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COMMUNITY-BASED CORRECTIONS IN SRI LANKA: THE SAMODAYA
SERVICE

by

Madawala Wetharamalage Jayasundara

B.A. University of Sri Jayewardenepura, Sri Lanka, 1984

THESIS SUBMITTED IN PARTIAL FULFILLMENT OF
THE REQUIREMENTS FOR THE DEGREE OF
MASTER OF ARTS (CRIMINOLOGY)
in the School
of
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ABSTRACT

When the Portuguese, Dutch, and British colonized Sri Lanka, each introduced aspects of its criminal justice system into the country. The traditional criminal justice system which served native people for years began to atrophy. By the time Sri Lanka gained its independence in 1948, the British oriented system of criminal justice was fully in operation. Nevertheless, this newly introduced criminal justice system, and especially its prisons, were not sufficient to accommodate the increasing population of offenders. In order to curb overcrowding in prisons, the Sri Lankan government enacted new laws to rehabilitate offenders in the community; also, some voluntary organizations took responsibility for rehabilitating offenders in the community. This thesis focuses on one such innovative rehabilitation program, namely the "Samodaya Service", which is dedicated to rehabilitating offenders through religious training.

During the period December 1990-January 1991, data were gathered concerning the opinions of the officials and the offenders, both released and unreleased, in the Samodaya Service, at Pathakada, Sri Lanka. In addition, the opinions of judges were solicited. Interviews focussed on perceived causes of crimes in Sri Lanka and remedies for them, the origin and evolution of the Samodaya Service, and its role

in the context of the historical, economic, political, and social environment of the country.

The Samodaya officials supported the expansion of the program. The majority of the offenders interviewed identified the special characteristics of the Samodaya Service as intimacy between officials and the offenders, the utilization of religious activities towards the rehabilitation of offenders, and freedom of the offenders. Half of the judges who were interviewed were not aware of the Samodaya Service, but all those interviewed supported the need for rehabilitation of minor offenders in a religious environment such as the Samodaya Service. Judges noted the necessity of expanding this program nationwide by providing the required financial support.

The thesis provides insights into the development of the Samodaya Service, and offers avenues for future research.

Dedication

To my dearest mother with love !

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This study would not have been possible without the assistance of several individuals; I express my heartfelt gratitude to all of them. I am greatly indebted to Rev. K. Bodhananda, the manager of the Samodaya Service, his staff, and detainees who gave so freely of their time and shared with me their insights and experiences. A special thank goes to the judges whom I interviewed, for their cooperation and support. Among many people who provided information about the historical and functional contents of this thesis, I owe my thanks especially to Dr. N. Rathnapala, Edwin K. Ganhigama, Preneeth Abyesundere, and Harold Fernando.

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INTRODUCTION

Community-based corrections is an approach to the rehabilitation of offenders which has been gaining world wide attention, particularly over the last three decades. Many countries, including Denmark, Belgium, England, Sweden, United States, and Canada, all have introduced community corrections programs which prepare offenders for re-entry to the community (Ekstedt & Griffiths, 1988; Johnson, 1973). The objective of this thesis is to explore the operation of the Samodaya Service, an innovative community-based correctional program in Sri Lanka which is dedicated to the rehabilitation of offenders through religion.

Prior to Western colonization, Sri Lanka had an indigenous criminal justice system which had been in existence for centuries. During this time the village was the centre of administration of justice. Villagers were entrusted with collective responsibilities for crime prevention and for imposing punishments upon those who committed crimes. However, the traditional criminal justice system began to disappear when Western invaders, such as the Dutch and the British, replaced this indigenous criminal justice system with their own. Collective responsibilities which had been entrusted with the local community were transferred into the hands of the State. Traditional criminal justice institutions and customs became devalued, and traditional laws which had been utilized for centuries

for social control purposes began to atrophy. More "westernized" institutions and legal technicalities were added to the traditional criminal justice system.

The new criminal justice system, particularly corrections, proved ineffective at controlling the problems which emerged in the extensive economic transformation during the middle of the 20th century. Population growth, coupled with economic inequalities, contributed to problems such as unemployment and unrest among youth. The number of offenders serving prison sentences for minor offences increased rapidly. By 1986, one third (3,593) of the total number of offenders (13,269) who were imprisoned were there for excise offences, theft, and ticketless traveling (Jansz, 1986); 75.1% of those imprisoned were in default of payments of fines. These offenders became a heavy financial burden both for the state and prison administration. There were high rates of recidivism among those offenders who had been incarcerated.

These circumstances precipitated the increased involvement of voluntary organizations and public organizations in Sri Lanka in the rehabilitation of offenders at the community level. The Samodaya Service has been involved in the rehabilitation of offenders since 1984 through religious activities. As a Sri Lankan who believe in Buddhism, the innovative nature of the Samodaya Service

coupled with its revitalization characteristic of the traditional justice system made me interested in this study.

In order to gain a better understanding of the Samodaya Service, officials involved in the Samodaya Service were interviewed, with special attention given to the structure, administration, and operation of this program. Offenders were also interviewed, including both those who were serving sentences, and those who had been released from the Samodaya Service.

Chapter One of this thesis traces the characteristics of the traditional criminal justice system which existed prior to Western colonization in Sri Lanka. Chapter Two focuses on the influences of the Western invasion and its effects on the indigenous criminal justice system, while Chapter Three assesses the changes of the criminal justice system during the post-independence era, with particular attention to contemporary community-based corrections. The first three chapters draw heavily upon secondary sources since the primary sources were inaccessible. Chapter Four details the method utilized in the study while Chapters Five and Six present the findings. In Chapter Seven, conclusions of the study are examined. The policy implications of the research and avenues for future research are discussed.

The objective of this thesis is to examine the perception of those individuals involved in the Samodaya

Service as well as a sample of offenders who were participated in the Samodaya rehabilitation program. Thus, thesis does not make efforts to evaluate the Samodaya Service. Rather using the perceptions of Samodaya officials and a sample of offenders, it considers the Samodaya Service as a viable rehabilitation program, and its similarities with the indigenous criminal justice system of Sri Lanka which existed prior to the Western colonization.

CHAPTER I

THE TRADITIONAL CRIMINAL JUSTICE SYSTEM OF SRI LANKA

Sri Lanka has a very rich history which extends well over 2,500 years. The origin of the Sinhalese nationality is believed to have occurred with the arrival in Sri Lanka of Vijaya, an Indian prince, accompanied by 700 followers. The landing of Vijaya in Sri Lanka had two long lasting influences, i.e., the beginning of the Indo-Aryan colonization of Sri Lanka, and the introduction of North Indian culture.

The hierarchy of the Sinhalese dynasty, which began from Vijaya, lasted until the Kandyan kingdom ceded to the British in 1815. During this period more than two hundred kings had ruled the country, centering their kingdoms in Anuradhapura, Polonnaruwa, Dambadeniya, Yapahuwa, Kurunagala, Gampola, and Kandy, respectively. By the end of the 15th century, Sri Lanka had been ruled by different independent kingdoms located in Kotte, Sithawaka, Kandy, and Jaffna.

Buddhism was introduced into Sri Lanka by a mission sent by King Asoka of India, and soon extended deep roots in Sinhalese culture and civilization. King Devanampiya Tissa (250-207 B.C.) was a powerful patron of Buddhism, and gave support to establish Buddhism as the State Religion. Buddha's tooth relic, received from India in the 4th

century, was a religious asset to the nation, and the possession of it legitimized the Sinhalese kingship. Consequently, Sinhalese rulers endeavoured to protect Buddha's tooth relic and Buddhism until the last Sinhalese kingdom fell into British hands in 1815.

The prosperity of the Sinhalese Village was symbolized by the water tank, stupa (Buddhist shrine), and the temple. Buddhist monks had a primary role in the village. Since they were highly educated members in the society, their influences were manifest in every aspect of Sinhalese life. Buddhist monks performed the role of teachers in the community, and it was to the monks that villagers went for the relief of their problems. Domestic problems, as well as disputes among the villagers, were often presented to the monks for settlement (Ariyapala, 1956; Wriggins, 1960).

