

Sangam.org - Ilankai Tamil Sangam Association of Tamils of Sri Lanka in the USA

- [Active Home Page](#)
- [Previous Version Archive](#)
- [Original Version Home Page](#)

Pirapaharan, Chapter 19 Balasingam Enters the Scene

by **T. Sabaratnam**; published November 17, 2003



Chat Session #2

17 November 2003

Dear Readers,

I think we have struck the correct wavelength.

I received three mails, on 28, 29 and 30. In the second, A. Mylvaganam from Toronto, Canada pointed out the slip I made about the author of the historical novel Kadal Pura which influenced Pirapaharan. As he points out Kadal Pura was written by Chandilyan and not Ahilan. I read the novel when it was serialized. Ahilan wrote Chita Pavai.

In the third mail, D. G. of UK had pointed out these corrections:

In the chapter 14, para 1, you have mentioned Kirupaharan, a suspect in the Duuraippa incident as Kirupairaja. You have mentioned his name correctly in the previous chapters. (Note- Kirupairajah turned into Kirupaharan because nowadays I am always thinking of Pirapaharan!)

In the chapter 15, para 12, Poet. Kasi Ananthan's father's name was given as Kalimuthu instead of Kathamuthu.

In the chapter 16, para 15, it was mentioned that Col. Kittu's father had a printing press in Nellyyadi. But he actually had the press (Kumar Achagam)in Point Pedro Town.

Readers have every right to point out mistakes. So, Gopi, there is no need to be apologetic.

My mix up of Appar and Manikkavasakar and Chandilyan and Ahilan shows that my memory is beginning to fail. I will be 72 years old in three weeks and I realize the urgency of recording all I know about the Tamil struggle. I am the only Tamil journalist who moved with Tamil, Muslim and Sinhala leaders who were connected to the Tamil struggle. I joined Lake House in January 1957 and retired by the end of December 1997 and worked thereafter for Constitutional Affairs Minister Prof; G. L. Peiris for three years. During the crucial four and a half decades I covered all the important conferences and press briefings connected with the ethnic problem.

Now to the letters.

V. K. from UK is proud that he had had a glimpse of Pirapaharan in his early days, though he had not spoken to him. I am pleased that my series is helping his wife to teach her two daughters, aged 11 and 9 about the Tamil struggle.

He gives this juicy information:

During 1978-79, one of the ways of LTTE and TELO had access to youngsters was to organize soft ball cricket and football matches in the Northern villages. There were many of those matches in Vathiri, Thunnalai and Karanavai during my A/Level days. The matches were played against the teams from Jaffna town and other areas. The main players included Ponnammam (Kugan- Yogi's brother who was killed in an accident), a very talented cricketer from Jaffna Hindu College. In one those of matches, I saw Mr. Pirapaharan. After the match, the players and spectators

meet and mingle to discuss things over a lunch. During these sessions, politics will eventually come up and the like minded people will be identified.

A. gives this information:

"Kadal Pura": is a story about Cholas and their knowledge about sea. Most of the story takes place in "kadaram". And there is a famous character by the name of "Ahuutha."

Mr. Prabakaran read this story and was inspired by it and when

Col. Shanker built the first ship for the Sea Tigers, Pirapaharan named that ship "Kadal Pura". Subsequently this ship was captured by the Sri Lankan Navy in 1987 with Lt. CI Kumarapa and Lt. CI Pulendaran.

I am aware of all these matters. I was in contact with Lalith Athulathmudali during this period. I will give details in the relevant chapter.

I will tell now an incident, connected to Kumarappah's suicide, that wrenched my heart. The young wife of the Chief

Engineer of the KKS Cement Factory came to the Daily News to find out about her husband. Chief Editor Manik de Silva brought her to my desk. She sat opposite me. I telephoned the Jaffna Government Agent. He told me the engineer had been killed. I knew that engineer and had met him whenever I visited the factory with Industries Minister Cyril Mathew.

Now, imagine my plight. Tears rolled my cheeks.

T. Sabaratnam

[Those who write to this chat session should mention if they want their full name identified in this series. If no indication is given, we will use initials for privacy.]

19. Balasingam Enters the Scene

Politics of Racial Tension

President Jayewardene, who consolidated his power in 1978 through the enactment of the executive presidential constitution and initiated the process to discredit his main political opponent, SLFP leader Sirimavo Bandaranaike, in 1979 set his sights on his second term of presidency.

