequate protection for the non-Sinhalese communities. In the absence of GG Ponnambalam, the other Tamil members in the State Council voted in favour of the Soulbury Constitution. Wilson notes that their precise motives were unclear but that DS Senanayake probably offered them positions in a future government if he became Prime Minister.[140] When GG Ponnambalam returned from England, he was distressed by the actions of his fellow Tamil colleagues in the State Council. The Tamil electorate was also angered by the representatives who had voted for the new Constitution. In the electoral campaigns for the 1947 elections, GG Ponnambalam and other members of the ACTC condemned the 'traitors' who supported Senanayake betraying the Tamil people. Their campaign raised the concerns of the Tamils and called on the people to never surrender to their common enemy, Senanayake and his Sinhalese supporters.[141] After the results of the 1947 general elections, the ACTC first did not seek to participate in the DS Senanayake government. A close associate of DS Senanayake even wrote a letter to the deputy leader of the ACTC, Chelvanayakam, inviting him to join the new government. Chelvanayakam did not react to the

[138] Wilson, *Sri Lankan Tamil Nationalism* (n 68) 66–69.

[139] Wickramasinghe (n 27) 151.

[140] Wilson, *Sri Lankan Tamil Nationalism* (n 68) 78.

[141] ibid 78–79.

letter, which was seen as an attempt to disrupt the Tamil party.[142] Despite the initial strong rejection of the Soulbury Constitution and the DS Senanayake's campaign for power, GG Ponnambalam joined his government in 1948, getting a cabinet portfolio as Minister for industries and fisheries. While before the ACTC championed the cause of the Indian Tamils, GG Ponnambalam supported the legislation that disenfranchised the Indian Tamil community. He had hoped that the cooperation with the DS Senanayake government and having the industries portfolio would be an opportunity to bring development to the Tamil regions, a thinking shared by other Tamil elites at that time.[143] This was a triumph for DS Senanayake, as he succeeded in separating two communities who had previously acted together against his run to power.[144] In the culmination of these events, Chelvanayakam split with Ponnambalam and the ACTC with other members in 1949. During his time in the ACTC, Chelvanayakam wanted to use the Tamil bloc as leverage to find a resolution on Tamil concerns, including the right to citizenship for the Indian Tamil community, parity status of Sinhala and Tamil languages, an acceptable national flag for the new state rejecting the Sinhalese lion flag, and the cessation of state-sponsored colonisation of Tamil-speaking areas with Sinhalese settlers. Chelvanayakam wanted the fulfilment of these pre-conditions before any cooperation with the government.[145] As early as September 1947, shortly after the general elections, Chelvanayakam publicly raised the concern that Tamils must decide whether they should demand a federal government. A week later, he even asked the question of why Tamils should not have the right to secede if they desired to do so. During the debate of the Citizenship Bill in Parliament in 1948, Chelvanayakam warned that DS Senanayake's legislation, targeting the franchise of the Indian Tamil community, was not directly aimed at the Eelam Tamils but that it was the beginning of a grim development:

'He is not hitting us now directly, but when the language question comes up, which will be the next one to follow in this series of legislation, we will know where we stand. Perhaps that will not be the end of it.'[146]

Chelvanayakam correctly anticipated the development, as the Sinhala-Only Bill of 1956 revealed. The disenfranchisement of the Indian Tamils with the support of GG Ponnambalam was the escalation that led to the split of Chelvanayakam from the ACTC.

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[142] A Jeyaratnam Wilson, *S. J. V. Chelvanayakam and the Crisis of Sri Lankan Tamil Nationalism 1947-1977: A Political Biography* (Hurst 1994) 16.

[143] Wilson, *Sri Lankan Tamil Nationalism* (n 68) 78–79.

[144] Kanapathipillai (n 9) 43.

[145] Wilson, *S. J. V. Chelvanayakam and the Crisis of Sri Lankan Tamil Nationalism 1947-1977* (n 142) 7.

[146] As cited in ibid 18.