The influences of Buddhism played a role not only in Sinhalese culture, language, education, and religion, but also in its systems of social control and criminal justice. The rest of this chapter examines the characteristics of this traditional justice system, giving particular attention to the Kandyan kingdom which was the last Sinhalese rule in Sri Lanka (A.D. 1469-1815). According to de Silva (1981) during the Kandyan period, the Sinhalese Dynasty descended as follows:

Senasammata Vikramabahu	A.D. 1469-1511
Jayavira	A.D. 1511-52

Karaliyadde	A.D. 1552-91
Vimala Dharma Suriya I	A.D. 1591-1604
Senarat	A.D. 1604-35
Rajasimha II	A.D. 1635-87
Vimala Dharma Suriya II	A.D. 1687-1707
Narendra Simha	A.D. 1707-39
Vijaya Rajasimha	A.D. 1739-47
Kirti Sri Rajasimha	A.D. 1747-82
Rajadhirajasimha	A.D. 1782-98
Sri Vikrama Rajasimha	A.D. 1798-1815

The indigenous justice system emphasized compromise between the two parties involved, rather than retribution (Davy, 1821). Before Buddhism was introduced into Sri Lanka, the indigenous justice system had been based on the Hinduism. There is no precise evidence with respect to its characteristics, although surviving information shows that justice administration was carried out by the king, his ministers and officials acting under his authority, and the village community. The King held power over the administration with the assistance of the King's Council, which comprised learned laymen as counsellors (Jayasekara, 1984). This indigenous justice system had changed due to the influence of Buddhism, geographical changes, Hindu influences from India, and Western colonization.

After Buddhism was introduced in Sri Lanka, the indigenous justice system developed in line with Buddhist

rite and practices. Law was made up of *dharma* or Buddhist teaching. The King's lay counsellors were replaced by learned Buddhist monks who were conversant in laws and justice. Thus, laws of crimes and their categories and punishments helped form the indigenous justice system from ancient times down successive centuries. Buddhist teaching and practices carried out in Sri Lanka influenced the growth of Sri Lankan customary laws. Since the Sinhalese Kings were devout Buddhists, their contribution was received for the continuation of traditional justice in line with Buddhist teaching (Dammananda, 1911).

The Role of the King in Administrating Justice

Acceptance of the King as a God is a concept to which most Asian races have become accustomed. A concept to the effect that, 'the king is free of wrong doing' also exists in Western thought. According to Eastern thought, 'the king is a truthful perfectionist'. Therefore, in traditional Sinhalese society, treason was not only looked down upon as something contradictory to accepted law, but was also condemned as an act against God.

The source of justice was the King, and it was his duty to safeguard the customs of the past. Other than accepting what was approved by the Royal Council, conventions of past customs were barriers prohibiting the King from acting beyond those customs. Though royal authority was unique,

common acceptance was necessary when putting royal authority into practice. What the Sinhala society, which was nourished by Buddhism, expected of a king was: administration of the State with the exercise of the four-fold form of care; to willingly provide charity to the deserving; to be mild of speech; to let conduct and actions be conducive to the good of the nation; and to let the love of his people equal the love of himself. Further expectations were: refraining from going into the four-fold extremes; let no one injure another; injure no one to benefit another; not let fear prevent one from doing justice; avoid doing evil through ignorance, or the want of correct information. Further, the King was supposed to practise the ten-fold dhamma: to be munificent and strictly follow the rules of his religion; remunerate the deserving; let his conduct be upright; let his conduct be mild, patient, and without malice; inflict no torture, be merciful; and attend to good counsel (Dammananda, 1919; Davy, 1821).

The following statement of oaths, expected to be read out by the Noble chosen for the status of King, demonstrates the extent of its grandeur:

In the presence of these Sasanika assets that should be venerated, such as this Sri Maha Bodhi, the Tooth Relic of the Buddha, the Maha Theros Council of Sasana responsibility and the viceroy, the General, His Excellencies of the royal family

such as Epa, Mapa; the council of Ministers engaged in the administration of the Sri Lankan Government, Government Officers, prominent citizens and all such -- I give my obeisance to their voice. Similarly, while I bestow my thanks and blessings for having made me King, and being chosen by Council approval of both parties on accepting the throne and Government of Sri Lanka, I promise to exercise the royal rule with righteousness. Further, without overdoing the royal methods and the ten-fold royal dhamma pursued by former kings, I shall conduct the royal administration of this Sri Lanka. I shall protect the heavenly Buddha Sasana, too. Let me receive the co-operation of the Council of Ministers to execute the duties of my responsible activities (Dammananda, 1919).

What is especially evident in the above quotation is that although the King was of authority, he should bend his head to the approval of the citizens. Administration of the state should be carried out righteously, and not in any other form.

Rev. Rahula (1956) states in his book History of Buddhism in Sri Lanka, that Buddhist monks settled disputes in the public sector, but did not use the death penalty or corporal punishments. In traditional Sinhalese society,

Buddhist monks assumed an important role with responsibilities as counsellors to the King, and as spiritual advisers to the general public. They were expert in the law, and had the skills of advising the people who administered jurisprudence.

The Mahavamsa, the Great Chronicle of the Sinhalese Kings, states that some Buddhist monks solved disputes among Sinhalese princes which otherwise would have resulted in battles. For example, following a struggle between Prince Gamunu and his brother, Tissa, the defeated Tissa asked for protection in a Buddhist temple. The Buddhist monk, who had gone to the palace along with Tissa, negotiated a compromise between them (Sumangala, Vol. 7, 10). The assistance given by the Buddhist monks in settling disputes or the role that they played in the dispute settlement evolved throughout the pre-colonial period.

Another important element in the study of Sinhala law are the benefits declared by certain kings for ancient temples. There are a number of inscriptions in which prohibitions are recorded in connection with government officials to arrest criminals who break into temples or who trespass onto temple lands. In addition, Buddhist monks were given the responsibility for settling disputes in the villages where the temples were located. During the Kandyan period, the principals of the temple were empowered to give both written decrees and swearing decrees in cases arising

in the villages belonging to their temple. They could hear public offences, except high crimes, and could impose corporal punishments upon them. These punishments would vary according to the severity of crime and circumstance of the offenders.

The King was the head of the administration of government. During the Kandyan period, the King carried out administration with the advice of a royal council, which consisted of learned Buddhist monks, and justice was executed through officials who were appointed by the king. These officials had different judicial powers according to their ranks. The authority of officials varied, depending on the classes of people over whom they had jurisdiction, the offences which came under their purview, and the punishments they were empowered to impose. In administering their judicial power, they were expected to show tolerance and impartiality. In addition, judgements involving discretion were to be exercised only in consultation with the appropriate chiefs, and never without their concurrence. However, judicial officials could not deal with the disputes among principal chiefs, or with the officers of the King's household (Pieris, 1956).

Judicial Officials in the Kandyan Period

The *Adhikaramas* (the chief ministers) had exclusive jurisdiction which was subordinate only to the king. Their jurisdiction extended all over the country and some of the provinces were divided between two *Adhikaramas* so they could perform their judicial tasks. They were empowered to inflict corporal punishment, imprisonment, and fines against all cases, with the exception of high crimes such as homicide and treason, in which the King alone could impose the death sentence. In every instance, appeals were directed to the King (Pieris, 1956).

The *Lissaves* (the Governors of the Province) had jurisdiction over all persons as to land suits and all public offences except high crimes within their districts, which were appointed by the king. Within their districts they had power to impose corporal punishments (except with the cane), imprisonment, and fine without any fixed limit. In their judicial power, they were inferior only to the *Adhikarama*, to whom appeals of their decisions could be made.

The other judicial officials in the Kandyan period in Sri Lanka were: *Lekams* (scribes responsible for the maintenance of land role), *Ratemahathmaya* (the principal chiefs of the eight divisions), *Mohottalas* (civil and military officers who served under the Disava), *Koralas*

(administrative officers of sub-division of province), *Vidane* (the headman of the village), and minor judicial officials such as *Aratchi*, *Liyanaralas*, and *Undiaralas*. Each had limited jurisdiction in public and private offences within their areas of authority. They could inflict slight corporal punishments on common persons with open hands or with rods, imprison offenders for a few days, and impose fines. As Davy (1821) states, "all officers, from the king to a *Vidane*, exercised more or less judicial powers, and from all the subordinate ones appeal might be made to the superior, till it reached the King himself, whose sentences in all instances were decisive" (pp. 134-5).

Judges were expected to be impartial in carrying out their tasks. Their decisions were based on evidence provided by the parties and witnesses in the case, unless oaths were resorted to. In administering justice, judges were expected to be free from the *Satara Agathi* (four evils): Favour no one to the injury of another; injure no one to benefit another; let not fear prevent your doing justice; avoid doing evil through ignorance, or the want of correct information.