The new constitution had made him the head of state, head of the government, the country's chief executive, the commander of the armed forces and the president of the powerful United National Party. The Special Presidential Commission of Inquiry appointed by him on 20 March 1978 served as a powerful instrument to discredit Sirimavo Bandaranaike. She was accused of abuse and misuse of power during the second term of her office as prime minister from 1970 to 1977. Her first term of office was from 1960 to 1965. The main allegation against her was that she sold a portion of her coconut land while enacting the law prescribing a ceiling on the holding of agricultural property. The people were told she was a cheat.

Sirimavo Bandaranaike applied to the Court of Appeal for a writ of prohibition on the Special Presidential Commission of Inquiry, contending that the three-member Commission headed by Justice J.G.T. Weeraratne and comprising, Justice S. Sharvananda and Justice K.C.E. de Alwis, was unlawful. She submitted that the law establishing the commission had not specifically conferred power on it to investigate matters done during the period prior to 10 February 1978, the date of its enactment. The court held with her.

Jayewardene, determined to keep her out of the presidential contest, amended the constitution and the Special Presidential Commission Inquiry Law. The amendments were introduced in parliament on 10 November 1978. The amendments removed from the Court of Appeal the power to issue writs aimed at curtailing the proceedings of the Special Presidential Commission.

Sirimavo Bandaranaike, saying the amendments which were passed in great haste to validate the Commission, were vindictive and aimed to keep her out of the 1982 presidential election, boycotted the investigation. She issued a lengthy statement explaining the boycott decision, but investigation against her was continued *ex-parte*. The Commissioners held Sirimavo Bandaranaike on charges of abuse of power. The Cabinet on 24 September 1980 unanimously accepted the findings of the Commission.

Jayewardene refused to listen to the numerous appeals, including that of former Prime Minister Sir John Kotelawala, and



Sir John Kotelawala

got parliament to pass a resolution on 16 October 1980 to impose Civic Disabilities on Sirimavo Bandaranaike, which deprived her of her civic rights for the next seven years.

Amirthalingam opposed the imposition of civic disabilities. The motion was approved, 139 voting in favor and 19 voting against, with the TULF and the SLFP opposing the seven-year ban. The imposition of civic disability on Sirimavo Bandaranaike was a calculated move to subvert Sri Lanka's two-party system and its democracy.

Indira Gandhi, a close friend of Sirimavo expressed concern and called the move a subversion of democracy. She realized Jayewardene's tilt towards America, which she hoped to be corrected at the next election when - in keeping with the Sri Lankan flair for alternating governments - Sirimavo returned to power, would not be changed. Sirimavo's ouster from politics had removed that possibility, Indira Gandhi felt.

Indian officials in Colombo and Delhi told me that Indira Gandhi had asked them to prepare a position paper on the effect Sirimavo's removal from politics would have on Indian interests and, on the basis of that study, had concluded that other options be explored to pressurize Sri Lanka to revert to non-alignment. That exploration led to her taking special interest in the rising Tamil militancy, a tool which she perceived could be used to exert pressure on Sri Lankan governments.

The subversion of democracy was not confined to removing Sirimavo Bandaranaike from the 1982 presidential election. Democracy was subverted to weaken the Tamil community into a position of subservience. A subservient TULF and a cooperative Amirthalingam were what Jayewardene expected when the TULF emerged the main opposition party and when Amirthalingam accepted the post of the Leader of the Opposition. When that failed to happen, the 1977 riots was engineered to intimidate Amirthalingam and the TULF to fall in line.

For Jayewardene to win his second term of office, the weakening of Sirimavo Bandaranaike's SLFP and the winning of the



PM Indira Gandhi

full backing of the Tamil vote bank were essential. In addition, he needed the support of the Sinhala hardliners who were traditionally aligned to the SLFP to make up the total votes for him to jump the 50 percent barrier. The new constitution

required the presidential candidate to obtain over 50 percent of the votes polled to win the election on the first round.

Jayewardene, a master political strategist, planned to win over to his side the Sinhala nationalist section through Cyril Mathew. Mathew was encouraged to build himself into a Sinhala nationalist leader. He was made to play the role of a rabid Tamil- bairer. Amirthalingam, who was not aware of this plan, was naturally worried. He protested to Jayewardene about Mathew's outbursts and insults. He told Jayewardene that Mathew's actions and speeches were hurting the Tamils and eroding TULF's standing among them. "How can we support the government when Mathew is scolding us day and night?"



