

# The Design Of Democracy

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# 1. Contextual Background

*Sri Lanka was bestowed with a tradition of 'liberal democracy' from her colonial master, the British. Liberal democracy within the country since independence has gradually evolved over time to embody distinct 'structures' characteristic of the liberal democratic tradition - a liberal constitution; parliament; an electoral process and the rule of law. Thus the heritage of democracy that was bequeathed to Sri Lanka at the stage of its introduction, was a 'system of representative democracy'.*

*It is pertinent to engage briefly in a definitional analysis of 'representative democracy'<sup>1</sup>, with a view to understanding its application in the context of Sri Lanka. A fundamental feature that is central to the ideology of democracy, as perceived in many of its articulations, is the idea of 'popular power'. Filmer in 1680, articulated democracy to be 'nothing but the power of the multitudes'; interestingly this idea of democracy was contrasted by Spinoza from a state where there was 'rule by representatives', to indicate that the latter state was 'undemocratic'.<sup>2</sup> Burke, after the French revolution postulated that 'perfect democracy' (seen as 'uncontrolled popular power' which sought to suppress minority power) was the 'most shameful thing in the world'.<sup>3</sup> The specialised development of the 'liberal democratic tradition' is said to be at least in part, a reaction to this 'over and above other practical considerations of continuity and extent'.<sup>4</sup> While Bentham gave a general sense of the ideology encapsulated in democracy as 'rule by the majority of people', he made a distinction between 'direct democracy' and 'representative democracy'. The former sense of direct democracy is excluded in most modern democracies, which deem 'representative democracy' as being ideally 'democratic'. This emphasis given by this extension of democracy is on 'the right to vote for representatives', rather than the old sense of 'popular power'; the 'mode' of electing representatives plays a significant role, over and above the participation of the people. The development of democracy is 'traced through institutions using this mode, rather than through 'relationships'.<sup>5</sup> The development of democracy through institutional structures, is orthodox to English democracy, and has greatly influenced the 'democratisation of Sri Lanka'.*

*Historically, the idea of 'people power' has not had a significant influence on the structures of governance and rule in Sri Lanka, which predates independence. The endorsement of the ideology and structures of democracy did not 'evolve' from an appreciation on the part of the 'people', that representative democracy would afford them greater participation in political processes. It was rather a 'given' by the British, and a 'taken' by certain (qualified) groups of persons, often referred to as the 'elite', in response to certain 'emergent characteristics' that were apparent in 'decolonising Sri Lanka'. Inevitably, the design of democratic structures in Sri Lanka has come to embody a mixture of features that have 'carried over' from its pre - independent perceptions of governance, and its experience as a colony. The question for analysis is whether the current institutional structures of democracy in Sri Lanka, fulfills the normative and substantive content that is commonly perceived as constituting the 'promise' of democracy.*

## 2. STATE INSTITUTIONAL DOMAIN

### 2.1 Introduction: Past and Present Constitutions and Constitutionalism

#### 2.1.1 Past and Present Constitutions

The dawn of independence saw the drafting of the Independence Constitution of Ceylon. The report of the Soulbury Commission entrusted with the task of formulating this constitution have been quoted at length to demonstrate the inclination on the part of the drafters, as well as those who represented the 'Ceylonese people', to favour a constitution 'modeled on the British system of government'.<sup>6</sup> The following segment of this report, aptly illustrates this inclination: '... the politically conscience majority of the people of Ceylon - favour a Constitution on British lines...we think that Ceylon is well qualified for a Constitution framed on the British model'.<sup>7</sup> The subsequent Republican Constitutions, drafted in 1972 and 1978, though proclaimed to be 'autochthonous constitutions' (commonly referred to as 'home - grown'), carried forward some of the salient features and institutions of the first 'Independence Constitution'.

Pertinent to question therefore, whether the subsequent 'break away' from the institutional structuring of the liberal democratic tradition of Great Britain, was facilitative in nurturing a state institutional structure of representative democracy, more conducive to the 'particular' historical, socio - economic, political and cultural circumstances of Sri Lanka.

A fundamental contention that has been expressed with regard to the all of the above three constitutions, is the tendency to sideline the 'supremacy of the constitution' in favour of the British principle of 'supremacy of parliament'. Supremacy of the Constitution requires that the Constitution be allowed to retain its 'sanctity', as the supreme law of the land by which all other laws derive its authority. The powers of all other law making authority, and government are constrained by the limits of power that is accorded to them by the Constitution. The manner in which successive constitutions in Sri Lanka have undermined constitutional authority will be discussed in the following sections. The following Articles, from the 1978 Republican Constitution are given to illustrate, the gross disregard for the Constitution as a 'non - violable' institutional entity.

Article 80 (3) specifies that - once a Bill is passed by Parliament, it cannot be challenged on any ground including, the ground of it being 'unconstitutional'. Article 16 makes the overriding power of parliament quite explicit when it provides that - 'All existing law and unwritten law shall be valid and operative notwithstanding any inconsistency with the provisions of the fundamental rights chapter'.

These provisions are often contrasted with certain Articles of the South African Constitution of 1996, which mandated through its provisions, a life of equality and dignity for each and every individual, after decades of segregation under apartheid laws. It specifies in Article 2 that - 'The Constitution is the Supreme law of the Republic; law or conduct inconsistent with it is invalid, and the obligations imposed by it must be fulfilled'.<sup>8</sup>

## 2.1.2 Constitutionalism

If the constitution is 'deemed' the foundation on which all other legal authority and governance is based, it follows that its substance must contain, both attributes that facilitate democracy and the normative content on which democratic governance depends. The question of 'what' constitutes a good and appropriate constitution, and the exploration of its objectives and rationale, forms the substance of the theory of 'constitutionalism'. This theory developed primarily within the American tradition of the Supremacy of the Constitution, seeks to establish the 'objectives' of a good constitution.<sup>9</sup> Carl Friedrich in 'Transcendent Justice' articulates the core objective of constitutionalism as being -

*'...that of safeguarding each member of the political community as a political person possessing a sphere of genuine autonomy. The Constitution is meant to protect the self in its dignity and worth. The prime function of a constitutional political order has been and is being accomplished by means of a system of regularised restraints imposed upon those who wield political power'.<sup>10</sup>*

The three foremost objectives of a constitution is may be derived from this statement to be <sup>11</sup> -

- To outline the relationship between and amongst the main organs of government, being - the legislature, the executive and the judiciary. It will also need to establish the 'checks and balances' that each of these organs have over the other, in order to avoid a concentration of power in one organ of government;
- The promotion of 'individual autonomy'; this includes the protection of individual autonomy as against other individual, and groups of persons, as well as from the State;
- The Constitution also has a norm setting function, in defining the values and norms by which a country must be governed. These values should permeate to all segments of the community, including the government and the governed.

Thus, the Supremacy of a Constitution can and must be maintained in a context where the above principles are perpetuated. A clear emphasis is made on individual autonomy. While representative democracy requires that the power of the people be vested in elected representatives, the above principles require

that individual autonomy be safeguarded from a representation of 'majority power' and 'excessive state power'. The theory of Constitutionalism places a high priority on the above principles being enshrined in the Constitution, so as to remove them from the ambit and power of the legislature. Individual autonomy, for instance must be accorded extra protection by the Constitution, where there is due emphasis on the Supremacy of the Constitution. The Constitution in this context must essentially be 'non - partisan' and command the respect of all groups of citizens, especially the minorities. Before, a discussion is entered into 'representative majority democracy' or 'majoritarianism' that constitution making in Sri Lanka has reflected, it is pertinent to first engage in the analysis of a useful tool that goes hand in hand with Constitutionalism, namely the 'Judicial Review of Legislation', and its use in Sri Lanka.

### 2.1.3 Judicial Review of Legislation

The Judicial Review of Legislation enables people to hold the legislature, accountable in terms of the Constitution. An individual affected by the law, or by the overt acts of a public servant vested with powers by delegated legislation, may by virtue of a review mechanism, challenge the constitutionality of the law in question. This is fundamental to upholding the Supremacy of the Constitution on the basis that the 'representatives of the people (the legislature or parliament) cannot be superior to the people themselves'. It must be recognized that the Supremacy of the Constitution, places a high priority, on the Constitution being 'people based'. This recognition ultimately adds value and relevance to the Judicial Review of Legislation, in a process of representative democracy, where the people are able to hold the parliament to general rules of conduct and broad values that 'they' have enshrined in the Constitution. The Constitution of India is often remarked upon for its efforts in attempting to include and represent the political aspirations of its diversely complex masses. It constitutes one of the few constitutions that 'expressly' confer the power of judicial review on the courts.<sup>12</sup>

The Independence Constitution of Sri Lanka (hereinafter referred to as the 'Soulbury Constitution') did not expressly confer the power of judicial review on the courts, but the courts assumed the Supremacy of the Constitution, by implication. Section 29 (2) declared any law inconsistent with the provisions of this article to be void.<sup>13</sup> This Article dealt with - the religious freedom; non - discrimination on grounds of community and religion; equality, and religious bodies. Thus, the powers of judicial review was limited to any Act of parliament which violated the provisions of Article 29 (2); there was no provision to make void any laws that were inconsistent with the rest of the Constitution. The Supreme Court however, in the case of *Ranasinghe v. The Bribery Commissioner* construed that any 'inconsistency' with the Constitution, amounted to an 'amendment' of the Constitution which was only allowed by a two thirds majority, as specified in Article 29 (4).<sup>14</sup> The two republican Constitutions that followed have significantly rejected the application of Judicial Review of Legislation.