5.3. Rise of the Federal Party

After the rift between GG Ponnambalam and Chelvanayakam, the latter launched the new party *Ilankai Tamil Arasu Kachchi* (ITAK), or in the English name Federal Freedom Party for the Tamil-speaking Peoples of Ceylon, commonly known as Federal Party (FP) in 1949. Unlike the ACTC, direct political mobilisation was a crucial component of the FP, who described themselves not just as an ordinary party but as a 'movement'.[147] While previous Tamil leaders propagated the outdated demands of communal representation, which had already been abolished by the British liberal commissioners, Chelvanayakam proposed a different solution. Against the entrenched thought processes, Chelvanayakam suggested the creation of an autonomous Tamil unit in a federal Ceylonese state. This idea got harsh opposition from multiple factions. The Tamils living in Colombo and other parts of the Sinhalese South feared for their future in a federal state in a Sinhala unit. GG Ponnambalam and his ACTC denounced federalism not just because they conflicted with the FP but also because of their view that federalism would throw back the economic development in the Tamil regions without a connection to the thriving Colombo. The Indian Tamils in the centre of the island, despite their appreciation of Chelvanayakam's uncompromising stance on their rights, feared that federalism would cut them off from the Tamil regions in the North-East. The churches were opposed to federalism, as they saw it as creating a split between Sinhalese and Tamil Christians and a weakening of their power. However, the Sinhalese political class was most opposed to the idea of federalism, as they were unwilling to decentralise power. Even the lesser version of federalism, regional autonomy in a unitary state, was an outrageous idea for them.[148] For many, Chelvanayakam was a visionary who advocated for an impractical solution. GG Ponnambalam countered the idea with the view that a federation was only feasible in agreement with the Sinhalese and that there was no example in the world of a two-unit federation, to which the FP responded with West and East Pakistan in the federation of Pakistan.[149]

While all previous Tamil leaders tried to materialise their rights within the established unitary structures of the state, the FP, for the first time, demanded a re-ordering of that state. They explicitly used the language of nationhood and self-determination to bring forward their idea of an Eelam Tamil homeland in the North-East of the island, seen as a historically continuous territory of the Tamil people. The explicit use of the legal and political language of nationhood was a clear departure from Tamil politics in the colonial period. As few Tamils, namely the

[147] Rasaratnam (n 11) 151.

[148] Wilson, *S. J. V. Chelvanayakam and the Crisis of Sri Lankan Tamil Nationalism 1947-1977* (n 142) 63–64.

[149] ibid 64–66.

Jaffna Youth Congress, wanted to build a pan-ethnic form of Ceylonese nationalism, most like Ponnambalam and the ACTC aspired to guarantee specific guarantees of Tamil rights within an all-island political framework.[150]

Rasaratnam argues that these older Tamil conceptions cannot be easily categorised as Tamil nationalist, as they appeared to be an '(equal) component' of a broader Ceylonese national unity, while the FP, on the other hand, explicitly used the rights as a nation and the territorial autonomy as core demand.[151] The FP argued that this rationale would secure the equality between the Tamils and the Sinhalese, as a federal union would guarantee that none of the units would dominate over each other but as equal partners of a new union.[152]

5.4. Increasing Hostility and Civil Disobedience

The rise of Tamil nationalism among the Tamil political leaders and the masses correlated to increasing Tamil grievances due to state discrimination and violence. One of the issues of the Tamil people was the colonisation of the Tamil homeland by Sinhalese settlers. Even before independence, the ACTC made complaints to the Soulbury Commission about Sinhalese settlements in Tamil areas, especially in the area where the Northern and Eastern Provinces connect.[153] The colonisation is explicitly linked to the Sinhala-Buddhist Mahavamsa mythology, which envisions the reconquest of ancient Buddhist land that was destroyed by Tamil invaders. The first Prime Minister of independent Ceylon, DS Senanayake, used the Mahavamsa linkage to justify and implement the state-sponsored colonisation policy in the under-populated dry-zone areas in the Tamil North-East. The settlements were seen by the Tamils as an attempt to undermine their electoral power in the Tamil regions, as well as a state-sponsored attack on the Tamil economy, as public funds for the development of the North-East were redistributed to the colonisation schemes.[154]

Another issue was the language policy. The 1952 general elections supported the equal status of Sinhala and Tamil as official languages. This was strongly opposed by Sinhala-Buddhist nationalist associations, who claimed that the Sinhalese would soon be forced to learn Tamil. To satisfy these actors, both the UNP government party and the opposition SLFP appropriated the Sinhala-Buddhist nationalist narrative and advocated for the policy of having Sinhala as the

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[150] Rasaratnam (n 11) 149.