Amirthalingam and Sivasithamparam

Amirthalingam asked. The reply he got was: "Don't worry about Mathew. Bhikkus (Buddhist priests) and Sinhala nationalists are accusing my government of being lenient to the Tamils. Mathew is only trying to counter that."

Amirthalingam was sad about it. He told me that Jayewardene was playing politics and was creating racial tensions to show to the Sinhalese he was their saviour. He was trying to show the Sinhalese that he was the only ruler capable of crushing the Tamils. Amirthalingam was never happy with Jayewardene after he got that reply.

Amirthalingam then made a secret move to close ranks with the opposition. He got that opportunity in the closing months of 1978. LSSP leaders met him at his official residence and talked to him and Sivasithamparam about the possibility of forging a broad electoral alliance against Jayewardene. The exploratory talks were encouraging. LSSP leaders told Amirthalingam that Sirimavo was prepared to make amends for the past mistakes. Jayewardene got wind of the secret talks and sent a message through Colombo Tamil businessmen that another riot would be the result if the secret talks continued.

An upset Amirthalingam abruptly broke off the talks. He was worried. Sivasithamparam was perturbed. Amirthalingam told his media friends, "Tamils cannot withstand another riot."

The disruption of the secret talks was only a part of Jayewardene's plan. He wanted anti- Tamil wrath to implement the other portion of his agenda, the crushing of the Tamil militancy. The government unleashed a virulent campaign against Amirthalingam making use of the Sansoni Commission that was investigating the 1977 riots. Police evidence was placed before the Commission from December 1978 to April 1979 to show Sri Lankans and the international community that Amirthalingam was a blood- thirsty, anti- Sinhala racist and the TULF was the force behind the violent activities of the militant groups.

The campaign against Amirthalingam and his wife Mangayarkarasi centered around their speeches beginning from the 1974 Sivakumaran funeral oration to the speeches delivered during the 1977 election campaign. Amirthalingam was shown as the man who roused Tamil youth to violence. Evidence was given to show Amirthalingam as the force behind the militants.

The TULF was accused of preaching disloyalty to the government. Yogeswaran's speech that "as far as the Tamils were concerned the (Sri Lankan) government was a foreign government which had no right to govern the Tamil people," was played upon to support the disloyalty charge. 'The TULF preached hatred against the Sinhalese' was the other aspect of the propaganda build up.

Buddhist monk, Ven. Weeramuwe Wimalabharathy, the incumbent in the Buddhist Centre in Jaffna, was made to say that he was beaten by Tamil youths and was told his presence in Jaffna was not necessary. He told the Commission that his centre was burnt. Similarly, Sinhalese were made to tell the commission that their shops were torched and they were chased away. Bus driver K. A. Dharmasena said his bus was waylaid and he was shot. R. A. Karunawathie, a Sinhalese woman, who lived in Jaffna said her family was bundled into a tractor one morning and compelled to flee Jaffna. These crimes were done at the instigation of the TULF, the commission was told.

Amirthalingam was pushed on the defensive. In his evidence before the commission given on 30 April 1979, he pleaded that the TULF only agitated for the rights of the Tamil people in keeping to democratic norms. He denied the police allegation that the TULF advocated violence. Sansoni declined to accept Amirthalingam's explanation and held he advocated disloyalty and violence. He held that Amirthalingam was consorting with the militant youths.

Sinhala fury against the Amirthalingam and the TULF was built up to the extent that Sinhala extremists were out for Amirthalingam's blood. Two of Jayewardene's faithful parliamentarians - Premachandra and Jayakoddy - called for stringent action against the TULF at the 3 July 1979 government parliamentary group meeting. Jayewardene announced, as if in response, that legislation was being prepared for that purpose and would be introduced in parliament during that month.

LTTE men in the TULF delegation

Sansoni's finding that Amirthalingam was consorting with the militant organizations was not totally untrue. Police had reported to the Defence Ministry of the visits Pirapaharan, Uma Maheswaran and Thangathurai made to Amirthalingam's Jaffna home. Those reports were filed during 1974 to 1980 and are available with the archives of the Jayewardene Centre. I read some of those reports with the help of a researcher close to the Jayewardene family a few years ago.