The Republican Constitution of 1972 declared the 'National State Assembly' to be the 'supreme instrument of State power'. It conferred on itself legislative, executive and judicial power, the latter to be exercised through courts and other institutions created by law. The National State Assembly had little fetter on its powers. The power of the courts was restricted to the interpretation of legislation. The argument to circumscribe the power of the courts was that 'un - elected judges should not have the authority and the right to throw out the decisions of the elected representatives of the people'.<sup>15</sup> Thus it was declared in section 48(2) that '*No institution administering justice...shall have the power or jurisdiction to inquire into, pronounce upon or in any manner call in question the validity of any law of the National State Assembly*'. A special constitutional court was established for the determination of whether the provisions of any Bill were inconsistent with the provisions of the Constitution. This court however, was not a part of the ordinary system of courts, so as to say that the 'judiciary' had any jurisdiction with respect to Bills of Parliament.<sup>16</sup>

The Second Republican Constitution of 1978 did not re - instate the Judicial Review of Legislation. In terms of section 80(3) outlined above, it removes the power of the courts from determining the constitutional validity of Acts passed by parliament. It confers however, a jurisdiction on the Supreme Court, which is similar to that of the Constitutional Court of the 1972 Constitution. An important function of the Supreme Court is to interpret the provisions of the Constitution.<sup>17</sup> In addition, the Supreme Court may determine the constitutionality of a Bill of parliament, against which a petition must be filed within one week of the Bill being placed on the order paper of Parliament.<sup>18</sup> This time limit has proved grossly inadequate to

effectively redress the unconstitutionality of a Bill, especially in a context where law making is not a very transparent process.

## 2.2 Equal Citizenship and Minority Protection

Overt majority politics has played a significant role in constitution making in Sri Lanka. It has undermined the full potential of 'individual autonomy' that is envisaged by constitutional theory, in that no constitution has received the full consensus of all representative communities within the country. Efforts at constitution making in the past are seen as 'politically partisan, designed by the government and party in power to produce political outcomes conducive to their interests, clouding the legitimacy of the constitution and undermining the principle of constitutionalism'.<sup>19</sup> Both political and ethnic minorities are seen as having been denied an effective voice in governance or the formulation of policy.<sup>20</sup>

The ethnic conflict must, and often does, take the forefront in a discussion of equal citizenship and the protections afforded to minorities by constitutional provision. Other 'conflicts' have figured much in Sri Lankan politics; the 'insurgency in the South' associated with youth unrest, and 'persecution of religious groups', are in part indicative that the 'institutional design of democracy' is in some way lacking with respect to the equal recognition of one and all. The approach to constitution making in the past and their content, is to a great extent indicative of the biases that have resulted in prolonged conflict and insecurity.

It is somewhat ironic that the Soulbury Constitution drafted by the British, was the Constitution that gained by far the most amount of political consensus from different ethnic communities in Sri Lanka. The Soulbury Commission entrusted with the task of drafting the Independence Constitution, included a 'safeguard clause' as a means of safeguarding 'minority rights' in lieu of the demand by Tamil representatives for a 'balanced representation' in parliament.<sup>21</sup> This safeguard clause, section 29(2), prevented the passing of legislation - 'rendering persons of any community or religion liable to disabilities, or confer upon persons of any community or religion any privilege or advantage which are not conferred on persons of other communities or religions'.<sup>22</sup> The absence of a balanced representation of the two major communities (by an equal 50 - 50 representation) in parliament, and the clear emphasis given to the overriding powers of Parliament (the symbol for complete sovereignty of the people), is attributed as having fuelled a 'complete triumph of majoritarian democracy'.<sup>23</sup> The resulting impact on constitution making is seen as leading to an 'era of instrumental constitutionalism where constitutions were enacted by ruling governments and amended to serve their self - interest'.<sup>24</sup> A combination of 'majority politics', and 'inter - party politics' between the majority parties did much to subvert the effort of the Independence Constitution in 'nation building' and in creating a spirit of equal citizenship within the ethnic and religious communities in Sri Lanka. Majoritarianism came to be evident widely, encroaching into areas such as public sector appointments, and education policy.

Perhaps the issue that best demonstrates the blatant display of majoritarianism, and the friction arising from it, is the 'Sinhala only' policy, adopted by successive majority governments in power. A number of historical factors contribute to the contentiousness of this issue, which greatly accentuated the already existent 'fears' on the part of the Tamil population of increased 'marginalisation'. Despite assurances given by the two majority Sinhala parties of the time, that both Sinhalese and Tamil would be given 'parity of status', both parties endorsed the passing of the Official Languages Act, No. 33 of 1956 (referred to as the 'Sinhala Only Act'). This Act made Sinhalese the 'one official language of Ceylon'.<sup>25</sup> The issue of language was perpetuated by the republican constitutions that followed, and has been the center of what now seems an irreparable 'ethnic conflict'.

The 1972 Republican Constitution removed much of the minority safeguards of the Independence Constitution. Provision to safeguard against conferring privileges or imposing disabilities against persons of any community or religion, was not replaced by this Constitution. The Fundamental Rights chapter<sup>26</sup> contained in this Constitution was perceived as the 'ultimate guarantee of minority rights', but in practice 'the balance of force' is said to have 'tilted towards Sinhala - Buddhist majoritarianism, buttressed by commitment to socialist principles'.<sup>27</sup> This Constitution entrenched the 'Sinhala only' language policy in a context of increasing Sinhala - Buddhist rhetoric. Article 7 declared Sinhala as the official language, while use of the Tamil language was to be in accordance with the Tamil Languages (Special Provisions) Act No. 28 of 1958. Further, Buddhism was given an elevated position, with the corresponding duty of the State to

protect and foster it.<sup>28</sup> This latter provision is seen to undermine the 'secular' character of the State, which had hereto been accorded by the Soulbury Constitution.

The Second Republican Constitution in 1978 reflected the 'Sinhala Buddhist thinking' that fuelled the provisions of the 1972 Constitution. Buddhism was again given the foremost place<sup>29</sup>, while assuring to all religions the right to religious freedom granted by the chapter on fundamental rights. The language policy indicated signs of progression with time; Tamil was granted the status of an 'official language' by the 13<sup>th</sup> amendment to the Constitution, and the status of an 'language of administration' by the 16<sup>th</sup> amendment to the Constitution. It has been pointed out that the wording granting equal status to these two languages is 'obscure' in that it casts a shadow on the 'real' status of the Tamil as an official language. An official language in the context of a democracy would be that which is used by the main organs of government, namely the legislature, executive and judiciary; the use of the words "Tamil shall 'also' be an official language' has raised the question of whether 'Tamil will be also used, but in a secondary status'.<sup>30</sup>

Both the 1972 and 1978 Republican Constitutions defines Sri Lanka as a 'unitary' state. The Independence Constitution had not given a definition to the State, leaving the structure of governance open ended. The need to give articulation to Sri Lanka as a unitary state was perhaps a response to escalating demands amongst the Tamil minority for a 'federal' system of government, which would grant them greater autonomy in areas, which have traditionally been the 'homeland' of the Tamils. Provisions of both these Constitutions demonstrate, that the institutional structure outlined therein is rather a stifled variant of the representative democracy that was inherited, to the extent at least that they disabled a sense of full 'autonomy' to flourish and perpetuate itself, in a manner that was meaningful for all citizens in Sri Lanka.

The fundamental rights and freedoms given expression to in both the republican constitutions were seen as a guarantee to all citizens of an equal status in society. Both Constitutions recognise rights such as the freedom of expression, association and assembly. However, section 18 (2) of the 1972 Constitution considerably restricted the operation of these rights, in the interests such as national unity and integrity, national security, national economy, public safety, and the protection of public health or morals. Thus, fundamental rights were subject to the 'permission' of parliament, and the wide-ranging exceptions outlined in the above section. The suspension of these rights were frequent, with the constant use of emerging regulations during the time of this Constitution. The 1978 Constitution incorporated a chapter on fundamental rights, and in addition gave effect to a mechanism to make these rights justiciable. Any person aggrieved by executive or administrative action could now apply to the Supreme Court to have these rights redressed. The restrictions on the applicability of these rights are not wide ranging, and are for a few limited purposes such as national security and religious and racial harmony.

## 2.3 Separation of Powers and Checks and Balances

An adequate system of checks and balances is necessary to ensure that State power does not get overtly concentrated, in any organ of government. This is especially the case where the state commands a large resource base and is responsible for regulating welfare provision, and where matters of governance is essentially centralised. The Independence Constitution took a minimalist approach to State intervention. It did not involve itself in matters outside the 'traditional' sphere of state activity - areas such as national security, and international relations. The 1972 Constitution on the other hand reflected a socialist ideology, which entrenched ideals of State intervention in welfare, and the concentration of resources in the State. It also allowed for an expansive executive, which in the event of a parliamentary majority could wield unfettered powers. The 1978 Constitution in this regard allowed for a greater check on State Power, in making the executive accountable to Parliament.

The concept of the separation of powers was first articulated in 1748 by the French political philosopher Montesquieu in his work, *L'Esprit des Lois*, and has since been the subject and focus of many modern constitutions. The Independence constitution however, did not endorse the concept of separation of powers, or deem it necessary to outline any checks and balances for the different organs of government. This reflected the influence of the British constitution where the different organs of government are not accorded equal status, and parliament is vested with both legislative and judicial power. While many of the provisions of the Independence Constitution sought to safeguard the independence of the judiciary, the courts had to constantly grapple with the 'entrenchment of judicial power' within the constitutional framework.<sup>31</sup> The Independence Constitution did not create a new system of courts; neither did it make

any specific mention of judicial power.<sup>32</sup> A Judicial Services Commission was entrusted with the task of appointing judicial officers, other than the judges of the Supreme Court.