In Sinhalese society, the 'Gama' or village was the smallest unit of the administration (Jayasekera, 1984). The local community depended primarily on agriculture. Furthermore, villagers admired peace and order in their community. Village communities enjoyed a large degree of

self-administration, and were independent of the central government. They managed their own affairs and administered justice within the community. The local community held responsibility for investigating and preventing crime within their territory; in case of failure to do so, the whole community had to pay a fine.

The interference of the king or his officials in village affairs was minimal. The internal affairs of the village, and the settling of disputes, took place through the decisions made by the village headman, in association with village elders, and meetings in the village were held according to traditional customs. These gatherings, such as *gamsabhava*, *ratasabhava*, and other institutions, have continued over the centuries, widening their jurisdictions over civil and criminal matters.

Judicial Institutions in the Kandyan Period

The judicial Institutions such as *gamsabhava*, *ratesabhava*, and headman played important roles in administering justice during the Kandyan period. Some of these institutions were rooted in the past, while others originated during this time. Even traditional institutions which prevailed during the Kandyan period showed some differences in their operation.

Gamsabhava

The origin of the *gamsabhava*, the oldest court system, was during the reign of King Pandukabaya (327-382 A.D.). Jayasekara (1986) states that *gamsabhava* was derived from the Hindu law of India. Hindu influences had affected the traditional justice system through traders, and ancient kings who migrated to Sri Lanka from India. This institution spanned more than 2,000 years and, at different periods of history, its composition appears to have varied only slightly.

In the 10th century, *gamsabhava* was a board of investigation comprising eight villagers. The wrongdoer was taken before the board, which imposed punishments and made decisions concerning the breach of law. Robert Knox, who served a prison sentence for 21 years in Sri Lanka at the end of the 17th century, describes *gamsabhava* as it was in the 17th century:

For having complaints and doing justice among neighbors, here are country courts of judicature consisting of these officers together with the headman of the places and towns where the courts are kept; and these are call Gomsabbi, as much as to say town consultation. But if any do not like and is loath to stand by what they have determined and think themselves wronged they may appeal to

their Head Governor that dwells at Court,They may also appeal from him to the Adikars or the chief justice of the kingdom (Knox, 1681, 84).

By the early 19th century, *gamsabhava* or the Village Council was held at an *Ambalama*, under a shady tree or other convenient place, as an assembly of principal and experienced men of the village. It had jurisdiction over the civil and criminal matters such as the limits of debts, petty theft, and quarrels. After inquiring, the matter was settled amicably, if possible, with the party found at fault required to restore or compensate the loss of the victim. Dismissing the case with reproof, the *gamsabhava* admonished that the endeavors of the villagers should be directed towards compromise, rather than punishment (D'oyly, 1821; Pieris, 1956).

The following example depicts the proceedings of the *gamsabhava*, which were characterized by admonition, compromise, and commonsense, unspoiled by legal technicalities and rigid rules of procedure: Tikiri, with the assistance of a conjurer, located some goods in the house of Kuda that had been stolen from him. Kuda pleaded to the village elders that he had discovered these articles in a pit in his *Chena*,¹ and was prepared to hand over what he claimed to have found. But the *gamsabhava* discredited his

1. Forest land brought into cultivation by the slash and burn method.

plea, and, concluding that he was the thief, ordered that he must hand over all the goods that Tikiri had lost, and because he did not, Tikiri could seize his land (Pieris, 1956, p. 149).

The *gamsabhava* continued to exist even after the Kandyan government surrendered to the British in 1815. As Leonard Woolf, Assistant Government Agent of the Hambantota district, in Sri Lanka from 1908-1911 reports, there had been village tribunals or *gamsabhava* in the Hambantota district at that time. The tribunals were presided over by a president who had villagers assist him as counsellors. These tribunals also had power over petty civil and criminal cases (Woolf, 1962).

Rata Sabhava

The appeals were laid from decisions of the *gamsabhava* to the district council or *rata Sabhava*. The word 'rata' signifies small suburb areas in Kandy. There were seven areas where *rata sabhava* existed during this period. *Rata Sabhava* was presided over by *Raterala* or *Ratemahathmaya* (chief of district or rata) including minor officials *Liyanarala*, *Korala*, *Atukorala*, *Aratchchi*, and *Vidane*. Every official was entrusted with certain responsibilities in the area concerned.

An interesting feature was that the decisions concerning judgements were taken according to the majority

of votes of the officials. The highest punishment which could be imposed by the *rata sabhava* was a fine. In addition, this court was concerned with upholding caste laws and customs such as the prohibition against the offender's relatives from admitting him/her for their special social events such as funerals and of marriage ceremonies till the offender was cleared at the inquiry in the *rata sabhava* (Jayasekara, 1984).

Maha Naduwa

Appeals against the decisions of the *rata sabhava* and the *gamsabhava*, including the judgements of the officials, were directed to the hearing of the great court which was known as *Maha Naduwa* (D'oyly, 1929). This court consisted of the *Adhikaramas*, *Dissavas*, *Lekams*, and *Muhamdirams*. The court was held, as the occasion suited, on the verandah of the audience hall, or in buildings outside the palace. The proceedings of the court were somewhat similar to the early British courts of Sri Lanka: the plaintiff or prosecutor first stated his case, the defendant answered, and the evidence of the plaintiff, the defendant and their witnesses were heard. The allegation against the defendant were evaluated on the basis of the witnesses' evidence.

Allegations against chiefs, Buddhist monks and temples, as well as conspiracy, treason, and homicide were also tried in this court. The proceedings were oral, and records were

kept. When a dispute involved lands and property, written statements were provided to the successful party, including the names of the parties, the land in dispute, the decision of the court, and the date. The appeals against the judgement of the *Maha Naduwa* could be forwarded to the king as the last resort (Jayasekara, 1984; Pieris, 1956).

If disputes could not be settled to the satisfaction of the litigants through the secular modes of trial, resort was made to oaths so as to secure Divine judgements. By oaths, carried out through ceremonial invocation, the Deity was asked to settle the disputes by making a sign or infliction upon the wrong doer. These oaths were considered to be most binding on the conscience of persons professing the Buddhist religion (Pieris, 1956; Rogers, 1987).

Traditional Crime and Punishments: che "Five-Fold Sins"

Historically, there has been great concern over what Sri Lankan society has called "five-fold sins" that contribute to the malfunction of the community i.e., Killing, stealing, adultery, lying and alcoholic consumption. The committing of any one of these five sins is a violation of moral values, while abstinence from them is said to comprise the observance of *Pancil* (five precepts which are to be followed by laymen). The cultivation of these behavior patterns is taught in Buddhism. Therefore,

the violation of laws which are governed by these moral values, makes possible the variety of crimes according to Buddhist tradition, with the type of crime determining the punishment. The Sinhala penal code, which has been formulated in keeping with Buddhist tradition, also determines punishments according to the nature and seriousness of the crime. The punishment is the agony given to offenders. The objective of these punishments is the rehabilitation of the offenders. During the Kandyan period this rehabilitation was carried out through restitution of the loss caused by the crime, and integration of wrong doers into the community after getting rid of possibilities of backslides. The principles of punishments employed by the Sinhalese kings were expressed thusly:

"As the gold is heated
Till the rust is gone
The offence committed
Gives agony in proportion" (Tennakon, 1960, p. 52).

Before punishment was determined, the allegation levelled at the criminal had to be legally, impartially and attentively inquired into. An "eye for an eye" (retaliation) was not seen as a civilized basis for punishment according to Buddhist teachings (Dammananda, 1919). Savage punishments were not approved, even in order to make an example of someone, because it is fundamental principle of Buddhist

society to cleanse the character of persons who have gone astray, thereby putting them on the correct path.

Munidasa Kumarathunga, in his Thisara Sandesa (Sinhalese poems that describe a message sent through a sawn) (P. 252), says that the thirty-two methods of the judiciary express the thirty-two punishments and the ways in which they are carried out. When these punishments are examined, it appears as if they were a series of punishments laid down with the intention of killing by torture. But instances of giving these punishments were rare; the penal code more commonly used within the Sinhalese government was much more lenient than this. Since the King was a devoted Buddhist he, as a general principle, did not resort to harsh punishment. Nevertheless, some offenders who were found guilty of theft were given wealth and alms after considering the true causes of their committing crime. Wrong-doers were rehabilitated through punishment, such as imposing fines, lashing, and imprisoning them.