Keeping in touch with the revolting youths was one of the functions Thanthai Chelva assigned to Amirthalingam. Thanthai Chelva, the father-figure of Tamil politics, was very particular about keeping the militant youths within his fold. Permitting the youth to express their dissent and incorporating some of their concerns into the policy and action programme of the Federal Party were the means Thanthai Chelva adopted to manage the youth. He placed Amirthalingam, Rajadurai and V. N. Navaratnam to handle the youth.

The Puli Padai (Army of Tigers), formed in 1961 - long before the JVP phenomenon appeared in the south - by about 20 young Tamils including a civil servant, was managed that way. On 12 August 1961, Puli Padai members converged at the historic Thirukoneswaram temple in Trincomalee and after attending the morning pooja, trooped to the rock and took



Thirukoneswaram Temple

the pledge to fight for the establishment of a separate Tamil homeland. Their provocation was the disruption of the 1961 satiyagraha by Sirimavo Bandaranaike by the use of security forces.

The Puli Padai floated a Shipping Company to engage in trawler for fishing and arms smuggling, distributed a few leaflets and formed Manavar Manram (Students Council) and withered away. Amirthalingam and V. Navaratnam kept an eye on their activities, but avoided interference. The police were fortunately ignorant of the group's existence.

The next occasion Tamil youths organized themselves was in 1970. They formed the Tamil Manavar Peravai, which was converted into the Tamil Ilaingar Peravai in 1972. Amirthalingam and V. N. Navaratnam kept a close watch on it and the youths accepted Amirthalingam as their Thalapathy (Commander). He encouraged the youth to be open with their dissent and that allowed them to give vent to their feelings. Though there were a few isolated violent incidents, the overall situation was under control.

The situation changed only after Colombo viewed the incidents as racial revolt and ordered harsh police and military action. Police went after the entire membership of the Tamil Ilaingar Peravai and took into custody about 42 youths, almost all of whom later turned into militant leaders. Thangathurai, Kuttimani, Pirapaharan, Balakumar, Pathmanabha, Varatharaja Perumal, Sri Sabaratnam and others respected Amirthalingam and listened to him.

This was so even after the 1977 election. Pirapaharan was the most liked of them all. Mangayarkarasi told me she treated Pirapaharan like one of her sons. "Whenever he comes home I prepare special chicken curry for him. When he takes leave I kiss him farewell just like what I do to my sons," she said. R. Perimbanayagam, who was the private secretary to Amirthalingam, told me that Mangayarkarasi used to take for Pirapaharan chicken toast whenever she visited Tamil Nadu during the time the LTTE chief was there. Mangayarkarasi confirmed their special relationship in her brief speech on 24 August 2003 at the Amirthalingam Silver Jubilee Celebration held in Colombo.

Amirthalingam also treated Pirapaharan with affection and Pirapaharan returned that affection with respect. That relationship continued till about 1981 when the TULF fell into Jayewardene's District Development Council trap. Jayewardene, instead of weakening Pirapaharan and the militants by strengthening Amirthalingam, strengthened Pirapaharan by weakening Amirthalingam. That was a turning point in Sri Lankan history. That story will be told in the next few chapters.

In the police reports I referred to earlier, there was reference to LTTE men in the TULF delegation sent to Cuba. The police



Cuba

charged that the TULF had deceived the government by sending LTTE men as their own.

In the summer of 1979, the Eleventh World Festival of Youth and Students was held in Havana, Cuba. TULF was invited for the Youth Festival and when Uma Maheswaran came to know about it, he asked Amirthalingam for the inclusion of at least three of LTTE delegates. Uma cited the agreement reached in 1977 in which the LTTE agreed to accept the political leadership of the TULF and function as a secret armed group, and Amirthalingam agreed to help the LTTE to get financial and other assistance from other liberation organizations. Uma argued that sending LTTE representatives to such conferences would help it to forge relationships with other guerilla groups.

Amirthalingam acceded to the LTTE request. He nominated Mavai Senathirajah, president of the Tamil Youth Forum and Kasi Anandan to represent the TULF. The LTTE nominated Singanayagam, Santhan and Yogeswaran to fill the other three places. This created displeasure in the TULF. Vannai Ananthan, who wanted to go as the TULF's third delegate, was unhappy.