The executive power under the Independence Constitution was exercised by the cabinet whose nominal head was the Governor General. The executive was made responsible and accountable to parliament by constitutional provision. The cabinet members were also members of parliament, as was the case in the British constitution, and also is today, both in Britain and Sri Lanka. Despite allegations that the constitutional provisions relating to the judiciary were amenable to abuse by the executive, the Supreme Court under the Independence Constitution was in particular, esteemed for its innovation in maintaining its independence.<sup>33</sup> However, the tacit acknowledgement of the Supreme position of Parliament under the Independence Constitution often challenged the strength of this independence. An analysis of the interpretation given to the provisions of the Citizenship Act No. 18 of 1948 demonstrates the 'reluctance' of the courts to dismiss the position taken by parliament. This Act dealt with the citizenship rights of the Indian Tamil Community. The cumulative effect of its provisions was that it restricted the voting rights of this community, although its aim was to facilitate the acquisition of their citizenship. The Supreme Court in this case, refused to give due regard to the rationale behind Section 29 of this Constitution.

However, Parliament's power was circumscribed by the implicit incorporation of judicial review in enabling the court to decide whether any Act of parliament was in contravention with section 29 (2) (as discussed above). It was debatable whether section 29(4), which provided for the amendment of the any constitutional provision by a two-thirds majority, applied to section 29 as well.

If Independence Constitution didn't give due regard to the Doctrine of Separation of Powers, the 1972 Republican Constitution removed its applicability all together. Sovereignty was vested in the 'people' and that sovereignty was exercised through the NSA of elected representatives of the people.<sup>34</sup> Executive and judicial powers were to be exercised by parliament through the instrumentality of the cabinet and the judiciary respectively. The Constitutional Court in its decision pertaining to *The Associated Newspapers of Ceylon Ltd., (Special Provisions) Bill* Decision, held that the doctrine of Separation of Powers has no place in the 1972 Constitution.<sup>35</sup> Thus a discussion of corresponding checks and balances between the organs of government seems futile in light of the fact that Parliament reigned supreme, with little fetter or check on its power. The legislative powers outlined in section 44 contain no less than the power to repeal the Constitution in its entirety (with a two - thirds majority). There was also substantial powers vested with the executive; for instance, the Cabinet of Ministers had the power to dismiss and subject to discipline judges of the inferior courts. While there is argument to say that this constitution merely removed the powers of judicial review from the courts, but without intention to transfer judicial power to the legislature (by section 5), the judiciary under this Constitution remained weak, and malleable by both the Executive and Parliament.

The 1978 Republican Constitution made a clear effort to incorporate the Doctrine of Separation of Powers, with the main aim of curtailing the somewhat arbitrary power of the predecessor Parliament. The most significant institution that this Constitution established was that of the 'Executive President'.<sup>36</sup> The President is the Head of State, Head of the Executive, and of the Government, but is elected at an independent election, and is not a part of the legislature. There is to an extent, a separation of powers of the Executive and Parliament. As the head of the Executive (the Members of the Cabinet), the President has wide ranging powers, including the power to assign to himself any subject or function not assigned to any member of the Cabinet. The Cabinet of Ministers is charged with the direction and control of the Government.<sup>37</sup> While the members of cabinet are all members of Parliament, the President as the Head of the Cabinet has the indirect power to control the direction of legislative decision. Further, the President may be entrusted with the power to enact emergency regulations under the Public Securities Ordinance, with the effect of overriding, amending or suspending the operation of any law, except the provisions of the Constitution.<sup>38</sup> While parliament is not allowed 'abdicate its legislative powers'<sup>39</sup>, the above Articles provide for an exceptional situation of public emergency.

The transferring of legislative powers to the executive in certain instances, have a historical basis in Sri Lanka. It has been held that the 'delegation' of legislative powers in these instances is not inconsistent with the doctrine of separation of powers.<sup>40</sup> In another case the Constitutional Court attempted to justify executive action on the basis that the 1972 Constitution did not recognise the doctrine of separation of powers; though the Court had expressed the better view that 'it was a necessity for parliament to delegate its legislative powers, due to a lack of time to attend to each and every need of the modern welfare

state'. During the operation of this Constitution the use of emergency provisions were interpreted widely and used for various other purposes. The President's power of making emergency regulations under the 1978 Constitution is subject to control by Parliament.

The Judiciary under this Constitution was very much more independent. The role of the Supreme Court was enhanced, with an added fundamental rights jurisdiction. Any person aggrieved by the infringement or imminent infringement of a fundamental right (outlined in the fundamental rights chapter), by executive or administrative action, may apply to the Supreme Court according to prescribed procedure.<sup>41</sup> As of recent the Supreme Court has used this jurisdiction innovatively and interpreted the provisions of the fundamental rights chapter broadly, to encompass violations of human rights not outlined therein.<sup>42</sup> It has also attempted to extend 'executive and administrative action' to include the formulation of State policy, detrimental to the realization of the fundamental rights of persons.<sup>43</sup> However, the independence of the judiciary under this Constitution was compromised by granting to the President the function of appointing the Chief Justice, all the Judges of the Supreme Court and the Court of Appeal.<sup>44</sup> However, this provision has since been removed by an amendment to the Constitution,<sup>45</sup> which entrusted a Constitutional Council with the responsibility of making these appointments.

## 2.4 Self - Governance at Sub National and Local Level

The 'district' up until the late eighties was the main unit of reference for 'decentralised' administration. The Constitution of 1978 gave the district 'constitutional status' and stipulated in Article 5 that 'the territory of Sri Lanka shall consist of twenty - four administrative districts'.<sup>46</sup> After the abolishment of the larger provinces established by the British, the district grew to be the 'sub - national unit of general administration'.<sup>47</sup> Political developments in the late 1980s brought provincial administration back into sub - national government, by an amendment to the Constitution, establishing nine administrative provinces.

The decentralisation of power and governance both at the district and provincial level have been the subject matter of demands for greater autonomy, by minority communities. Negotiations held between the United National Party and the minority Federal Party in 1965 led to the 'Dudley - Chelva' pact, which stipulated for 'District Councils' to be established. The central government was to retain the prerogative of giving directions to District Councils in areas of national interest.<sup>48</sup> Proposals for the District Councils involved that the executive arm, comprising members of parliament, elected mayors and municipal councilors, would be empowered to - formulate and recommend development schemes; and raise loans and levy taxes with the approval of the Minister of Finance.<sup>49</sup> These councils were to be established with considerable control and supervision from the center, rendering them less decentralized than was hoped for by the minorities.

The district administrative structure has become increasingly politicised over time. With the effect that the role of administration at the sub - national level, was soon to be relegated to one of 'administrative relations'<sup>50</sup> between the representatives of the center and the proliferation of agencies at the periphery. This in part resulted from the inability of the district administrative officer, the government agent, to effectively deal with and coordinate the excessive departmentalization of functions, at the district and local level. The Government agent had hitherto played a coordinating role, and was the principle officer for 'plan implementation and progress control in the district'.<sup>51</sup> The appointment of a District Political Authority in 1973, the predecessor to the present District Minister, clinched the process of politicisation at the sub - national and local level. The impetus for this introduction was to 'revitalise the district administrative apparatus', with the inevitable result of galvanizing central politics at the district level. The Member of Parliament was no longer the 'silent observer' of district administration, and political leadership was perceived as strengthening the bureaucratic authority of the government agent. Thus, district administration gradually became a playing field for constituency - politics, where the Member of Parliament would implement programmes, originally intended to be guided by non - political considerations. The United National Party (UNP) in its election manifesto in 1977 made a policy decision to establish 'district development councils', presided over by a district minister who would serve as the link between the district and the center, and have direct control over resources allocated by the central government. The District Councils, which came into being by the Development Councils Act No. 35 of 1980, comprised elected members, and members of Parliament who outnumbered the other members. The members of parliament were thus able to dominate district level activity, as well as conventional local

government activity, which were absorbed by these councils.<sup>52</sup> The government agent was made the district secretary, in order to ensure the cooperation of bureaucracy at the sub - national level.

The re - introduction of a provincial system of governance, affected further decentralization of administrative power, by an amendment to the Constitution of 1978. The 13<sup>th</sup> amendment to the Constitution established, eight provincial councils for nine provinces, with one council to coordinate the war - torn North and East provinces. The main impetus for the setting up of these councils was a provision in the Indo - Sri Lanka Peace Agreement of 1987. A condition of this agreement was that the North and East be granted autonomous powers, as a remedy to the on - going ethnic conflict. However, these two provinces for which, apparently the entire provincial system was constructed, has so far not had an operative council, as it is not possible to conduct provincial elections in their designated area.

The Provincial Councils have been expressed as 'hasty puddings' put together to appease Indian pressure directed at the government, towards resolving the ethnic conflict.<sup>53</sup> This is supported by the argument that if 'a real or effective' scheme of devolution was envisaged, it might have been more meaningful to base devolution on ethnicity or geographic and economic features, rather than on 'administrative provinces'.<sup>54</sup> While there is substantial power that has been devolved to the provinces, there is still a large scope for effective central control; for instance, the Governor of the province is appointed by the President, and is vested with considerable discretionary powers. Perhaps the area most susceptible to political maneuvering by the center is the area of 'national policy making'. The task of formulating 'national policy over all subjects and functions' has been retained by the central government, establishing that all powers of policy - making is with the center. There is much obscurity concerning the parameters of central policy making, and whether it has the effect of rendering devolved power void of any meaningful content.

Thus, the provincial council system has constitutional recognition as a system of 'devolved' power between the center and the provinces. The reality however is that, the centre has the leverage to encroach into those areas, which have been devolved to the provinces. In terms of a definitional analysis there has been no effective decentralization, or the reducing of centre powers, as envisaged by a general understanding of the term 'devolution'. In order that a system of decentralisation is perceived as 'devolution' of power, it must essentially have effective legislative and policy-making capacity. The system is expected to hold the entire administration in the devolved area, accountable to the governing body closest to the people of the designated province.

## 2.5 The Public Service and Administration

Public administration in Sri Lanka has been highly centralised since colonial times, but has always given some priority to maintaining administrative structures at the district and/ or provincial levels. With the introduction of the provincial system outlined above, a variety of sectoral activity, which has by far remained the preserve of central government were devolved to the provinces, by constitutionally provision. There is a corresponding requirement now to restructure public administration, such that public administration will prove to be relevant in the decentralised context.