[151] ibid 115.

[152] ibid 115–116.

[153] Peebles (n 123) 37–38.

[154] Rasaratnam (n 11) 103–104.

only official language. After the elections, the Official Language Act of 1956, also called the 'Sinhala-Only Act', was introduced to implement Sinhala as the sole language of the state.[155] The FP demanded the equal status of Tamil and Sinhalese and linked to the devolution of powers to the Tamil areas. In June 1956, FP politicians staged a non-violent sit-down protest in the capital, Colombo, close to the parliament. The protest was attacked by organised Sinhalese mobs, and the violence against Tamils also spread to other areas, like the Sinhalese settlement projects.[156] This first act of organised violence against peaceful Tamil protestors was a tipping point in the Tamil political scene. While the FP failed to make an impact at the 1952 general election, when most of the Tamil electorate still believed in the future of a unitary state, the increasing discrimination and violence after 1952 changed the public opinion about the FP and their demands for Tamil rights. The FP continued to organise non-violent protests and resistance to the Sinhala-Buddhist policies. In 1956, at the national party convention in Trincomalee, they declared the city as the capital of a Tamil autonomous region as a gesture to the Tamils in the Eastern Province that the party would not only focus on the Tamil centre of Jaffna in the North but unify all Eelam Tamils. The convention also agreed on the demands of a federal Constitution, ceasing the state-aided colonisation of Sinhalese settlers in Tamil areas, the unity of all Tamil-speaking peoples on the islands and the recognition of Tamil as an official language equal to Sinhala. [157]

The anti-Tamil violence and the Tamil mobilisation put Prime Minister SWDR Bandaranaike under pressure to negotiate an agreement with Tamil leader Chelvanayakam. The agreement compromised on some of the Tamil demands and featured limited devolution through regional councils. The pact was immediately rejected by the UNP opposition, the Buddhist clergy, and other Sinhala-Buddhist nationalists, who framed the pact as treason against the Sinhalese nation and a step towards a separate Tamil state.[158] Politician JR Jayawardene led a march from Colombo to the Temple of Buddha's tooth in Kandy to oppose the Bandaranaike-Chelvanayakam Pact and to reinforce the Sinhala-Buddhist nationalist policies. This prompted the FP to stage more civil disobedience protests in the Tamil North-East, where volunteers publicly tarred the Sinhalese 'Sri' character on license plates and replaced it with Tamil characters. Chelvanayakam and others who participated were arrested. Following these events and the ongoing protests of Buddhist monks in front of SWDR Bandaranaike's residence, he abrogated

[155] ibid 138–139.

[156] Wickramasinghe (n 27) 283–284.

[157] Wilson, *Sri Lankan Tamil Nationalism* (n 68) 84–86.

[158] Wickramasinghe (n 27) 285.