Kasi Anandan read a Tamil poem at the Havana meet. The translation of the pithy stanza reads:

We are birds with burly bills
That are barred from singing
We are birds with gorgeous wings
That are banned from flying
We are caged slaves.

The LTTE made use of the festival to distribute its pamphlet outlining the Tamil struggle. The pamphlet was written by Anton Stanislaus Balasingham, an expatriate Jaffna Tamil, who worked earlier as a sub-editor at the Tamil newspaper *Virakesari* before he joined the Colombo office of the British High Commission as a translator. He migrated to London with his family where his wife suffered chronic renal failure. He then married an Australian nurse, Adele, whom he met at the South Bank University where he did his doctorate in sociology and Adele her first sociology degree.

The **Vaddukoddai Resolution**, the mandate for the establishment of a separate state the TULF obtained at the 1977 election, the 1977 riots, the surfacing of the LTTE, and the AVERO blast had stirred excitement among the Tamil youths living in London. They gathered around Bala, then 33 and their senior, to discuss the events back home. One of them, Gnasekaran, asked to Balasingham to write a political treatise on the Sri Lankan Tamil problem. This Balasingham did and the pamphlet, titled "On the Tamil National Question," brought him into contact with the LTTE's London-based supporters of other groups like EROS and TLO.

A major intellectual controversy erupted between the Tamil and Sinhala 'left' intellectuals around that time about the applicability of the Marxist- Leninist concept of self- determination to the Tamil problem. The Sinhala 'left' maintained that, though the Tamils enjoyed the right of self-determination, they would not have the right to secede. Balasingham wrote his second treatise, "Towards a Socialist Tamil Eelam," in which he maintained that Tamils, as an oppressed people, had the right to secede. A Tamil version of this booklet, first published in Tamil, reached Pirapaharan, who, Adele Balasingham in her book, The Will to Freedom, says, was impressed by its content.

These theoretical works brought Balasingham into contact with the LTTE's London representatives, Krishnan and R. Ramachandran (Anton Raja). They met him regularly and kept him briefed about the LTTE and its activities. They also obtained his service to write their statements and pamphlets.

The political committee of the LTTE decided to issue a statement outlining the Tamil struggle at World Festival of Youth and Students. Uma Maheswaran engaged the services of Balasingham to write the pamphlet. It was translated into six languages-English, Spanish, French, German, Portuguese and Tamil- and distributed among the delegates and posted to

diplomats, members of parliament, government officials and journalists.

War and Peace Game

Uma Maheswaran's plan to popularize the LTTE internationally did not continue for long because the situation in Sri Lanka underwent a radical change in July 1979 and a rift appeared between Pirapaharan and Uma in the latter part of that year.

Having forced the TULF to abandon its move to join an opposition electoral alliance, Jayewardene proceeded to play his war game. He gazetted the Prevention of Terrorism (Temporary Provision) Act in the second week of July 1979. It was approved by parliament on 20 July. Before that, on 14 July, he appointed his nephew Brigadier Tissa (Bull) Weeratunga, Chief-of-Staff of the Sri Lanka Army, as the overall Commander of the Security Forces in the northern province with a



Bull Weeratunga

mandate to rid the northern province of terrorism by the end of 1979.

The mandate read:

It will be your duty to eliminate in accordance with the laws of the land the menace of terrorism in all its forms from the island, and more especially from the Jaffna district. I will place at your disposal all resources of the state. I earnestly request all law abiding citizens to give their cooperation to you. This task has to be performed by you and completed before December 31, 1979.

To help Weeratunge complete that military task, Jayewardene clamped a state of emergency on 12 July on the Jaffna district using the Public Security Ordinance and gazetted regulations, Emergency Regulations No. 14, that gave the police and the armed forces the power to shoot and kill any suspected persons and to dispose dead bodies without an inquest.

Jayewardene, thus, had declared war on the militants who, according to the police and army intelligence services functioning in Jaffna, were estimated to number only 200. The police intelligence agency, functioning from the Jaffna police station, was at that time somewhat crippled following the killing of Gurusamy. The military intelligence agency, that had almost been set up under Captain Sarath Munasinghe, was functioning from Palaly under Northern Commander Brigadier Ranatunga.