The manner in which offenders were imprisoned in the Kandyan period was different from that of the colonial era. There were no prison institutions or special guards to perform prison duties. People who were found guilty were quartered in villages and the villagers had to look after them. Robert Knox, who was a prisoner in Sri Lanka from 1657-1680 A.D., lived in the Kandyan kingdom. His insights

provide valuable information concerning the nature of prisons and their administration at that time in Sri Lanka.

Captives were separated and quartered in separate villages in the kingdom. Each captive was a ward of the village where he was placed, and villagers supplied daily food. Knox states that prisoners were given their daily bread free of charge, twice a day, which was as much as they could eat and as good as the country yielded (Knox, 1681). Captives were required to work and earn extra money. Most of the European prisoners who were in Kandyan villages were involved in knitting, animal husbandry, keeping cattle, plowing the ground, and sowing rice.

With the exception of the king, some judicial officers were also authorized to punish offenders with imprisonment. But the manner they chose was different from that of the King. *Mohottala*, *Koralas*, and *Arachchi* could imprison robbers who were found guilty, by placing them in their houses or in *Kadavat* or Stocks until they restored the stolen goods with the damages (Pieris, 1956). People who were charged with the default of taxes were often imprisoned in the *Gabadagama*.²

Dissava had the power to imprison those who were exempt from corporal punishments. In the event of offences which merited greater punishments, offenders were imprisoned in a

2. *Gabadagama* (or villages of the storehouses) signifies the lands owned by the king.

Kattubulla village. Offenders who failed to pay fines were temporally detained in a hall, known as *Atapattu Maduwa*, until payment was made. With respect to high crimes, the king imprisoned offenders in a village called the 'royal village' or in the Great jail (*Maha Hirage*).³ Those who were imprisoned in a royal village were entirely supported by their relatives (Pieris, 1956). The imprisonment of offenders, to a great extent, operated in such a way that those found guilty were kept away from their families, allowing them to live with the village community where they were kept imprisoned. The intention of the imprisonment was not aimed at the psychical and mental destruction of the offenders, but attempted to rehabilitate them through better understanding of the wrongfulness of the crimes they committed.

The punishments given to convicts in Sinhalese society were based on the formation of a just society by developing in the individual, the right speech, right action, right livelihood and right effort. On the other hand, it can be conceptualized that the life of human beings is directed towards right thought, right concept, right mindfulness and right concentration. Apart from the laws to prevent killings, there are laws against theft, illegal trade,

3 H.W. Tambiah (1968) notes that royal villages were lands owned by the king and were cultivated by the tenants. The entire produce of the villages were given to the king for the use of the royal household and in return tenants received lands called *nindagam* granted by the king.

faulty sales, faulty weights and measures, wrong speech (lying), adultery, taking dangerous drugs and drinking maddening liquor. On the whole, the penal code used in ancient Sri Lanka was based on Buddhist concepts. It can be seen through a careful survey of certain law reports that imposition of punishment was a method used in bringing insult and shame on offenders with the intention of reforming them to become good citizens. "All beings are afraid of punishment. All beings fear death. One should refrain from killing by taking oneself as an example" (Buddha Nikaya, 24). It appears that these Buddhist concepts have guided the compilation of laws in Sri Lanka.

The caste distinction prevalent in the traditional society was also depicted in the criminal justice system. For instance, judicial officials were often appointed from the high caste of *govigama* (de Silva, 1981). The rest of the castes were categorized based on their occupations, and included the *Karava* (fishermen), *Salagama* (cinnamon peelers), *Navandanna* (metal workers), *Berava* (drummers), *Hena* (washermen), and the lowest castes such as the *Kinnara* (mat weavers), and the *Rodi* (beggars).⁴

The Sinhalese caste system was intrinsically bonded to land tenure during the Kandyan period. Inhabitants who

4. As Leach states, these castes were not occupational in the total sense. Their services were ritual. In their ordinary life all lived on cultivation (Pul Eliya, 1961, p.26).

cultivated paddy lands had to perform compulsory services (*rajakariya*) to the King or, otherwise, had to donate a part of their harvest instead. In contrast, non-*goyigama* castes had to perform service obligations in return for the lands they endowed. The king obtained services from officials who were called *dissavas* and, in return, they were granted titles to the lands. Some lands that were granted, known as *saramaru nindagam* lands, were offered only during one's period of office, while other lands granted to the chiefs, known as *nindagam*, brought full title and were often independent of all services to the crown. The land recipients, usually known as chiefs, had power to obtain services or taxes from the tenants, and could settle disputes among those who enjoyed lands belonging to chiefs (de Silva, 1981).

However, during the Kandyan period, punishments were inflicted differently for the same crime, depending on the caste of the perpetrator. For example, judicial officials inflicted corporal punishments upon high caste people with open hands, whereas lower caste people were punished with rods.

Summary

In traditional Sinhalese society Buddhism had influenced many aspects of the criminal justice system. In brief, Buddhist law or teachings assisted the Sinhalese

rulers to reign the country accordingly. Buddhist monks assumed an important role, executing responsibilities as counsellors to the king and spiritual advisers to the general public. At the village level, those monks played a calming and peace-keeping role by settling domestic problems and disputes among the villagers.

The Sinhalese penal code, which has deep roots with Buddhist tradition, determined punishments according to the nature and the seriousness of the crime and the caste of the perpetrator. Although there were harsh punishments in Sinhalese society, they were rarely exercised. The prime motive of the punishments was not torturing the wrong doers, but cleansing the character, bringing them to the correct path. Offenders were not imprisoned in closed prisons, but instead were quartered in villages, with villagers taking the responsibility of looking after the prisoners. Prisoners were often fed by the villagers while facilitating their rehabilitation within the community.

The following chapter examines the changes to the traditional criminal justice system which emerged following foreign invasions of Sri Lanka from 1505 onward by the Portuguese, the Dutch, and the British, respectively.

CHAPTER II

THE IMPACT OF COLONIALISM ON THE TRADITIONAL CRIMINAL JUSTICE SYSTEM: 1505-1948 A.D.

Portuguese Colonialism

Sri Lanka first became a colony with the invasion of its trading capital by the Portuguese in 1505. The Portuguese were attracted to Sri Lanka by its position as the major trade center in South East Asia during the early years of the 16th century. It took about a century to solidify Portuguese dominance over Sri Lanka and, by 1619, they were able to exert their authority over the entire island, with the exception of the Kandyan Kingdom. The impact of Portuguese invasion on the indigenous criminal justice system, however, was minimal. The diffusion of Christianity and introduction of a European ethnic group held more notable consequences.

Dutch Colonialism

The Dutch supplanted the Portuguese in 1658, taking over the entire island except the hillside Sinhalese kingdom in Kandy. Within several years, they established their authority over the Portuguese, driving them away from Sri Lanka's maritime trade sector. As part of the Dutch objective to monopolize trade, all private trading activities were banned, and placed under their control.

Further, in order to obtain service labour from the inhabitants, they assigned initial property rights, particularly in the interior mainland. Local people were employed to erect magazines and fortresses for Dutch protection, and to collect cinnamon and other valuable crops in those areas.

Since the Sinhalese, who are the majority of the inhabitants in Sri Lanka, were reluctant to work in the homesteaded lands, the Dutch forced them to do so through imposition of severe penalties. Laborers became "slaves" who were compelled to work hard for the government three months each year (Mendis, 1956), and were not allowed to sell their harvest or mortgage their lands without prior approval. The Dutch encouraged civilians to maintain the caste system as a means of assigning different economic roles to each group, particularly in their affiliated occupational activities. The prevalent social stratification had been strengthened by the Portuguese and the Dutch found it a "ready made machinery for exploitation" (Fernando & Kearney, 1979). For instance, the caste of cinnamon peelers (Salagama caste) was given special recognition in civilian groups.

The commercial interests of the Dutch led them to codify new laws to facilitate the island's trade. For example, as their chief interest was in the cinnamon trade, a very stringent code of laws was declared to protect it: the sale or export of even a single stick of cinnamon by anyone other than the servants of the government, or the

willful injury of a cinnamon tree, were crimes which could be punished with the death penalty (Rogers, 1987).