The independence of the public administration, both at the central and decentralized level, is secured by constitutional and political structures that allow it the freedom to exercise its discretion in matters of public welfare. The Soulbury Constitution provided a framework for the development of an impartial and independent public service. An independent Public Service Commission was established to carry out the policy decision of politicians, in an impartial and accountable manner. While public servants were assured protection against any vindictiveness on the part of politicians, the Commission was strong against any attempt to interfere in its role and functions. The Commission was entrusted with the transfer, dismissal and disciplinary control of public servants. A further aim of the Soulbury Commission in establishing a strong public service commission was to guarantee to minority communities, that appointments to the public service would be free of any bias towards the majority Sinhalese. The record of the Commission under the Soulbury Constitution is said to have been 'impressive', with many recorded instances of refusal to yield to political power.<sup>55</sup>

The independence of the public service was greatly compromised by the 1972 Constitution. The appointments, transfers, dismissal and disciplinary matters of public servants were brought directly under

the Cabinet of Ministers. The State Services Advisory Board, and the State Services Disciplinary Board, comprised of persons appointed by the President. Thus the public service was brought under the direct control of the executive, removing the impartiality that was characteristic of the public service under the Soulbury Constitution. The Public Service was now susceptible to political bias.

While the 1978 Republican Constitution reinstated the Public Service Commission, it was not independent in the sense that it was, under the Soulbury Constitution. It was severely dependent on Cabinet delegation for its powers.<sup>56</sup> The Presidential Executive style of public administration established by this Constitution is seen to have exacerbated a situation where 'government officials were increasingly subservient and dependent on their political overlords'.<sup>57</sup>

### 3. Party Political Domain

#### 3.1 Structures of Organized Political Competition

Sri Lanka, at the time of its independence from the British, did not have a system of competitive party politics. The few political parties in existence at the time were semi - autonomous and contributed very little to mainstream political decision-making. The Ceylon National Congress<sup>58</sup>, the prominent 'political leadership' during the initial period of political party development, was not organised on the lines of a political party. Established in 1919, it was more a gathering of middle class educated elite, who attempted to represent all Sri Lankans in nationalist politics. It was not akin to nationalist movements seen in other countries, which most often were in contradiction with colonial governments. Rather, the Congress was in the most part in agreement with the terms on which they were to be granted self-government, in the 1930s. Therefore, there was no mass political movement in Sri Lanka in the run - up to independence, outside of the established legislature of the time. In fact when universal franchise was introduced in 1931, the elite did not express much enthusiasm, or feel the need for mobilizing mass political support.<sup>59</sup> Despite its somewhat elitist membership however, the Congress was able to 'mobilise public opinion and win majority support' within the legislature; it was able to 'evolve coherent policy' and emerge as a distinct political party.<sup>60</sup>

The Congress was resilient in terms of political rivalry, which before independence was the Ceylon Labour Party, the first political party in Sri Lanka. While this party had potential to emerge as effective political opposition to the Congress, its failing was that it was not able to mobilize a following outside the urban working classes. There was very little difference however, in whom the Congress represented. Peasant or worker representation at the level of decision-making was non - existent; and branch associations were underdeveloped.<sup>61</sup> While there was minority representation in the Congress, minority leadership did not flourish within the party.

It has been remarked by an imminent academic that the 'circumstances under which parties first arise in a developing political system, may have an important effect on the kind of parties and the structure of the party system which subsequently emerge'.<sup>62</sup> This is certainly true of the party structure that was to later emerge. While the Congress did not need to mobilize the masses at its inception for popular support, its opposition came from those parties who were able to sensitise the masses, to their relative political 'neglect' at the hands of the colonialists, and the post - independence ruling elite. The same author has also written the importance of mobilising the masses. He says that '...the political party emerges whenever the notion of political power comes to include the idea that the masses should either be allowed to participate or to be controlled'.<sup>63</sup> The competitiveness of power politics in Sri Lanka has turned on the ability of political parties, to articulate the aspirations and popular ideas of the masses.

The Soulbury Constitution of 1946 'called for a two party system', and this is seen as having provided the elite with an opportunity to recognise the interests of the mass of voters.<sup>64</sup> The United National Party (the UNP), into whose ranks almost the entirety of the Congress had transferred, was perceived as a center - right party whose 'policies were guided by the need to strengthen the petty - bourgeoisie in order to provide a broad social base for the national leadership in power'.<sup>65</sup> The UNPs real political challenge came from the Sri Lanka Freedom Party (the SLFP), a break away group of the UNP established in 1951. The SLFP attempted to articulate and embody the political and social aspirations of the sinhala educated

intelligentsia, by reference to traditional ideals and the use of Sinhala - Buddhist rhetoric. The SLFP emerged as the new leadership that would integrate the neglected masses into the political and social life of the country and bring about greater social equality. However, the rural masses were to soon fall into disillusionment, when it became apparent that despite the promise of wide - ranging changes, policy remained relatively unchanged, while much of the bureaucracy and administration was still in the hands of the middle - classes.<sup>66</sup> The UNP maximized on this fact, to again transfer popular mass support to itself, by adopting policies that promised economic liberalization as a new path to freedom and social equality. It opposed the socialist policies of the SLFP, which sought to centralize the power of the State. Whatever the policies that were used, both these parties were compelled to mobilize the popular support of the rural masses. The UNP used the ideology of 'democratic socialism', where social development would be approached through a combination of private means and welfare measures;<sup>67</sup> it embarked on a policy plan to establish an 'open economy' with competitive export oriented production, while the State retained a hold on many of the sectors, such as the plantation sector.

A significant feature of party politics since the election of 1956 is the constant interchange of power between the UNP and SLFP, which were essentially two centre - right parties, despite the use of different rhetoric. This interchange of power however, hailed the beginnings of a bi - polar system of party politics. In the elections that followed these two major political parties were able to capture as much as 90 percent of the votes, sidelining the leftist parties and disabling the emergence of independent parties.

Minority leadership within the two majority parties was significantly non - existent. The overt lack of recognition for minority representation in what was essentially 'majority politics', and the inevitable alienation by the constant appeal to the Sinhala rural population, saw minority leadership emerge in predominantly Tamil populated areas. The Federal Party (the FP), founded in 1949 after a split occurred within the All Ceylon Tamil Congress (ACTC), spoke for the first time in 1951 of 'the right of the Tamil to political autonomy, and desire for a federal union with the Sinhalese.'<sup>68</sup> The idea of a 'federal state' was not amongst the demands of the ACTC, the principle Tamil political party at the time of independence. Rather, the demand was for 'equal representation' in parliament. The idea of a federal state put forward by the FP failed to secure a majority of the seats in the North East, in the 1952 elections. But the FP, and later the Tamil United Liberation Front, was soon able to mobilise popular support amongst the Tamil population for a federal government - a Tamil homeland. This was in the face of the growing and constant challenge that Sinhala nationalism posed to their security and autonomy. Thus there emerged a distinct and separate competitive party politics in the North, based on issues confronting the Tamil ethnic minority; there were in effect two party systems in operation, with the advent of the 'socialist - nationalism' of the SLFP.<sup>69</sup>

The leftist parties remained undaunted by the swing of power between the UNP and SLFP. Marxist parties comprised some of the first parties to be formed on political lines, and remained in active politics despite failing to capture the center of Sri Lankan politics. The Lanka Sama Samaja Party (the LSSP) and the Communist Party (CP) failed to gain any seats contested for at the 1977 elections. A significant failing on the part of these left - parties were their inability to identify and align themselves with the rural peasantry. Their following was gathered mainly from the urban working classes. As a result these leftist parties joined forces with the SLFP, in an attempt to articulate the needs of the working rural peasantry, mostly concentrated in the plantation sector. This led to these parties resorting increasingly to the ethno - national rhetoric of the SLFP, and shedding the initial stand they had taken on the issue of 'parity of status' for the Tamil language.<sup>70</sup> The Marxist parties shared power with the SLFP in 1956, 1964 and 1970, effecting a number of reforms that would benefit the rural peasantry.

Power sharing is articulated as 'unique experience' of the Marxist Parties in Sri Lanka,<sup>71</sup> and this experience is undoubtedly a recurring one, as is evidenced by the coalition government of the day. The Janatha Vimukthi Peramuna (JVP) shares power with the SLFP to form a majority government, whose main opposition is the UNP. The JVP is seen as having overcome the inability of other established leftist parties to identify with, and satisfy certain oppressed rural groups.<sup>72</sup> It was largely the 'depressed caste - groups', the clients of the elitist 'gouvigma caste', that comprised the core of the JVP during the insurrection in 1971.<sup>73</sup> The relative intensity of the insurgency activity of the JVP in 1971 is attributed to two identifiable factors<sup>74</sup> - JVP support was more marked in areas where patronage systems were more oppressive; activity was facilitated in areas where there was less supervision by the forces. The JVP operated largely outside the formal political sphere; those who joined its ranks did not necessarily identify themselves with the Marxist ideology that it associated itself with. The insurrection itself was seen more as being 'anti -

establishment' rather than 'anti - right', or ideologically motivated.<sup>75</sup> The leadership of the JVP, as opposed to other Marxist parties was drawn from the poorer rural communities, with little sophistication in appearance or oratorical skill.

### 3.2 Structure and Accountability of Party Political Competition

It is an undisputed fact that Sri Lankan society is highly politicized. It is rife with ideological contentions, and inter - group and intra - group conflict. In this context it is vital to question the extent to which different political parties have been able to relate to divergent social and political cleavages. This will involve looking into the structure of political parties, their geographical spread, and how representative they are of the grass roots, in terms of their accountability both within the party structure and outside of its bounds. Also pertinent to question whether political parties in the future will be representative of distinct political cleavages, such as ethnic divisions, and whether it is still possible to attain a level of integrated representation, that has been difficult to achieve in the past.