With the legal and military actions put in place to crush the incipient Tamil militancy, Jayewardene shifted his moves to the political plane. He instructed his prime minister, Ranasinghe Premadasa, to talk to the softened Amirthalingam and the TULF of the danger of another riot. I was directed to follow that story. I had several meetings with Amirthalingam and Sivasithamparam. They were worried. They were even scared. "Tamil people could not bear another riot," they told me repeatedly.

Premadasa suggested some joint effort be made to cool down the racial temper. Amirthalingam readily agreed. At a meeting in prime minister's office in the parliamentary complex they drafted a joint appeal to the nation in the form of a joint statement appealing for calm. It read,

"We wish to appeal to our people to maintain calm and poise and to refrain from being influenced by rumors and activities of mischief mongers. We call upon Members of Parliament and all political and religious and social service organizations committed to the maintenance of law and order and goodwill among the people to use their influence to counter rumors in the various villages and electorates as well as to protect the property and lives of the innocent victims.

"We pledge that we will take on ourselves the responsibility of maintaining communal harmony and providing protection to all citizens who might be the target of communal activities as well as anti-social elements who seek to exploit any situation to their selfish advantage.

"We like to emphasize that problems affecting our country can be solved in a peaceful and amicable manner and we appeal to all sections of the people not to be influenced in any way to resort to violence under cover of political agitation.

"We as civilized people have the capacity to solve our common problems peacefully and to show the rest of the world that issues can be resolved in keeping with traditions of our great religions."

The joint appeal had a political purpose. Jayewardene wanted to draw the TULF closer to him. On July 19, the day the PTA bill was taken up for discussion in parliament, Jayewardene wrote to the leaders of the TULF and the SLFP inviting them for a meeting to discuss the setting up of a Presidential Commission on Tamil Grievances. TULF agreed to participate, while the SLFP ignored the invitation.

Jayewardene reciprocated the TULF's positive response to his invitation by announcing the cancellation of the move to annex the three Sinhala majority Assistant Government Agent divisions of the Vavuniya district to Anuradhapura and by

the appointment of a Parliamentary Select Committee headed by Minister Lalith Athulathmudali to investigate the killing of Tamil youths in Jaffna (Details in the next chapter).

The TULF, keen now to keep Jayewardene happy, ended its boycott of parliament. Jayewardene, pleased with the success of his game plan, issued a statement that he was keen to be just to the Tamil people and announced the appointment of the Presidential Commission on District Councils, the outcome of a series of discussions he had with Prof. A. J. Wilson. It was headed by retired Chief Justice Victor Tennakoon. The other members were: Dr. A. J. Wilson, Dr. J. A. L. Cooray, Dr. Neelan Tiruchelvam and A. C. M. Ameer.

That was a master move by Jayewardene. With that, he fastened the TULF to the government. With that, he ensured the permanent estrangement of the TULF and the militant youths. With that, he made certain the ultimate downfall of the TULF.

Prevention of Terrorism Act

Jayewardene, by his cunning moves, has almost silenced the TULF, got parliament to replace the Proscription of the Liberation Tigers of Tamil Eelam and Other Similar Organizations Act of 1978 with the 31 clause Prevention of Terrorism (Temporary Provisions) Act on 20 July 1979 without much opposition. The law, which gave the police and the armed forces stronger powers to "nip terrorism in the bud," was drafted in accordance with the directive given by the cabinet.

In the cabinet, which viewed the Tinnaveli Bank robbery as a serious threat to national security, Lalith Athulathmudai, a former law teacher in Israel, Singapore and Colombo Law colleges, argued that banning organizations had failed in other countries and the punishment – threat of search, arrest, detention and jail -aimed at the individual had had better effect. He cited the British Prevention of Terrorism Act of 1974 and the Terrorism Act of South Africa of 1967 as examples. The cabinet decided to fashion its law on the British model. But the final draft resembled the harsher South African law.

The law drafted under the supervision of Athulathmudali, avoided defining terrorism as was done by the British Act. The British law defines terrorism as 'the use of violence for political ends.' The Sri Lankan law mere says that it was an act to make temporary provisions for 'the prevention of acts of terrorism' and enumerates in Part 1 the offences and the penalties.

Due to the brutal impact, the law has had on the Tamil people, I prefer to quote some of its sections in toto.