The Dutch colonial government appointed their own officials as *Dissavas*. Native officials like *Koralas*, *Vidanes*, *Arachchi* became a liaison between the Dutch and the ordinary people (Arasarathnam 1958, Gunasekara 1958). The *gamsabhava* survived in the Dutch period too. However, for centres like Colombo, which were under Dutch rule, Dutch officials called "Fiscal" were appointed. They had powers similar to those of present day magistrates, and maintained law and order with the assistance of the "lascarin corps" (local Militia) (Pippet, 1938). Judicial administration was carried out through native officers -Mudliyors of counties- by keeping them subordinate to the European functionary in each province. Usually these officers presided over the native court called the "Landraad", where justice was administered following the native laws and customs which were collected and put in writing by the Dutch.

Under Dutch rule, local administration was carried out through the village headman, a native person who was appointed by the Dutch in each village, and whose duties encompassed the collection of revenues and the supervision of cultivation of the lands. The public officials, who received small salaries, were remunerated by gifts of land called "*accommodessans*", which were held free from taxes and services. These advantages given to the public officials

encouraged the natives to serve under the Dutch administration.

Judicial administration under the Dutch often utilized customary laws which were unique to the different communities. The laws and customs of Tamils in Jaffna were codified in the *Tesawalamai*, for example, and the Muslims had their own Islamic law. In the case of the Sinhalese, however, no such laws were codified. Instead, Roman-Dutch law was introduced to replace the customary laws which had been in existence until that time (de Silva, 1973).

The Roman-Dutch law accelerated social changes by instituting monogamy and marriage. Its strongest influence, however, was on private property, where the Dutch enacted legal provisions to be used in the transfer of private property. Property ownership also acquired a firmer legal status. A major concern was in establishing government control over lands suitable for cinnamon harvest, which had been under the traditional service tenure holdings. The Roman-Dutch law gave the land owners the right of alienation, which was not alienable by the holders during the service tenure.

British Colonization

The British colonization of Sri Lanka began when the British East India Company conquered the Dutch settlements during late 18th century. In the early days of the invasion,

Sri Lanka had been under the administration of the East India Company. Nevertheless, after the rebellion, in 1802, the maritime province was declared a crown colony (see Appendix C, the British administration of Sri Lanka before 1815).

The collapse of the traditional criminal justice system was accelerated with the establishment of British social, economic and political structures in Sri Lanka. After the British occupation in 1796, the functioning of the "fiscal" of the towns ceased, and "Law and order" was maintained by the military with the assistance of sepoy^s (lower grade of military men). In 1798, the arrival of Fredrick North as Governor, however, changed the situation as he acted to re-establish the abolished position of *fiscal* in Colombo and other towns. In the northern provinces, the fiscals were replaced by sitting magistrates in 1802 (de Silva, 1953). The police function was carried out by local headmen and their role centered on the safety, comfort and convenience of the inhabitants.

Lord North's period of governorship ended in 1805, leaving the country in a disorganized state. The Kandyan war (A.D. 1815) and its aftermath left behind many displaced persons and vagabonds. The maintenance of law and order in the towns as well as in rural areas became a matter of the highest priority for the British colonial rulers.

In order to overcome problems in maintaining law and order, the new governor, Maitland, passed new regulations in

1806 for the purpose of policing the rural areas. One or more headmen, called "police vidanes", were appointed in each village. These headmen were unpaid, but were allowed 10% of any stolen property recovered, provided that they arrested and obtained the conviction of the person guilty of the theft (de Silva, 1953; Pippet, 1938).

The interest in commercial trading led British rulers also to codify new laws to protect trade. Cinnamon trees, for example, irrespective of their location, were deemed to be government property, and any destruction or sale of cinnamon was forbidden under heavy penalties. In 1832, twenty people were charged for violation of the cinnamon laws (Mills, 1964).

The British administrative policy added new views and definitions of crime which were sometimes contradictory to those of indigenous rule. For example, native peasants traditionally made their livelihood through chena cultivation in forest lands. But the British declared forest lands to be state lands, and the use of them, or cutting of trees (timber) without a duly authorized licence, even on private land, was a crime (Mendis, 1956). The intention of constraining native land rights was twofold. First, the British wanted to discourage inhabitants and compel them to give up their ownerships so that British rulers could purchase the land cheaply, to cultivate crops they thought economical. Second, the British attempted to preserve the

timber on those lands in order to strengthen their future profit.

In Sri Lanka, a large number of people did not consider gambling, and graphite mining as wrong, but the British declared these activities to be crimes. Tax evasion was also considered to be a crime; the government sought to make up revenue by imposing taxes on firearms, pet animals, shops, boats, carriages and bullock carts (Nyrop, 1986; Rogers, 1987).

Other differences between Sri Lankan and British definitions of crime were evident. In traditional Sinhalese society, for example, verbal abuse was a crime, although the British did not consider it as such. Consequently, the courts stopped trying this offence in the 1820s in the lower mainland, and in the 1830s, in the Kandyan district (Rogers, 1987).

In 1818, the native people in Kandy rebelled against the British administration. This rebellion provided an opportunity for the British government to exercise its power towards the Kandyan district. The province was placed under the supervision of a board of commissioners, the commandant of Kandy and two civil servants, who were in charge of the judicial and revenue departments respectively (Mendis, 1956). In addition, the authority of the chiefs was curtailed by a proclamation of the Governor. This was done due to suspicion about the chiefs and questions as to their loyalty to the British administrators.

In the Maritime province, the judicial powers of the headmen were stripped and a three-tier court system was introduced, including Supreme Courts, Provincial Courts, and Magistrate Courts. The Supreme Court comprised two judges and the Governor, and had jurisdiction over serious offences. The Provincial Courts consisted of civil servants who had been entrusted with other duties, and also tried some criminal cases. The Magistrate Courts were staffed by Burghers who had jurisdiction over petty crimes, and also recommended which of the more serious offenders should be tried in the higher tribunals. In the Kandyan province, the judicial power of headman was limited to petty cases and the British agents of government were empowered in judicial matters (Rogers, 1987). Since the British government believed that English forms were superior to the Kandyan ones, it entrusted British officials with personal control and authority over the judicature in the Kandyan province.

It is worth noting that, at the beginning of the British administration in the Kandyan province, efforts were made to find some compromise between the indigenous and English judicial systems. For example, after the Kandyan kingdom ceded to the British, they consented to the continuation of Kandyan law and its justice system with regard to Kandyan inhabitants. But the British view that their judicial system was superior to the indigenous judicial system soon led British officials to be entrusted with personal control over the judicature in the Kandyan

province, which subsequently led to the deterioration of the traditional criminal justice system. For example, traditional institutions such as "gamsabhavas" and "customs" became devalued by reducing their jurisdictions, and traditional laws were restructured. Foreign formalities and technicalities were enforced in an alien language (de Silva, 1973).

A commission of inquiry was sent by England to Sri Lanka in 1829, headed by William Macbean George Colebrooke and Charles Hay Cameron. Reforms introduced by this commission during the 1830s aimed at the patterns of administrative, economic, judicial and educational development. The judicial structure, introduced by means of a charter in 1833, was comprised as follows. There were district courts with exclusive authority over both civil and criminal cases within the territorial limits. The Supreme Court was empowered to punish the more severe crimes. The appeal court consisted of one judge from the Supreme Court and three assessors, who were inhabitants of Kandyan province who had knowledge of Kandyan law.⁵ They were there to exercise appellate jurisdiction over the courts of original jurisdiction. The aims of the judicial reforms in 1833 were to establish a judicial system with simplicity of

5. Kandyan chiefs like Mullegama *Dissava*, Dodanwela *Atapattu Lekam* and Kadigamuwe *Nanayakkara Lekam* gave their opinions as assessors on Kandyan law in the judicial commissioner's court from 1815-1832.

structure and uniformity of operation which would meet the demands of the plantation economy (de Silva, 1973).

The traditional caste-based social stratification in Sri Lanka was not compatible with the social structure created by British administration. The abolition of "rajakariya", the personal service rendered to the king or his agents by land holders who enjoyed land granted to him, was aimed at both the curtailment of power of the chiefs, and the release of the laborers from the traditional bondage of service tenure. The government demanded the services of the inhabitants along the caste lines of adequate payments. This policy of the British succeeded in generating wage laborers who gave birth to the expansion of a cash crop-based capitalist economy in Sri Lanka.

Curtailment of the power of the chiefs led to an increase in the civil and judicial powers of the government agents and administrators. The appointments in the administrative and judicial professions were given only to British officials and thereby the anglicization of the administration of justice was started. It was a British policy that gave effect to the Roman-Dutch law in the low country. However, in practice, British judges were influenced by English precedents and modes of reasoning and, thereby, the Roman-Dutch law was gradually replaced by English law. A similar process took place in Kandyan province (de Silva, 1973).