the pact. This led to widespread violence of organised Sinhalese mobs against Tamils on the whole island.[159] SWRD Bandaranaike, who came to power by instigating the Sinhala-Buddhist majoritarian narrative, was not able to restrain the escalating hostility. After his assassination by a radical Buddhist monk in 1959, his wife, Sirimavo Bandaranaike, became the Prime Minister of the country.[160] She continued the Sinhala-Buddhist majoritarian policies, negating the promises the SLFP made to the FP and fully implementing the Sinhala-Only Act, including Provisions making Sinhala the language of the court in the Tamil provinces. In response, massive protests led by the FP erupted in the Tamil North-East. Protestors in all large Tamil population centres blocked all government functions for two months. The prominent civil disobedience campaign was eventually ended by military force and a state of emergency for the whole Tamil region for two years. Sirimavo Bandaranaike proscribed the FP and arrested many members for multiple months.[161] The suppression of the peaceful resistance movement led to an initial radicalisation of Tamil youth members of the FP.[162] After the fall of the Sirimavo Bandaranaike's SLFP government, a new UNP government under Dudley Senanayake, the son of DS Senanayake, came to power and subsequently made another negotiated pact with FP leader Chelvanayakam, again with limited devolution limitations to Sinhalese colonisation in Tamil areas. The FP became a coalition partner in the government, which again triggered the hostility of Sinhala-Buddhist oppositional, resulting in the non-implementation of the Senanayake-Chelvanayakam pact. The FP left the coalition, and Tamil polity began to escalate its demands further in view of the continuous broken promises by successive Sinhalese government leaders. The UNP government was replaced by the SLFP coalition with a landslide victory in 1970, which later enacted the first Sinhala-Buddhist majoritarian Constitution of the country.[163]

5.5. Call for Tamil Eelam

The 1972 Constitution constitutionalised the unitary state and the primary status of Sinhala-Buddhism while scrapping the minority protection clause of the Soulbury Constitution. The government continued its policy of Sinhalisation of the state, including discriminatory policies against Tamils in education and civil service and the continuing colonisation of Tamil land.

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[159] Rasaratnam (n 11) 152–153.

[160] Ananthavinayagan (n 44) 44.

[161] Rasaratnam (n 11) 154.

[162] Wickramasinghe (n 27) 287.

[163] Rasaratnam (n 11) 154–155.

Given this development, the ACTC and the FP, twenty years after their partition, joined together to form the United Tamil Front (UTF) with other Tamil parties, including the Indian Tamil CWC. At its inaugural conference, the alliance called for multiple measures to amend the Constitution and to commit to a non-violent struggle.[164] However, the discriminatory policies combined with the new majoritarian Constitution pushed the Tamil leadership to abandon the vision of a federal Sri Lanka and to further their call for an independent state.[165]

The FP realised that it failed to realise any of its stated objectives. All their mass protests ended with violence against Tamils, the imprisonment of their members and even the imposition of emergency rule in Tamil areas. The pacts with Sinhalese leaders ended in abrogation. Rasaratnam argues that these failures were an integral part of the consolidation of the territorial Tamil national identity and the realisation that it was mutually incompatible with the Sinhala-Buddhist nationalist project.[166] The FP declared its policy shift towards self-determination at a convention in 1973:

> The Tamil-speaking people in Ceylon are in every way fully qualified to be regarded as a separate Nation by virtue of their language, culture, history, territory and the innate and intense desire to live as a separate nation, and that the only path for them … is the establishment of the right to self-rule in their legitimate homeland based on the internationally recognised principle of the right to self-determination of every nation.[167]

Parallel to the newly formed political alliance for self-determination, Tamil youth started to protest the FP's conciliatory stance towards the Sri Lankan state and were also arrested and tortured by Sri Lankan security forces. The growing hostility and violence by the state towards the Tamil youth led to the formation of multiple underground militant groups who started to attack Sri Lankan security forces in the Tamil areas, initiating the rise of Tamil militancy.[168] FP Leader Chelvanayakam resigned his parliamentary seat in 1972, challenging the government to contest him on the single issue of the Tamil people's acceptance or rejection of the new Constitution. The government delayed the by-election, but in 1975, Chelvanayakam regained his seat with the largest majority ever. The TUF changed its name to Tamil United Liberation Front (TULF), emphasising its approach to liberation inspired by other national movements

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[164] Rösel (n 67) 97–111; Warnapala (n 127) 222–223.

[165] Guruparan (n 78) 435.

[166] Rasaratnam (n 11) 152.

[167] As cited in Wilson, *Sri Lankan Tamil Nationalism* (n 68) 105.