C. R. de Silva draws a link between the nature of the party system, the role of parties and their organizational structure on the one hand, and the political framework under which the party operates, on the other. A full understanding of the former he says necessitates an understanding of the 'environment' in which the party system operates. In this regard he further elaborates on those factors that condition the political framework, such as extra - constitutional political forces including private associations, the bureaucracy and the military. The political framework and environment is also influenced by the degree to which it is an 'open' system.<sup>76</sup>

There is some debate concerning whether political parties in Sri Lanka are organised to reach the grass root level. Robert Kearney observed that, excepting in the case of a few left wing parties, party organization was 'loose and informal'.<sup>77</sup> The level of activity and prosperity of branch organizations were erratic and dependent on whether there is an election around the corner. Party branches for the two main political parties were reported to have been 4000 in 1971 for the SLFP, and the UNP claimed it had far more many branches in 1977.<sup>78</sup> Despite an apparent picture of good party organization, it has been observed that Sri Lankan political parties, as opposed to those in India, lacked 'political integration', in that a 'two way connection' between the leadership and the grassroots were lacking.<sup>79</sup>

Political parties in Sri Lanka has to a great extent been centralised with implications for the not only for the political system, but also for issues surrounding governance.<sup>80</sup> The main political parties of sought to emulate the western democratic model of party structure. The UNP Constitution of 1946 outlined a democratic system by which the party conference would consist of delegates elected at local branches. The working committee, the highest policy making body of the party, and the secretary general of the party were elected by the conference.<sup>81</sup> There has over time been a centralization of power within the UNP an increased politicisation of the leadership. The leadership is not elected unlike under the 1946 UNP Constitution, and the leadership also nominates the entire working committee of the party.<sup>82</sup>

In terms of expanding from a party consisting of elites to an island wide party membership, the main political parties in Sri Lanka has achieved much in a very short period of time. However, the centre largely controls these parties and while popular participation is encouraged at the periphery decision-making is very much the concern of the leadership and the centre. The SLFP Constitution of 1983 clearly indicates this trend in intra- party democracy in Sri Lanka.<sup>83</sup> For instance, the composition of the central committee, is drawn largely from its executive committee, and members of parliament. The SLFP however, adopted a more democratic party Constitution after its defeat in 1978. Under this Constitution, party candidates chosen by the leadership had to be elected by the party branches.<sup>84</sup>

Other issues surrounding the structure and accountability of political parties in Sri Lanka involve - the role of the party conference, and changes and challenge to party leadership. It is a distinct feature of Sri Lankan politics that role of the party conference is limited to endorsing the resolutions of the leadership; delegates are allowed little room and initiative in challenging the decisions of their leadership.<sup>85</sup> Despite the democratic structuring of political parties, the party leader is rarely challenged and held accountable for the issues within the party, and its failures. The reality of power structures within intra - party politics undermines the democratic policies and ideals that are seemingly adopted and perpetuated.

Other political party structures vary according to the priorities and political ideology of the parties. The older communist parties had a restricted membership but an open organization in terms of party branches; they entertained a democratic approach to party policy and competitive elections for party leadership.<sup>86</sup> Other political parties such as the Ceylon Workers Congress were politically organised solely to represent the interests of workers and based itself on its trade union organization.

### 3.3 The Electoral Process – Provision for Free and Fair Elections

The Donoughmore Commission granted universal adult franchise to Sri Lanka. While Sri Lanka was amongst the foremost to be granted universal franchise in the developing world, it was nonetheless not by means of mass agitation for equal representation in matters of the political economy. In fact the elite was placed in the rather bewildering position of now having to cultivate popular support for their political and economic aspirations.<sup>87</sup> The Donoughmore Commission viewed universal franchise as an 'essential prerequisite' of social advancement above and beyond the requirement for a 'responsible government'. The aim of the granting universal franchise was to cultivate a responsible government that would have to now become representative of the people.

The concept of franchise was not alien to Sri Lanka, and significantly predates the granting of universal franchise. Elections were commonly held at the local government level, though the right of franchise was subject 'qualification' based on property.<sup>88</sup> The elected representation at the local level was substantial, and outnumbered the nominated representation. Thus the context in which the electoral process has developed is essentially one in which the population has come to accept universal franchise, as something of value and pride. It has however, over time become instruments by which partisan politics are perpetuated. This aspect of the electoral process pervades elections both at the national and sub-national levels.

Both the Republican Constitutions recognise the right to vote. Section 66 of the 1972 Constitution grants to every citizen the right to vote; Article 88 of the 1978 Constitution confers the right on every person to be an elector at the election of the President and of Members of Parliament. Article 93 of the latter Constitution specifies that the right to vote shall be 'free equal and by secret ballot'. It has been recognised by the Sri Lankan courts that the right to vote constitutes the fundamental right to freedom of speech and expression.<sup>89</sup> It is significant to the electoral history of Sri Lanka that governments in power have been overturned by the will of the people. Despite allegations of electoral malpractice, it has been widely recognised that the will of the people must prevail. In the period between 1956 and 1977, six successive governments were overturned at the general elections. The post - 1977 stage saw the government in power defeated at the polls in 1994, 2001 and 2004.<sup>90</sup>

A 'first past the post' (FPTP) electoral system was introduced at independence in 1948. The FPTP system was adopted with the introduction of universal franchise in 1931, with the decision to adopt 'territorial' electorates as opposed to 'communal' electorates. The representatives of minority communities urged the Donoughmore Commission for an electoral system based on communal electorates, but the Commission favoured the adoption of spatial territorial electorates with a view to cultivating a 'nation devoid of communal identities', and a 'true national identity'.<sup>91</sup> The criteria for demarcating electoral constituencies are two fold: an area based criterion and a population-based criterion. The parameters of these criteria are established by constitutional and legislative provision. Provision was also made for 'multi - member constituencies, where each voter had two votes, with the aim of enabling politically prominent minorities to represent themselves.<sup>92</sup> These minority groups would otherwise not be able to represent themselves within this system, by reason of their minority position.

The 1972 Republican Constitution also carried forward the FPTP electoral system. The eight elections held since independence by this system, saw the two main political parties alternate into power. A distinct feature of the FPTP system was that it produced governments with large majorities, which did not match the actual support it had at the national level. The 'winner takes all' character of this system created an artificial majority in parliament, despite an even distribution of support between the different political parties within the electorates. The general elections of 1970 significantly demonstrate this feature of the FPTP system: The SLFP with 36.9 votes secured 91 or 60.3 percent of parliamentary seats, whereas the UNP with 37.9 percent of the total vote secured only 17 or 11.3 per cent of Parliamentary seats.<sup>93</sup>

The Proportional Representative (PR) system brought in by the Republican Constitution of 1978, remedies the wild swings of the FPTP system, while it was also a tremendous benefit to religious and ethnic minority groups. The Constitution provides for not less than 20 electoral districts. A significant change was the method that was adopted to determine the voting strength of electoral districts, from 'population' to 'registered electors'.<sup>94</sup> At the ballot voters first vote for the party of their choice, and then mark three preferences from within the party. At the inception of PR system, individual preferences for candidates were not allowed, and voters indicated only the party of their choice; seats were allocated on the basis of the lists put forward by the party. Individual preferences were brought in after much criticism of the system, for disallowing voters to choose their individual representative, as well as for causing friction within parties over who should be entitled to sit in parliament from a particular electorate.<sup>95</sup> This system allows each party or group in a particular electoral district to be allocated seats in parliament, based on the overall 'quota' of votes they have received in the electorate. Thus there is better representation where there is no clear majority support for any party or group within an electoral district. This is significant where there are minorities in majority-dominated areas; minorities are better able to, under this system, elect representatives of their choice.

The wide ranging powers vested in the Executive President, by the 1978 Constitution, is at times seen as undermining the greater scope for representation afforded by the PR system. For instance, under the present Constitution, the President has the power to take over key ministries, irrespective of whether another government is in power. This raises questions concerning the representativeness of the different organs of government, under the present Constitution.<sup>96</sup> However, the Executive Presidency has made a contribution in that it has strengthened the position of minority groups in Sri Lanka. The Presidency is won on the basis of an absolute majority and would invariably require the support of the minority communities. This is especially the case since the 1980s; it would be detrimental for a presidential candidate to neglect the minorities, as well as those whose allegiance is to other political groups.

The recent electoral history of Sri Lanka, has caused grave concerns about the violence, corruption and the scale of exploitation of resources that is associated with it. There is mass reporting of extreme violence between party supporters, political intimidation, the stuffing of ballot boxes, and the gross and overt exploitation of state resources. In view of the above, it is vital to question the adequacy of the political and legal framework within which elections are held. Politically, it is increasingly recognized that interests of political parties may not always be subordinate to national interests. It is overtly apparent that public resources, most often in the control of the state, are widely used for the purpose of perpetuating partisan politics.<sup>97</sup>

## **4. Non-Party Political Formations**

### **4.1 Non – Political Mobilisation**

Sri Lanka received universal adult franchise in 1931 and political independence in 1948. The introduction of universal franchise was one major component of Donoughmore constitutional reforms, implemented in 1931. By the early 1930s, Sri Lanka did not have a political party system. At the time of independence of 1948, the political party system had just begun to develop. There were two left parties, the Lanka Sama Samaja Party (LSSP) which was formed in 1936 and the Ceylon Communist Party formed in 1944 and they were essentially working class parties. The leaders of Ceylon National Congress in view of the political independence that the British colonial rulers were preparing to grant Sri Lanka formed the United National Party (UNP) in 1947. In a sense, during the period between the granting of universal franchise in 1931 and the political independence in 1948, the main mobilisational groups in the democratic process were primarily non-party formations.