At first, Kandyan criminal law was applied in the Kandyan province. For this task judges were assisted by the assessors because Kandyan law was not black and white. Within fifteen years of the invasion, Roman-Dutch law and English law, which prevailed in the low country, were gradually expanded to the hill country, or the Kandyan province. In 1852, legislation was extended to all low country criminal laws in the Kandyan district and resulted in the demise of the Kandyan law.

By 1847, respective administrative chiefs were to provide infrastructure facilities which were deemed necessary in the plantation economy. Consequently, until the establishment of Ceylon banks in 1841, financial, commercial, and judicial power was concentrated in British hands.

The expansion of the plantation economy was hindered by a dearth of labour because the Kandyan peasants enjoyed a much higher status than landless laborers. As a result, permission was given to recruit laborers from southern India where labour was in abundant supply. This increased immigration, as an outcome of the plantation economy led to an increase of litigation on minor offences. Subsequently, there were many law suits relating to minor offences pending in almost every district court. To respond to the delays brought about by the district courts, a police court was established in 1843, with the technical procedures necessitated in solving minor offences. In addition, the

Courts of Request were established with the power of hearing minor civil matters. The power of these courts i.e., apprehension of persons suspected of having committed criminal offences and the commitment to prisons and preliminary examination of persons charged with such offences, relieved the case-load pressure on the district courts.

By 1860s, there was an increase of reported crimes brought before the police courts from plantation areas in the central province (Rogers, 1987). This coincided with the larger number of police courts located in the central province, rather than the districts where there were fewer plantations.

The procedure and rules of the police courts were very British in origin, i.e., the complainant and defendant summoned witnesses who were subject to cross-examination and re-examination, and then the magistrate decided the case. If witnesses were missing, postponements were often granted. Although the structure and rules of police court resembled that of the British, in actual practice they were quite distinct. John Capper, a journalist, differentiating, between the Colombo police court and a minor court in Britain, states "there, everything is cool, solemn, silent, orderly; here, it is all glaring sunshine, dirt, noise, dust and effluvia" (Rogers, 1987, p. 45).

During the British reign (1796-1948) in Sri Lanka, the legislature and the courts made significant changes to the

indigenous legal system. Legislation encouraged the courts to replace the old law, with changes necessitated by the circumstances of life in modern Sri Lanka. The abrogation of the old law was usually directed by the legal personnel. For instance, the introduction of English law of evidence paved the way to abrogate the corresponding Roman-Dutch law by a statute of 1846; and the Roman-Dutch criminal law was abolished by a penal code passed in 1883 (de Silva, 1973).

The anglicization of the criminal justice system had two primary objectives. The first was to fulfil the social and economic needs generated by the expansion of the plantation economy and the second was to meet the requirements of the British sovereignty.

Under the recommendation of the committee of the Executive Council of Ceylon, the system of assessors introduced in 1833 was regarded as having outlived its usefulness, since the Roman-Dutch law and English law expanded throughout the Kandyan Kingdom and the district courts were empowered to function without assessors.

The colonial judicial system introduced trial by jury to the low country in 1811 and this prevailed even after 1833. The Cameron reforms which took place in 1833 regarded the jury as "the organ of the judicial decision" so that it was very difficult to defend (Mendis, 1956). Jurors were selected on the basis of language capabilities, intelligence and respectability. In the Supreme Court, cases were presided over by one of the three judges of the court, and

questions of fact were decided by a jury of thirteen men. The appointment of the jury was expected to help the judges in interpreting the law, just and equal, between the parties.

The economic and social changes introduced by British rule had the effect of weakening the traditional bases of social control. The development of a plantation economy with the introduction of commercial crops such as coffee, tea and rubber was aimed at a world market. Thus it became a major requirement to specialize in quality in order to compete with the rest of the world producers. Consequently, a large labour force was created which generated many new employment opportunities in estate commercial activities and affiliated services such as transport and the processing industries.

The development of a plantation economy resulted in major transformations which affected the local communities. The changes extended beyond the bounds of the plantation areas, where capitalism was entrenched, affecting the stratification of society throughout the entire island. People who had difficulty depending on either subsistence agriculture or traditional occupations (often caste-bound) moved towards urban areas where employment opportunities were in abundance. As the people lost their social bondage and traditional social control within the influence of the newly emerging social and economic structure, there arose a need for new measures to control their patterns of life. In 1878 the criminal law was consolidated; in 1883 a penal code

and a criminal procedure code were enacted; and the process continued with a civil procedure code, along with the courts ordinance passed in 1889.

A law was enacted for minor courts, namely the police courts, the courts of request, and Justice of the Peace, and was consolidated through ordinances passed in 1859, 1861, and 1864 respectively. The Administration of Justice Ordinance No. 11 of 1868 extended this by consolidating the jurisdiction and powers of all courts (de Silva, 1973). The aim of these consolidation measures was the introduction of systematic social control mechanisms in accordance with English common law tradition and judicial procedure.

During the 1860s, the judicial system established by the colonial government was deemed to be inadequate. The situation was described thusly:

the courts were congested by a flood of frivolous charges, the raiyats incurred heavy expenses in court and lawyers' fees... The number of assaults and murders largely increased, since men who could not afford the expenses of a suit took the law into their own hands (Mills, 1964, p. 136).

It seems that the atrophy of the "gamsabhava", which enforced the traditional law of the villages, had contributed to the above plight. In pre-colonial times, it was the *gamsabhava* which had investigated breaches of customs and all disputes among villagers. The *gamsabhava* was

aware of the dynamics of village life and could not be easily deceived by false evidence.

In 1856, an irrigation ordinance had empowered the *gamsabhava* to control cultivation and drainage systems in rural areas. The *gamsabhava* ordinance No. 26 of 1871 extended its power concerning other aspects of rural life, and exercised a petty criminal and civil jurisdiction over theft and assault, malicious damage of property, cattle trespass and violations of irrigation rules (Rogers, 1987). During that time, the *gamsabhava* was composed of five members and a president chosen from the substantial landowners of the village. The Mudliar, who was named after the president by the governor, became the superior member among the rest of the members of the *gamsabhava*.

The revival of the *gamsabhava* and its judicial power proved to be of value to the indigenous institutions of social control. It helped to reduce the number of petty or frivolous cases reported to the high courts, and remained a valuable part of the executive and judicial system under the British rule.

In short, both the British rulers and Sri Lankan politicians focused their aspiration on reviving the traditional administrative system through *gamsabhava*. In his writing about Ponnambalam Arunachalam, T. Thalagodapitiya quotes:

It was a magnificent dream suggested to his mind
by his deep studies of our ancient institutions -

the *gamshabava* and the co-operative system. In it there would be no room for the aggrandizement of private individuals, while it would give full scope for the free flowering of human personality. Power would not be concentrated in the hands of a few, but diffused throughout the whole community consistently with the security of the state...

(Piyadasa, 1984, p. 57).

Court Ordinance No. 1 of 1889 marked the culmination of the consolidation in judicial administration and it introduced the judicial committee of the privy council as the highest court of appeal.

At the end of the 19th century, owing to the influence of a shift in European legal thought, judicial policy shifted to emphasize offenders rather than the actual offence when determining punishments. Subsequently, the magistrates and judges were empowered to release convicts upon probation by legislation enacted in 1891. Provisions were made to treat first time offenders leniently, and habitual criminals severely (Rogers, 1987).

In the twentieth century, the colonial government shifted its attention from the judiciary to the police, and few changes were made regarding courts and their jurisdiction. In 1938, a Court of Criminal Appeal was established to hear appeals from persons convicted by the supreme court. The appeal court was composed of a chief justice and the other judges of the Supreme Court.

In 1938, the police court was named as a magistrate court while Ordinance No. 48 of 1939 defined the jurisdiction of the juvenile court. The village tribunals were superseded by the Rural Court established in 1945 (de Silva, 1973).

The economic and social changes introduced by the colonial government (under British rule) had the effect of generating the human resources necessary for the colonial bureaucratic administrative system. The establishment of English schools imparted western education and turned out Sri Lankans qualified for employment in the courts and in export-oriented commerce, where English was the language of administration. There seemed no doubt that the economic opportunities offered by British rule had the consequence of offering everyone, irrespective of caste, avenues for upward social mobility. Consequently, there was a gradual increase in the number of Sri Lankan magistrates and judges. The decision made by the colonial government to fill many posts from the local bar, led to the replacement of British officials with Sri Lankans who were paid a lower wage. As a result, by 1930, eighteen out of forty-two appointments were held by local judges who were sufficiently anglicized to be thought capable of carrying out their duties with the same "success" as their British counterparts.