"(1) Any person who

(a) causes the death of any specified person, or kidnaps or abducts a specified person, or commits any other attack upon any such person, which act would, under the provisions of the Penal Code, be punishable with death or a term imprisonment of not less than seven years;

(b) or causes the death of any person who is a witness to any offence under this Act or kidnaps or abducts or commits any other attack upon any such person, which act would, under the provisions of the Penal Code, be punishable with death or a term of imprisonment of not less than seven years; or

commits criminal intimidation of any specified person or a witness referred to in paragraph (b) ; or

commits the offence of robbery of the property of the Government, any department, statutory board, public corporation, bank, co-operative union or co-operative society; or

commits the offence of mischief to the property of the Government, any department, statutory board, public corporation, bank, co-operative union or co-operative society or to any other public property ; or

without lawful authority imports, manufactures or collects any firearms, offensive weapons, ammunition or explosives or any article or thing used: or intended to be used, in the manufacture of explosives ; or

possesses without lawful authority, within any security area, any firearms or any offensive weapon, ammunition or explosives or any article or thing used, or intended to be used, in the manufacture of explosives; or

by words either spoken or intended to be read or by signs or by visible representations or otherwise causes or intends to cause commission of acts of violence or religious, racial or communal disharmony or feelings of ill-will or hostility between different communities or racial or religious groups; or

without lawful authority erases, mutilates, defaces or otherwise interferes with any words, inscriptions, or lettering appearing on any board or other fixture on, upon or adjacent to, any highway, street, road or any other public place; or

harbours, conceals or in any other manner prevents, hinders or interferes with the apprehension of, a proclaimed person or any other person, knowing or having reason to believe that such person has committed an offence under this Act,

shall be guilty of an offence under this Act."

Specified persons were subsequently proclaimed by the Inspector General of Police. They include: the President, prime minister, ministers, parliamentarians, members of local authorities, members of the armed services and the police and members of the judiciary.

Punishment for offences as

"Penalty for preparation, abetment, conspiracy, or incitement to commit offence is laid down in Section 3.

Any person who

(a) does any act preparatory to the commission of an offence ; or

abets, conspires, attempts, exhorts or incites the commission of an offence; or

causes the death of any person, or commits any attack upon any person whomsoever in the course of committing any offence under this Act, which act would, under the provisions of the Penal Code, be punishable with death or with a term of imprisonment ,of not less than seven years,

shall be guilty of an offence and shall on conviction be liable to imprisonment of either description for a period of not less than five years but not exceeding twenty years where the offence is one specified in paragraph (a) or (b), or to imprisonment for life where the offence is one specified in paragraph (c).

Forfeiture of property

4. Where any person is convicted by any court of any offence under section 2 or section 3, then, in addition to any other penalty that the court shall impose for such offence

(a) all property movable and immovable, of that person shall, by virtue of such conviction, be deemed to be forfeited to the Republic; and

(b) any alienation or other disposal of such property effected by such person after the date of coming into operation of this Part shall be deemed to have been, and to be, null and void.

Penalty for failure to give information

5 Any person who

Knowing or having reasonable cause to believe that any person

has committed an offence under this Act, or

is making preparation or is attempting to commit an offence under this Act, fails to report the same to a police officer; or

having in his possession any information relating to the movements or whereabouts of any person who has committed or is making preparations or is attempting to commit an offence under this Act fails to report the same to a police officer,

shall be guilty of an offence and shall, on conviction be liable to imprisonment of either description for a period not exceeding seven years."

Part 8 deals with offences of bodies or persons. It reads,

"25. Where an offence under this Act is committed by a body of persons, then if that body of persons is-

a body corporate, every director and officer of that body corporate; or

a firm, every partner of that firm; or

a body unincorporated other than a firm, every officer of that body responsible for its management and control,

shall be deemed to be guilty of such offence:

Provided that no such person shall be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence."

The TULF, which should have opposed the law, as it was intended to be used against the Tamils, adopted a tame strategy. Its members did not want to annoy Jayewardene, who was showing a smiling face to it. It boycotted the debate to keep Jayewardene pleased and issued a statement condemning the law to satisfy the protesting youths. The TULF did not even take the trouble to discuss the obnoxious law in its Central Committee. The SLFP opposed the law in parliament. It could not make any impression with the eight members it had in parliament.

The law came in for strong criticism among human rights activists and jurists.