Ceylon National Congress was the organisational expression of the Sri Lankan elite, a stratum of class that had emerged in the context of colonial economic and social change. In ethnic terms, it was predominantly Sinhalese. As far back as 1919, there was a split in the Congress which resulted in the Tamil members leaving it on the argument that the Congress was serving primarily Sinhalese group interests. In the subsequent years, there emerged the Tamil Congress and the All Ceylon Muslim League as organisations for promoting the political interests of the Tamil and Muslim communities respectively. Thus, by the time of independence of 1948, Sri Lanka's political society had largely been ethnicised. The mainstream political parties emerged after independence out of this ethnicised political society. When the United National

Party was formed in 1947, its leaders expected that the new party would unify all ethnic communities. And indeed, there were Sinhalese, Tamil and Muslim members in the UNP's leadership. However, the UNP's post-independence public policy agenda as the ruling party was essentially a Sinhalese majoritarian one, which led to further ethnicisation of Sri Lanka's political society.

The social bases of the Ceylon National Congress, the Tamil Congress as well as the Muslim league were strikingly similar. The leaders of these organisations were, as James Jupp has described them, urban-based 'notables'<sup>98</sup> - a class of urban elite comprising of landowners, professionals (mainly medical doctors and lawyers) and traders who had accumulated immense wealth in the context of colonial economic expansion.<sup>99</sup> As political organisations, they had spread outside Colombo and beyond the confines of urban elite, although they were not 'mass' organisations' or 'popular' social movements. They were basically pre-party political formations, active in the sphere of negotiating with the colonial state for participation in the institutions of governance. In this politics of bargaining with the colonial state, they were essentially preoccupied with ethnic group interests.

Other than the elite-led political society, there was in Sinhalese society a secondary movement of nationalist mobilisation, which gained momentum after independence. Led by Buddhist monks and lay Buddhist intellectuals, the origins of this movement go back to the so-called Sinhalese-Buddhist revivalism in the late 19<sup>th</sup> century. The revivalist movement was active in the first two decades of the twentieth century too. It lost its momentum with the introduction of the universal franchise in 1931, primarily because the elitist Sinhalese politicians appropriated the slogans of the Sinhalese-Buddhist revivalist politics. The independence saw the elite nationalist politicians becoming the post-colonial ruling elite, but they were still a layer of the elite that was both westernised and bourgeois. It was a ruling class layer that could not articulate the economic and social aspirations of the intermediate classes of Sinhalese society, who were essentially vernacular, educated and who in social terms constituted a secondary, sub elite. The basic political program they articulated immediately after political independence was one centred on the idea that the independence state should be used as an instrument in correcting what they perceived as the 'historical injustices' that the majority Sinhalese-Buddhist community had suffered under the colonial rule. The UNP, which had become the post-colonial ruling elite, refused to implement such a radically nationalist project, which went beyond its own majoritarian nationalist policy agenda. The UNP's refusal gave an impetus for the leaders of this secondary stratum of Sinhalese-Buddhist nationalism to enter into mass mobilization, independent of both the state and the ruling party.<sup>100</sup> That mobilisation began in early 1950s on two major demands - to make the Sinhalese, the language of the majority community, the official language and to ensure state commitment to protect and foster Buddhism, the religion of the majority community.

This secondary stream of Sinhalese nationalism was the most influential civil society movement to have emerged in the first decade of Independence in Sri Lanka. Its methodology of social mobilisation was similar to that of the Left. Agitation and propaganda were conducted through countrywide public meetings, publications including newspapers and pamphlets and through the formation of agitational networks. The highpoint of its mobilisational campaign was the setting up of a citizens' inquiry commissions called the Buddhist Inquiry Commission in 1952. The All Ceylon Buddhist Congress and its affiliated bodies established this Commission with leading Buddhist monks and intellectuals as its members. The Commission held public sittings in the capital as well as in provincial towns soliciting public views concerning the grievances of the Sinhalese Buddhist community. The Commission's sittings were public spectacles that were meant to widen the mass base of the agitation. This wave of Sinhalese nationalism was to influence Sri Lanka's process of post-colonial political change quite decisively. It brought the radical Sinhalese-Buddhist agenda to the sphere of public policy. The making of Sinhalese as the official language in 1956 and the state commitment to foster Buddhism as the 'official' religion were direct outcomes of the success of this campaign. It also brought the subordinate and intermediate social classes that provided the social base for new Sinhalese nationalism to the domain of political power, as occurred through the regime change in 1956. In that year, the UNP lost the parliamentary election to a new political alliance called the Mahajana Eksath Peramuna (MEP - Peoples' United Front). The MEP's social base was primarily the intermediate classes in Sinhalese society. With that change, the class character of the post-colonial Sri Lankan state became open-ended.<sup>101</sup>

In the sphere of civil society, Sri Lanka had an active trade union movement by the time of independence. The origins of Sri Lanka's trade unions run back to the late 19<sup>th</sup> century.<sup>102</sup> Labour unions spread in the early twentieth century in parallel to the expansion of the colonial economy and its centres of activity in

the Colombo port, railways, plantations and commercial establishments in the import-export sector. Ceylon Labour Union was one of the most militant and leading trade unions in the 1920s to early 1940s. It organised workers in the state and private sectors mainly in Colombo, in the port, railway, textile factories, tea and rubber plantations and export processing industries. When the Left movement emerged in the late 1930s, a new wave of trade union politics also came into being, combining labour movement with anti-colonial politics. By the time of independence in 1948, Sri Lanka had a fairly well-organised trade union movement affiliated to the Left parties. One of the important events associated with the post-independence trade union politics was the *hartal* in August 1952. The *hartal* was a day of protest, largely participated by the workers and the poor, to demonstrate their anger against the rising cost of living and economic hardships. Supported by the Left parties, it was a country-wide protest action that brought together the trade unions and the urban and rural poor into political action.

The Non Governmental Organisation (the NGO), as understood broadly and apart from other Civil Society Movements with wide social mandates, have been existent in Sri Lanka from pre-colonial times. These were mainly in the form of 'informal groups functioning in spheres such as agriculture, irrigation (*wew sabha* - irrigation councils), and water management.<sup>103</sup> The dawn of independence saw a more formalised institutional structure to NGOs. These were mostly social service organizations geared to address growing rural poverty and other welfare centers, such as the Ceylon Social League (1914) and the Red Cross Society (1936).<sup>104</sup> The post-independent government was supportive of the work of NGOs, but there was relatively little growth in this sector up until 1977. This year marked a turning point in the proliferation of NGOs within the country, spurred on by the liberal policy approach of the UNP government, which came into power then. The UNP government's policies encouraged the participation of private investment and foreign aid, in welfare and development. The NGOs thus came to play a significant role in the provision of welfare services and development activity.

## **5. Social, Economic and Cultural Domain.**

### **5.1 Ethnicity and Identity Politics**

At the time of independence, Sri Lankan society had already been ethnically divided. The main ethnic political formations were the Sinhalese, Tamil and Muslim communities. Throughout the post-independence years, ethnic competition characterised the political change, with class and economic competition moving to the background of political struggle.<sup>105</sup> One may even go to the extent of saying that Sri Lanka's democratic process throughout the twentieth century carried in it ethnic politics as a major driving force. One historical reason for this symbiosis between ethnic politics and modern democracy is the fact that representative and electoral democracy was introduced to Sri Lanka in early twentieth century in a context where there was no political party system. In fact, when the principle of representation to the colonial legislature was introduced, the representatives were supposed to represent their ethnic groups. This system was called, quite aptly, 'communal representation.' When in 1931 the colonial legislature was expanded and the principle of universal franchise and general elections provided the mode of representation, there were no political parties to be the mediatory link between the citizen and the legislature. Candidates at elections appealed to the electorate projecting their personal qualities and importantly ethnic and religious identities, focussing primarily on 'communal' dimension of representation. The two decades prior to independence were marked by the intensification of Sinhalese, Tamil and Muslim ethnic politics. When political parties began to develop after independence, parties, except the Left, acted as representatives of ethnic groups. In brief, the evolution of Sri Lanka's electoral democracy and mobilisation of ethnic interests through democracy were processes closely intertwined.

### **5.2 Social Welfare Politics and the Democratic Process**

One of the key features of the electoral democratic process in Sri Lanka is the high voter participation, often in the range of 80 to 85 percent, at elections. Similarly, political parties have penetrated almost all segments of society, in urban, rural, and plantation areas. Among the factors that facilitated such a degree of democratic penetration is perhaps the extensive welfare and social security system that had resulted in high literacy levels, narrowing down the gender gap, and erasing city-country divide through extensive

networks of roads and communication. Partial democratisation of the colonial state in the last three decades of the colonial rule had inaugurated Sri Lanka's welfare state. The introduction of universal franchise, the expansion of the colonial legislature with elected members from the local elite, and the establishment of the Executive Committee system in which the local members of the colonial legislature were given executive powers in 1931 made the emergence of the colonial welfare state possible. Spread of the left and trade union movement from the mid-1930 onwards had also raised the political consciousness of the populace. It appears that there has emerged in Sri Lanka in the late colonial and early post-colonial decades a relationship between the social welfare politics, expansion of democratic institutions and citizens' political participation.

The process outlined above was not without contradictions. In a very significant way, it facilitated a close relationship between the poor and subordinate social classes in Sri Lankan society and the state through the mediation of the democratic process. At the same time, it also brought the subordinate social classes and the state into conflict, precisely because the scope of state welfare interventions became limited as a result of the shrink in foreign exchange earnings. In a way, Sri Lanka's welfare state was sustained by the surpluses generated by the plantation economy. When these surpluses began to dwindle in the 1960s, the social constituencies that were beneficiaries of state welfare became radicalised. The anti-state insurgency that began in the early 1970s in Sri Lanka was to a great extent an outcome of the crisis of the welfare state.