The Emergence of Criminal Justice Institutions:

During the first half of the 19th century, the regular police force was small and confined to the cities of Colombo and Galle, and to areas where there were coffee plantations (Rogers, 1987). The primary task of the police was not to prevent or investigate crimes, but to perform guard duties and protect plantation areas.

The penal code of 1883 defined various categories and subcategories of offences and punishments, and required an enforcement agency to be established. Accordingly, fundamental changes in the police force were introduced. The powers of the Inspector General over the police force were confined to the city of Colombo. Government agents were vested with police powers with the exception of responsibilities for promotion and discipline, which continued to be held by the Inspector General himself. Since the headmen were also under the control of the government agent, for the first time, they were supposed to report all crime directly to the magistrate. This restructuring procedure introduced in the police force, however, did not last long. Because the headmen thought that police work was beneath their dignity, they were reluctant to perform assigned police duties. Although this dissuaded many of the more wealthy villagers from accepting the title, 'headman position', the police organization continued to expand with re-organized regulations even after 1906. The control power

of the police force then returned to the Inspector General. The jurisdiction of the regular police force was extended to cover the entire district. New police stations were opened in rural areas and the force started to grow. Police recruitments were more from the Sinhalese than from minorities, since the increase in the number of natives in the police force was thought to facilitate the investigation and detection of crimes (Rogers, 1987).

Since the establishment of a specialized police force led to the creation of correctional institutions for convicted persons, there arose a need for prison services. Accordingly, in 1844, the 'Welikada' prison complex was established. In order to maintain the prison and prisoners, the first prison ordinance was enacted, entitled " The ordinance for the better regulations of prisoners Act No.18 of 1844".

In the beginning, colonial rulers did not see it as essential to have separate prison services outside the police force. Hence, the Inspector General of police was also appointed as the Inspector General of the Prisons. Accordingly, prison ordinance Act No.16 of 1877 made provisions to establish a uniformed prison system under the control of the Inspector General of Prisons. In 1905, when these two were separated, the power of supervision and control of all prisons was given to a separate Inspector General of Prisons.

By the 1870s, almost every prison institution was located in urban areas such as Colombo, Kandy, Jaffna, Ratnapura, Matara and Anuradhapura. The structure of these institutions was mostly transitory. Bastiampillai (1968) stated that the existing ones, mostly "cadjans" (coconut leaves) structures, had no separate sick wards. Accommodations were inadequate and unfit for human beings; and even the best jails were filthy.

Under the governorship of Sir William Gregory, certain reforms were introduced for prisons. As a result, it was decided to convert the Welikada prison into the colony's single large central convict establishment. Every other outstation, including the old prisons, were either to be repaired, or new jails were to be built (Ibid:127-8). With the precedent of the Indian prison institutions, Gregory made it possible for a smooth transition from the "association" to the "separate" system of accommodations for the prisoners in the colony's prisons.

By 1877, in addition to the provision of better accommodations, certain other improvements had also taken place. Prison officials were taught correct methods of treating offenders and how to manage prisons. Prisoners began to be classified. Violent convicts, female prisoners, and juvenile offenders were confined separately. Thus, large central jails, minor prisons and lock-ups became permanent fundamental features of the island's correctional institutions.

For the purpose of detaining paupers, vagrants, dangerous lunatics and idiots separately from ordinary offenders, Ceylon's Lunatic Asylum was opened in 1843. The benefits of medical attention were extended through an ordinance passed in 1873. Accordingly, anyone classified as insane was to be housed in the asylum and the property of affluent lunatics was accepted for their maintenance.

It is worth noting here that colonial rulers were also very keen in extracting prison labour for public works. Hence, an ordinance (Act No. 02 of 1853) was passed for the safe custody of convicts employed upon public works. The establishment of industries took place within the prison institutions or in a location nearby, such as printing machinery, which was introduced in the Walikada prison in 1911. The government press was located adjacent to the prison complex and two hundred prisoners were sent daily for work at the press. Similarly, by 1874, there was a proposal to build prisons near salt collecting centres, at Elephant Pass and Hambantota, in order to employ convict labour (ibid:127). During the first quarter of the 20th century, a large scale prison industry had been organized at Welikada and Bogambara, along with smaller ones at other institutions. A complete steam laundry was set up at Welikada, capable of handling thousands of pieces of linen from Colombo's hospitals and for washing prisoners' clothing. In addition, other laundry services were also provided through Welikada prison. This system was gradually

converted into a means of providing amenities to all government departments and helped the government to exploit convict labour cheaply.

In 1918, another broad system of classification of offenders had been introduced by the institutions. This stated that first offenders, juveniles, females and reconvicted prisoners were to be located in separate institutions. Short-term and long-term prisoners, first-time offenders as well as star-class prisoners and the "better type" of reconvicted men were further classified and housed in different sections of the larger prisons. The intention was to eliminate contamination and to facilitate prison administration. This process was further extended with the establishment of the Training School for Youthful offenders at Wahtupitiwala in 1940, which was the first Open Borstal Institution in Asia for youthful offenders (Prison Statistics of Sri Lanka, Vol. 7, 1988, p.80).

The British rulers further expected to control the increasing numbers of offenders. In 1944, probation had been introduced as a branch of the prison department. This extended the possible uses of the probation system by means of supervising offenders in the community rather than through correctional institutions. The statute which gave birth to probation of offenders in Sri Lanka is the ordinance titled "probation of offenders" No.42 of 1944. Though the probation service was initially confined to four judicial divisions in the island, by 1946-55 it had been

expanded to the rest of the judicial areas in the country (Gunasekera, 1983).

Theoretically these additions (i.e., Training school for Youthful offenders 1940, Probation service 1944) to the criminal justice system were based on the provisions of the English institutions. For example, the establishment of the Training School for Youthful Offenders at Wathupitiwala coincided with the Borstal training centre in England. Thus there were similar characteristics between Sri Lanka's institutions and those in England.

Imposition of Punishments

The punishments imposed by the colonial judicial system were not based on indigenous principles that carried official sanction in pre-British times. Restitution, conciliation and compromise were often aimed at administering punishments at the pre-colonial time. But formal judicial institutions, set up by the British, often viewed retribution and deterrence as the primary objectives of punishment.

The early British courts punished offenders with branding, the pillory, banishment and the confiscation of property. The introduction of pingo carrying⁶ as a means of

6. Pingo carrying was a means of punishment which required to carry an object full of stones on offender's shoulders.

punishment by Prison Disciplinary Commission No.1 of 1867 reflected the retributive objective of punishment.

The establishment of penal institutions, such as prisons, paved the way for changing the existing methods of punishment. For example, until 1883, the death penalty was carried out in public. Marshall (1846) states that "The prisoners were taken to the place of execution.... to bend his head forwards, it was held by one of the executioners. After, the first blow of the sword he fell backwards; but he was not deprived of life until he received the second stroke." (pp. 198-9). But the penal code introduced for the colony in 1883, proclaimed that the sentence of death be carried out within the walls of the prison in which the prisoner was confined at the time of execution (Ordinance No. 3 of 1883). After 1883, hangings were carried out behind the prison walls, and this ordinance stopped the public from watching the executions. Banishment was abandoned in 1922 and the convict settlements on the Andamand islands were closed.

The Penal Code of 1883, defined offence categories and their subcategories of offences. Punishments were based on the English law. This code, which was compiled after the Indian Penal Code of 1860, was successful in replacing the Roman-Dutch criminal law which prevailed at that time.

General categories of offences included abetment of and conspiracy for the commission of any offence, a crime against the state, public tranquility, public officials or a

person or property. The punishments for these offences were categorized as death by hanging, imprisonment, whipping, forfeiture of property and fines.

Since the British rulers felt that prompt punishment had a better deterrent effect than a sentence of longer imprisonment (Rogers, 1987), they tended to impose corporal punishments such as flogging and whipping as specific punishments. The severity of incarceration increased with the prison reforms. Prisoners were confined alone and in silence, by order of governor William Gregory in the 1870s (Bastiampillai, 1968).

However, it was evident that even at the end of the 19th century, the traditional way of settling disputes were being used by village community, despite reforms introduced by English law and institutions. Trials by ordeal and by oath continued to operate, because the villagers had a general belief in the efficacy of the trial. The use of oath, an informal judicial procedure, was very common among the peasants in the low country to solve their minor disputes (Rogers, 1987).