The features that came in for criticism were: It allows confessions made to the police as admissible evidence. Documents found in the custody, control or possession of anyone accused under the Act or his agent or representative can be used as evidence against him at his trial, without calling its author or maker into account, and the contents of such a document can be construed as evidence of the facts stated in it. It permits detention for periods of up to 18 months, if the minister has reasons to suspect a person to be associated with an unlawful activity. The sections that infringe on human rights are given in the annex.

Annex

PREVENTION OF TERRORISM ACT [PTA]

PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

PREVENTION OF TERRORISM (TEMPORARY PROVISIONS) ACT No 48 of 1979

[Certified on 20 July 1979]

Excerpts

On Warrants of Arrest

PART II - INVESTIGATION OF OFFENCES

6.(1) Any police officer not below the rank of Superintendent or any other police officer not below the rank of Sub-Inspector authorised in writing by him in that behalf may, without a warrant ... notwithstanding anything in any other law to the contrary -

- (a) arrest any person;
- (b) enter and search any premises;
- (c) stop and search any individual or any vehicle, vessel, train or aircraft; and
- (d) seize any document or thing...

On Places of Interrogation

A police officer conducting an investigation under this Act in respect of any person arrested ... shall have the right of access to such person and the right to take such person... from place to place...

On Duration and Place of Detention

DETENTION AND RESTRICTION ORDERS

9. (1) ... the Minister may order that such person be detained for a period not exceeding three months in the first instance, in such place and subject to such conditions as may be determined by the Minister, and any such order may be extended from time to time for a period not exceeding three months at a time... the aggregate period of such detention shall not exceed a period of eighteen months...

On Legal Challenges to Detention

10. An order made under section 9 shall be final and shall not be called in question in any court or tribunal by way of writ or otherwise...

... An order made by the Minister under subsection (1) shall be final and shall not be called in question in any court or tribunal by way of writ or otherwise...

On Rules of Evidence

PART VI - TRIAL

16. (1) Notwithstanding the provisions of any other law, where any person is charged with any offence under this Act, any statement made by such person at any time, whether - (a) it amounts to a confession or not; (b) made orally or reduced to writing; (c) such person was or was not in custody or presence of a police officer; (d) made in the course of an investigation or not...

(2) The burden of proving that any statement referred to in subsection (1) is irrelevant under section 24 of the Evidence Ordinance shall be on the person asserting it to be irrelevant.

(3) Any statement admissible under subsection (1) may be proved as against any other person charged jointly with the person making the statement...

18.(1)..

(a) a statement recorded by a Magistrate, or made at an identification parade by a person who is dead or who cannot be found, shall be admissible in evidence notwithstanding that such person is not present or cannot or has not been cross-examined; and

(b) any document found in the custody, control or possession of a person accused of any offence under this Act or of an agent or representative of such person may be produced in court as evidence against such person...

On Bail

19... (a) every person convicted by any court of any offence under this Act shall, notwithstanding that he has lodged a petition of appeal against his conviction or the sentence imposed on him, be kept on remand until the determination of the appeal...

Retroactive

PART VII - 22. Any person who has committed any offence under section 296 or section 297 or section 300 of the Penal Code prior to the date of coming into operation of Part VI of this Act... would have constituted an offence under this Act ... (and) be triable without a preliminary inquiry, on an indictment...

On Blanket Immunity for Security Personnel

PART VIII - 26. No suit, prosecution or other proceeding, civil or criminal, shall lie against any officer or person for any act ... in pursuance or supposed pursuance of any order made or direction given under this Act.

Supreme Law of the Country


28. The provisions of this Act shall have effect notwithstanding anything contained in any other written law and accordingly in the event of any conflict or inconsistency between the provisions of this Act and such other written law, the provisions of this Act shall prevail...

[Index to previous chapters](#)

Next:

Chapter 20. Jaffna Turned Torture Chamber

To be posted on November 24

 [Print "Pirapaharan, Chapter 19
Balasingam Enters the Scene"](#)

[Send this article to someone you know!](#)

The views and opinions expressed are not necessarily those of Ilankai Tamil Sangam, USA, Inc., its members, or its affiliates.

© 1996-2010 Ilankai Tamil Sangam, USA, Inc.
Ilankai Tamil Sangam, USA, Inc. - The Association of Tamils of Sri Lanka in the USA