### 5.3 Social and Ethnic Cleavages

The major cleavages that found expression in the democratic process at the time of independence were linked to class and ethnicity. Class divisions were linked to the changes brought about by the colonial economy. The domestic capitalist class was a relatively small social group, whose economic interests were linked to the colonial plantation economy.<sup>106</sup> They mainly lived in Colombo. There was hardly an industrial capitalist class in Sri Lanka at the time of independence, since there was industrial sector in the economy as such. The small manufacturing sector was primarily state-owned. The working class was concentrated in two major geographical areas, in Colombo where commercial and export-import economy was concentrated and the central hill country where the colonial plantation economy was located. The plantation workers were Tamils in ethnicity, who had been brought to Sri Lanka in the late 19<sup>th</sup> and early 20<sup>th</sup> century by the European tea planters. Because of the very nature of the labour regime in the colonial plantation economy, the plantation owners kept the migrant workers of recent Indian origin isolated from the rest of the society. With a population over one million at the time of independence, most of the plantation workers did not have citizenship and voting rights till about the 1980s. In fact, most of the plantation workers of recent Indian origin lost their citizenship when the independent Sri Lankan parliament introduced a law in 1949, one year after independence, re-defining citizenship.

In class terms, Sri Lanka had a vast population of peasantry spread over two ecological zones, the wet zone and the dry zone. Class cleavages in Sri Lanka's rural society were peculiar in relation to other South Asian societies in the sense that Sri Lanka did not have a class of big feudal landlords similar to zamindars in the sub-continent. The pre-colonial aristocracy held large landed estates, yet the colonial plantation economy did not consolidate their economic and social power. The nature of Sri Lanka's agrarian economy by the time of independence was such that the rural economy was dominated by a class of landlords with relatively small land holdings and a mass of share-croppers.<sup>107</sup> In order to address the issue of landlessness among the vast peasant population, particularly in the wet zone agrarian districts, the colonial government inaugurated in the mid-1930s a schemes of peasant resettlement in the dry zone where large areas of state forest land were available for cultivation.

Parallel to social cleavages, the Sri Lankan society at the time of independence had also developed sharp ethnic and religious cleavages. These cleavages were articulated primarily in terms of majorities and minorities, a frame of reference that electoral democracy had reinforced in the pre-independence decades. In ethnic terms, the Sinhalese constituted the majority, about 75 per cent of the population and the Tamils about 20 percent. The Muslim community, who spoke Tamil, constituted about 4 per cent of the population. There was also a small Burgher community who were descendents of the Portugese and Dutch settlers. The majority of the Sinhalese were Buddhist in religion while the majority of the Tamils were Hindus. There was a relatively small Christian population, about 6 percent, who cut across Sinhalese and Tamil ethnic identities. Both ethnicity and religiosity played a significant role in the political process

before and after independence. Even before independence, ethnic identity was at the centre of political mobilisation in Sinhalese, Tamil and Muslim societies. Although the democratic principle of elections based on the territorial principle, ethnic group leaders viewed representation from ethnic lenses. The rise of post-colonial Sinhalese and Tamil nationalisms in the 1950s took place against the backdrop of electoral democracy combining itself with ethnic identity politics. The formation of Federal Party by the Tamil leadership in 1952, the victory of the Sinhalese-Buddhist nationalist coalition of *Mahajana Eksath Peramuna* (MEP-People's United Front) in 1956, the making of Sinhalese the official language in 1956, and the Sinhalese-Tamil ethnic riots of 1958 were some of the key events in this process of ethnic politics in the immediate post-independence Sri Lanka.<sup>108</sup> The United National Party, formed in 1947, and the Sri Lanka Freedom Party, formed in 1953, were the two main party formations that emerged as the ruling parties and they basically used Sinhalese-Buddhist nationalism as a key mobilisational ideology. The Tamil Federal Party, formed in 1952, focussed primarily on the interests of the Tamil community living in the Northern and Eastern provinces, and it began to campaign for a federal constitution on the argument that the Tamils constituted a separate nation in Sri Lanka. There was a host of other Sinhalese political parties that emerged in the 1950s and 1960 within the ethno-nationalist paradigm. The only political parties that defied ethnic mobilisation and presented a ideological plank cutting across the ethnic and religious divide were the two Left parties, the Communist Party (CP) and the Lanka *Samasamaja* Party (LSSP- Lanka Socialist Party). The left parties argued for class interests as well as secular democratic rights of all communities.

Meanwhile, the democratic process in Sri Lanka unfolded along with hierarchical social structures and egalitarian ideologies. Both Sinhalese and Tamil societies had caste structures. In the Tamil Hindu society, caste divisions and caste-based discrimination were sharper and more pronounced than in Sinhalese Buddhist society. Two reasons seem to have contributed to the lessening of caste discrimination in Sinhalese society. The first is the presence of the social egalitarian ideology of Buddhism. The second is the upward social mobility which a number of subordinate castes in Sinhalese society achieved during the process colonial economic and social transformation. A number of subordinate castes entered the process of capital accumulation along with the colonial economic expansion, and with that they received the benefits of education, state employment and status in urban elitist professions. The flexibility of social structure facilitated by the colonial change made caste discrimination in Sinhalese society less pronounced.<sup>109</sup> Interestingly, Sri Lanka's political parties did not openly mobilise caste constituencies. The caste factor has always been a hidden dimension in political competition as well as political violence.

Among the egalitarian social ideologies that provided a conceptual context for the democratic process in Sri Lanka were Buddhism, socialism and social welfarism. The social egalitarian dimensions of the Buddhist ethics became prominent as a social ideology when subordinate and non-dominant caste groups became active in the Buddhist revivalist movement, beginning in the mid 19<sup>th</sup> century. However, the order of Buddhist monks became organised along caste divisions in Sinhalese society. Yet, in 'modern' Sinhalese Buddhism, the ideology of social egalitarianism is quite significant. The socialist ideology of social egalitarianism was associated with the Left and working class movement. The Left campaigned for social, class and inter-ethnic equality. Meanwhile, the ideology of welfarism was strongly linked to the welfare state that the local elite promoted with the inauguration of the universal adult franchise in the early 1930s. A strong element in this social welfarist ideology was that the state had a duty to provide for the poor and underprivileged sections of society. The provision of education, health and even essential food by the state, free of charge to the poor has been a major expectation from the state. It also worked in unison with the extensive patronage politics that the electoral democratic process promoted in Sri Lanka.

## End Notes

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<sup>1</sup> Taken from Williams, R. (1983) *Keywords – A Vocabulary of Culture and Society*, Fontana Press

<sup>2</sup> Ibid pg. 94

<sup>3</sup> Burke (1790) *Reflection on the Revolution in France*, in Ibid pg. 96

<sup>4</sup> Williams, R (Supra note 1) pg. 96

<sup>5</sup> Ibid pgs 95 - 97

<sup>6</sup> Ceylon, *Report of the Commission on Constitutional Reform*, 1945 Cmd. 6677. Epilogue p. 106 in Cooray M.J.A. (1982) *Judicial Role Under the Constitutions of Ceylon/ Sri Lanka – An Historical and Comparative Study*, pg. 63

<sup>7</sup> Ibid

<sup>8</sup> South African Constitution 1996

<sup>9</sup> Edirisinghe, R. (2000) *Constitutionalism and the Constitution Evolution of Sri Lanka: 1948 – 1999, Lectures on Comparative Constitutionalism in South Asia – 5<sup>th</sup> Lecture* (Saturday, 19 January 2000 – India International Centre), Law & Society Trust, pg.

<sup>10</sup> Freidrich C. *Transcendent Justice*, pg. 17 in Ibid pg. 2

<sup>11</sup> Edirisinghe, R. (Supra note 9) pg. 2 - 4

<sup>12</sup> The Constitution of India, Articles 131A and 32(1) in Cooray M.J.A. (1982) *Judicial Role Under the Constitutions of Ceylon/ Sri Lanka – An Historical and Comparative Study*, pg.

<sup>13</sup> Cooray M.J.A. (1982) *Judicial Role Under the Constitutions of Ceylon/ Sri Lanka – An Historical and Comparative Study*, pg. 71

<sup>14</sup> Ranasinghe Vs. Bribery Commissioner (1962) 64 NLR pg. 449, Ibid pg. 71 - 72

<sup>15</sup> Cooray M.J.A (Supra note 13) pg. 224 - 225

<sup>16</sup> Cooray M.J.A. *The Role of the Judiciary in the Protection of Fundamental Rights* in De Silva C. R. (edits) (1988) *The United States and the Sri Lankan Constitutions: Comparative Study*, Proceedings of Seminar, organized by The American Studies Association of Sri Lanka & The Law and Society Trust, Sridevi Printers, Sri Lanka, pg. 199

<sup>17</sup> Article 118

<sup>18</sup> Article 121 (1) – Ordinary exercise of constitutional jurisdiction in respect of Bills of Parliament.

<sup>19</sup> Coomaraswamy R. (2003) *The Politics of Institutional Design: An Overview of the Case of Sri Lanka* in Bastion S., Luckham R. (edits) (2003) *Can Democracy be Designed – The Politics of Institutional Choice in Conflict – torn Societies*, Zen Books, London & New York, pg. 8

<sup>20</sup> Ibid pg. 145

<sup>21</sup> Loganathan K. (1996) *Sri Lanka: Lost Opportunities – Past Attempts at Resolving Ethnic Conflict*, Centre for Policy Research and Analysis, pg. 2

<sup>22</sup> In Ibid

<sup>23</sup> Coomaraswamy R. (Supra note 19) pg. 148

<sup>24</sup> Ibid

<sup>25</sup> Loganathan K. (Supra note 21) pg. 8 - 9

<sup>26</sup> *The Constitution of the Democratic Republic of Sri Lanka 1972* - Chapter VI, pg. 11, Department of Government Printers.

<sup>27</sup> Loganathan K. (Supra note 21) pg. 52 - 53

<sup>28</sup> (Supra note 26) Chapter II, Article 6, pg 4

<sup>29</sup> *The Constitution of the Democratic Socialist Republic of Sri Lanka 1978* - Chapter II, Article 9, pg. 05, Department of Government Printers.