[168] Cronin-Furman and Arulthas (n 2) 5–6.

around the world.[169] At their first national convention under the chairmanship of Chelvanayakam on 14 May 1976, the TULF ratified the 'Vaddukoddai Resolution' declaring:

> This Convention resolves that restoration and reconstitution of the Free, Sovereign, Secular, Socialist State of Tamil Eelam, based on the right of self-determination inherent to every nation, has become inevitable in order to safeguard the very existence of the Tamil Nation in this country.[170]

The Vaddukoddai Resolution consolidated the escalation of Tamil demands since the independence of the Sri Lankan state from devolution to federalism and a separate state.[171] A year later, at the general elections of 1977, the TULF stood on a platform of independence with the Vaddukoddai Resolution, citing a history of violence, discrimination, colonisation and economic exclusion along the Sri Lankan leader's unwillingness to compromise. The TULF won with an overwhelming majority in the Tamil areas, signalling that they have the mandate of the Tamil electorate to continue their struggle for self-determination.[172] Soon after the election, mass violence against Tamils broke out again on the island. With the increasing detention and torture of Tamil youth, the attacks of the Tamil militant groups escalated. The government banned the LTTE and similar organisations and enacted the draconian 'Prevention of Terrorism Act' declaring a state of emergency. After the demise of Chelvanayakam, the TULF leaders put the demand for a separate state on hold, causing widespread anger among their constituents. With increasing state violence, Tamil militant attacks also intensified. In 1983, the largest anti-Tamil pogrom on the island killed thousands of Tamils and forced hundreds of thousands to flee to the Tamil regions or abroad. The violence changed into a full-blown war between the Sri Lankan government and the LTTE, which became the most dominant Tamil group that led the armed struggle and the political efforts for Tamil self-determination until its destruction in 2009.[173]

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[169] Wilson, *Sri Lankan Tamil Nationalism* (n 68) 107–108.

[170] As cited in Peter Schalk, 'On Resilience and Defiance of the Īlamtamil Resistance Movement in a Transnational Diaspora', *Dynamics in the History of Religions between Asia and Europe* (Brill 2012) 407.

[171] Wilson, *S. J. V. Chelvanayakam and the Crisis of Sri Lankan Tamil Nationalism 1947-1977* (n 142) 128.

[172] Rasaratnam (n 11) 155.

[173] Cronin-Furman and Arulthas (n 2) 6.

6. Conclusion

Contemporary discussions on the conflict in Sri Lanka often start with the country's independence or the beginning of the war. My thesis examined how the basis of the conflict was laid during the British colonial rule and was tied to the emergence of British liberalism. I argue that one of the root causes of the conflict is the genesis of the unitary state with the administrative unification of the entire island, dismantling previous administrative divisions based on indigenous structures. Liberal British commissions, aiming to consolidate a unified Ceylonese identity, increasingly centralised the state structures.

The unitary structure of the state was fundamentally flawed in incorporating the different established national identities on the island, transferring power solely to the Sinhalese majority population without considering a different power-sharing structure. In combination with rising exclusivist Sinhala-Buddhist nationalism, this resulted in the majoritarian policies of successive Sri Lankan governments after independence, which marginalised the non-Sinhalese communities on the island. In parallel, the increasing violence against the Tamils, the failed compromises, and the unwillingness to reform the structures of the state led to the rise of Eelam Tamil nationalism, which consolidated the Tamil political class and the Tamil masses within a distinct national Tamil identity.

Challenging the unitary state and the Sinhalese majority domination, the Eelam Tamil nation called for self-determination and escalated their demands for devolution to federalism and, finally, separatism, with the Vaddukoddai Resolution and the mandate for an independent Tamil Eelam.

The clash of Sinhala-Buddhist and Eelam Tamil national identities shaped the different trajectories of an envisioned state, with the unitary structure of the Sri Lankan state remaining a central point of contention, unresolved to this day. The search for a solution to the root causes of the conflict and a power-sharing structure acceptable to the different nations on the island must consider the historical role of British colonialism, which enabled the unitary structure of the state and the political entrenchment of Sinhala-Buddhist majoritarianism.