<sup>30</sup> Coomaraswamy R. (1994), *Secularism, Pluralism, and the Sri Lankan Constitution*, The Law & Society Trust Review, Volume IV Issue No. 72, pgs. 2 - 6 at pg. 3

<sup>31</sup> Edirisinghe, R. (Supra note 9) pg. 7

<sup>32</sup> Cooray M.J.A. (Supra note 13) pg. 64

<sup>33</sup> See Ibid pg. 70 and Edirisinghe, R. (Supra note 9) pg. 6 - 7

<sup>34</sup> Supra note 26, sections 4 and 5

<sup>35</sup> Cooray M.J.A. (Supra note 13) pg. 224

<sup>36</sup> *Constitution 1978*, Supra note 29, Article 30 (1)

<sup>37</sup> Ibid, Article 43 (1)

<sup>38</sup> Vide Ibid, Articles 76 (2) and 155 (2)

<sup>39</sup> Ibid, Article 76(1)

<sup>40</sup> *Weerasinghe v. Samarasinghe* (1966) 68 New Law Reports pg. 361 - at pg.

<sup>41</sup> *Constitution 1978*, (Supra note 29) Article 126 (1)

<sup>42</sup> See *Bulankulama and Others v. Secretary, Ministry of Industrial Development and Others (Eppawala Case)*, (2000) 3 Sri Lanka Law Reports, pgs. 243 - 340

<sup>43</sup> Ibid pg. 248 and 258

<sup>44</sup> *Constitution 1978* (Supra note 29) Article 107 (1)

<sup>45</sup> Ibid – 17<sup>th</sup> ammendment

<sup>46</sup> Ibid Article 96(1)

<sup>47</sup> Warnapala W.A.W., Woodsworth D.E. (1987) *Welfare and Politics in Sri Lanka*, Centre for Developing – Area Studies, pg.43

<sup>48</sup> Loganathan K. (Supra note 21) pg. 35

<sup>49</sup> Ibid pg. 40

<sup>50</sup> Warnapala W.A.W., Woodsworth D.E. (Supra note 46) pg. 51

<sup>51</sup> Ibid pg. 49

<sup>52</sup> Ibid pg 56

<sup>53</sup> Mendis D., (2005) *Democratisation in Sri Lanka*, South Asian Project on Democratisation, Peace and Regional Cooperation, Working Group Sessions on Democratisation, February 24 – 25, 2005, The International Centre, Goa, pgs. 1 – 27 at pg. 10

<sup>54</sup> Ibid

<sup>55</sup> Edirisinghe, R. (Supra note 9) pg. 9

<sup>56</sup> Ibid pg. 19

<sup>57</sup> Jayasuriya L. (2000) *Welfarism and Politics in Sri Lanka – Experience of a Third World Welfare State*, The University of Western Australia, pg.36

<sup>58</sup> See section 4 below, for a further descriptive analysis of the Ceylon National Congress.

<sup>59</sup>

<sup>60</sup> De Silva, C.R. *The Political Party System of Sri Lanka*, in Gunewardena V., Dayananda K, (edits) (1990) Party Systems and the Democratic Process – Report of the Regional Seminar Organised by the Marga Institute, 12 – 14 December, 1998, Marga Institute, pgs. 213 – 242 at pg. 214

<sup>61</sup> Ibid

<sup>62</sup> Adrain, W., *Some Reflections on the Role of Political Parties in a Democracy*, in DeSilva C.R. (edits) (1987) Political Party System of Sri Lanka – Seminar Report (25 – 26 September, 1986), Sri Lanka Foundation Institute, pgs 1 – 10 at pg.

<sup>63</sup>

<sup>63</sup> Ibid pg. 01

<sup>64</sup> Warnapala W.A.W., Woodsworth D.E. (Supra note 46) pg. 22

<sup>65</sup> De Souza, D. (1961) *Parliamentary Democracy in Ceylon* (Part II), Socialist Nation, No. 3, p. 127 in Ibid pg. 23

<sup>66</sup> Warnapala W.A.W., Woodsworth D.E. (Supra note 46) pg. 24

<sup>67</sup> Ibid pg. 29

<sup>68</sup> Loganathan K. (Supra note 21) pg. 2

<sup>69</sup> De Silva, C.R. (Supra note 56) pg. 218

<sup>70</sup> Loganathan K. (Supra note 21) pg. 37

<sup>71</sup> Warnapala W.A.W., Woodsworth D.E. (Supra note 46) pg. 34

<sup>72</sup> Jayantha D. (1992) *Electoral Allegiance in Sri Lanka*, Cambridge University Press, pg. 192

<sup>73</sup> Ibid pg. 194

<sup>74</sup> Ibid pg. 197

<sup>75</sup> Ibid pg. 198

<sup>76</sup> DeSilva C.R. (edits) (1987) Political Party System of Sri Lanka – Seminar Report (25 – 26 September, 1986), Sri Lanka Foundation Institute, pg. 17

<sup>77</sup> See De Silva, C.R. (Supra note 60) pg. 225

<sup>78</sup> Ibid. pg 225

<sup>79</sup> James Manor in Ibid. pg. 226

<sup>80</sup> See Amaratunge C. *The Structure and Organisation of Sri Lankan Political Parties*, in DeSilva C.R. (edits) (Supra note 76) pg. 27

<sup>81</sup> See Ibid

<sup>82</sup> Ibid

<sup>83</sup> See De Silva, C.R. (Supra note 60) pg. 227

<sup>84</sup> Amaratunge C. (Supra note 80) pg. 28

<sup>85</sup> Ibid pg. 28

<sup>86</sup> De Silva, C.R. (Supra note 60) pg. 226

<sup>87</sup> Mendis, D. (2002) *Electoral Processes in South Asia: Statutory Framework and Institutional Arrangements – Special Issue*, Ethnic Studies Report Vol.XX, Nos. 1 & 2 (January and July 2002), International Centre for Ethnic Studies, pg. .9

<sup>88</sup> Ibid pg. 155

<sup>89</sup> Karunatilake and Another vs Dayananda Dissanayake, Commissioner of Elections *et.al*, (1999) 1 Sri Lanka Law Reports 157 at p.173

<sup>90</sup> Mendis, D. (2005) *Democratisation in Sri Lanka*, South Asian Project on Democratisation, Peace and Regional Cooperation – Working Group Sessions on Democratisation, The International Centre, Goa, February 24 – 25, 2005, pg. 4 - 5

<sup>91</sup> Bastian, S. (2003) *The Political Economy of Electoral Reform – Proportional Representation in Sri Lanka*, in Bastian S., Luckham R. (edits) (2003) *Can Democracy be Designed – The Politics of Institutional Choice in Conflict – torn Societies*, Zen Books, London & New York, pg. 197

<sup>92</sup> Ibid. pg. 200

<sup>93</sup> Mendis D. (Supra note 90) pg. 11

<sup>94</sup> Ibid pg. 12

<sup>95</sup> Mendis D. (Supra note 87) pg. 179

<sup>96</sup> See Mendis, D. (Supra note 90) pg. 14

<sup>97</sup> See Institute of Human rights, *Abuse of Public Resources (Sri Lankan Experience)*, published under the programme for Protection of Public Property.

<sup>98</sup> James Jupp, 1978, *Sri Lanka: A Third World Democracy*, Colombo.

<sup>99</sup> See Michael Roberts.... And Kumari Jayawardene, 2004, *Nobody to Somebodies*, Colombo: Social Scientists' Association.

<sup>100</sup> For details, see Jayadeva Uyangoda, 2000, "Post-Independence Social Movements [in Sri Lanka]," in W. D. Lakshman and C. A. Tisdell (eds.), *Sri Lanka's Development Since Independence: Socio-Economic Perspectives and Analysis*, New York: Nova Science Publishers, Inc.

<sup>101</sup> See Uyangoda, *ibid*, pp.63-64

<sup>102</sup> Kumari Jayawardena, 19...., *History of the Labour Movement in Ceylon*,

<sup>103</sup> Fernando U. (2003) *NGOs in Sri Lanka – Past and Present Trends*, Wasala Publications, pg. 07

<sup>104</sup> *Ibid* pg. 09

<sup>105</sup> For a discussion on the link between Sri Lanka's political modernity, electoral democracy and ethnic identity politics, see Jayadeva Uyangoda, 2002, *Sri Lanka: Questions of Minority Rights*, Colombo: International Centre for Ethnic Studies.

<sup>106</sup> For a discussion on the political economy and class formation in Sri Lanka during the British colonial period, see Kumari Jayawardena, 2003, *Nobodies to Somebodies, The Rise of Colonial Bourgeoisie in Sri Lanka*, Colombo: Social Scientists' Association.

<sup>107</sup> N. Shanmugaratnam, 1985, "Colonial Agrarian Changes and Underdevelopment [in Sri Lanka]," in Charles Abeysekera (ed.), *Capital and Peasant Production: Studies in the Continuity and Discontinuity of Agrarian Structures in Sri Lanka*, Colombo: Social Scientists' Association; and Mick Moore, 19...., *State and Peasant Politics in Sri Lanka*, Cambridge University Press.

<sup>108</sup> Among the major academic literature on this process of ethnicisation of political competition are: Howard Wriggins, 1960, *Ceylon: Dilemmas of a New Nation*, Princeton University Press; Kearney, Robert, 1967, *Communalism and Language in the Politics of Ceylon*, Durham: Duke University Press, and Urmila Phadnis, 1976, *Religion and Politics in Sri Lanka*, New Delhi: Manohar.

<sup>109</sup> See Michael Roberts, 1982, *Caste Conflict and Elite Formation: The Rise of a Karawa Elite in Sri Lanka 1500-1931*, Cambridge University Press. See also Kumari Jayawardena: 2003.