The colonial rulers continued to control native peoples through formal institutions established within the British structure. By the mid of the 20th century, imprisonment, fines and whipping had become important punishments operating in the social control system in Sri Lanka.

Summary

Since only the maritime province of Sri Lanka was under the foreign rulers from 1505 to 1815 their direct influences were limited to its boundaries, until the British took over the Kandyan Kingdom in 1815. Although the Portuguese influences to the traditional criminal justice system were minimal, the Dutch dared not to replace traditional laws and judicial institutions by their own. They appointed their own officials as judicial officials. Native officials were kept under those judicial officials.

After the British conquered the Dutch settlements in the maritime province in 1796, changes to the indigenous criminal justice system accelerated. At the beginning of the British occupation in the country they preferred to continue their authority with the prevalent Roman-Dutch law, which they felt would be more conducive to achieving commercial success. They introduced new laws concerning lands, trade, and taxes with the intention of taking control of those sectors into the colonial Government.

Since the colonial policy was bound up with plantation activities, the aim of judicial reforms was to accommodate the envisaged plantation economy. They stripped the power of native judicial officials and devalued the traditional institutions. The British introduced Police Court, Court of Request, District Court, Supreme Court, and Appellate Court in the country. The proceedings of those judicial

institutions were carried out according to the consolidated judicial procedures introduced in the second half of the 19th century. The social, economic and educational systems which were nourished by the colonial policy generated white-collar jobs and professionals to keep up the colonial administration. Consequently, the British government was able to replace British judicial officials and judges with the English educated local people at lesser remuneration.

The establishment of the Police dissuaded traditional headmen from their police work, and local officials were kept subservient to the British functionaries. The expansion of the regular police force, and codification of the Penal code, accelerated the additions of new correctional institutions in the colony, and thereby changed the traditional punishments. The British relied on harsh punishments to prevent crimes, and offenders were categorized and confined to separate cells.

The following chapter examines the changes of the criminal justice system after Sri Lanka achieved independence from the British. Further, it will explore the contribution of community-based organizations in preventing crimes.

CHAPTER III

The Post Independence Era: 1948-1991

As British authorities continued to maintain their control over the island, the citizens of Ceylon, led by Buddhist monks, patriots and politicians, had to launch a massive struggle to reinstate their rights and freedoms. Buddhist monks, along with patriotic citizens, responded to the Christian missionary effort. The revival of Buddhism was not entirely locally oriented. Some remarkable achievements in Buddhist and Pali studies and the organizational know-how to combat Christian proselytizing were given by the European scholars, namely T.W. Rhys Davids, George Turnour and the American Henry Steele Olcott. In order to counter Christian polemics, Buddhist schools were established to provide children with education in a Buddhist environment. The identity of the nation with Buddhism was reestablished and was made the basis for popular mobilization. The endeavors of the Buddhist monks were not only directed towards reestablishing Buddhism in its rightful place, but it was to regain the rights of the nation from the colonizers (Fernando, et al. 1979)

During the middle of the 20th century, a controversy prevailed over the distribution of powers of the constitution because natives thought they should be given the right to use it. As a result of the strong resistance of

native politicians towards British reign, by 1947 the British agreed to grant "fully responsible status within Commonwealth" to Sri Lanka (Wilson, 1974).

Sri Lanka gained its independence from Britain on the 4th of February, 1948, and appointed the Prime Minister as the head of the newly-formed democratic state. The parliament consisted of members elected by the public to serve as their representatives. The United National Party (UNP) was a coalition of the Ceylon National Congress, the Sinhala Mahasabha, and the Muslim League, and won the 1947 debut election. The leader of the first government, D.S Senanayake, took his oaths as Prime Minister of Ceylon. The office of the Governor was replaced by a Governor General as the representative of the British sovereign and acted on the advice of the ministers of the Parliament. In the interim, the ruling parties of the country introduced constitutional reforms with an aim to secure their majority in parliament. In 1972, the Sri Lanka Freedom Party (SLFP) government pushed the country towards what they called a "socialist society" and the constitutional reforms that followed were aimed mainly at achieving an independent constitution which reflected radical economic and social changes. Five years later, in 1977, the UNP took 84% of the popular vote and changed the constitution in such a way that accumulating authoritative and forceful power could be kept under the hands of the executive presidency. Automatically, the power and position of the Governor General then deteriorated.

Under this constitution, general elections are held once every five years to elect members for the parliament, in addition to the presidential election which is held once every six years to select the Executive President of the country (Constitution, 1978).

After independence, Sri Lankans engaged their aspirations to rebuild the relation between Buddhism and the State that they lost under colonial rule. As a result, some Sinhalese Christians converted themselves to Buddhist followers. Both laymen and Buddhist monks took steps to foster Buddhism, and to restore it to its rightful place as it was during the Sinhalese Kings' period (Nyrop, 1985; Silva, 1988).

At the beginning of the second half of the 20th century, the State and Buddhist monks had closer association than they practised in the past, but Buddhism had not been declared as the State religion. Mr. S.W.R.D. Bandaranayake, the person who had been committed to re-establish the relation between Buddhism and the State, was assassinated in 1959. However, when Sri Lanka became a Republic in 1972, the government declared Buddhism as the State religion. As its constitution of 1972 states, "The Republic of Sri Lanka shall give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster Buddhism while assuring to all religions the rights granted by section 18 (1) (d)" (Constitution of Sri Lanka, 1972). As Sri Lankan history depicts, to be

successful among the Sinhalese, a government has to maintain visible sign of its allegiance to the temples and monks. It seems more or less all rulers in the country had committed to this task. At present, rulers in the country try to retain the relationship between the State and the temple as it was in the past (Ross, 1990). Consequently, the present government of Sri Lanka has placed its main emphasis upon re-establishing the relation between Buddhism and the State.

Although Sri Lanka gained political power with her independence, the colonial legacies have created adverse repercussions on national unity and economy. This was due, in part, to the following problems:

1. The classification of communities according to virtually unchangeable religious and communal labels such as Sinhalese, Tamils, Muslims etc.
2. Continuous dependency of the economy on plantation products.

The situation was further complicated due to the actions taken by some politicians to fulfil their desires and those of party cadres and followers. The declaration of Sinhalese as the national language, and Buddhism as the state religion, made some Tamil minorities believe they were being treated as second class citizens (Silva, 1981). This feeling of discrimination, coupled with persistent unemployment problems, has led some Tamils to struggle, both politically and militarily, for a separate state, popularly known as "Elaam".

The export-oriented economic policies pertaining to the plantation economy showed no sign of improvement, and it was evident that there were no quick solutions to unemployment. A Central Bank survey carried out in 1973, showed an unemployment rate of 24.0% compared to the corresponding rate of 13.8% recorded ten years previous. In terms of age ranges, the percent of unemployment for the 14-18 years of age group is 65.8%; in the 19-25 years age group, 47.5% of the labour force had been unemployed. This situation further worsened, since it was shown that 80% of the total population received only 20% of the national income. Consequently, the outbreak of insurrections, in 1971 and 1989, were generally attributed to the exploitable social problems - the economic inequalities, unemployment and poverty - which generated social unrest among the larger part of the community.

The Contemporary Criminal Justice System

The prevalent criminal justice system, which descended from the colonial era in the country, was not strong enough to face the crisis situations. New laws and regulations were introduced. Under the Criminal Justice Commission Act of 1972, special institutions outside the normal judicial structure were established and they were empowered to conduct trials outside of normal law and judicial procedure. The enactment of the Prevention of Terrorism Act of 1979,

with an anti-terrorist provision added in 1982, empowered the police to enter any premises and to arrest anyone on suspicion of crime. Further, this power was extended through an amendment in 1983 by which armed forces were also given authority to act on providing legal immunity for arrest and deaths occurring in the event of a security operation. In addition, the Prevention of Terrorism Act provided facilities for the police and the armed forces to operate detention camps for arrested suspects, apart from the correctional system maintained by the Department of Prisons.

The criminal justice system and its institutions which were introduced by the British continued to exist even after independence but were subject to some changes. A person who violated the law was liable to have his/her civil and property rights suspended. Further, Sri Lanka police have been given the authority to detect violations, if any, throughout the entire island. However, this authority was confined to detecting criminal offences, while excise, forest and other officers were given authority to investigate statutory offences and offences created in the by-laws of the local authorities. It was further stipulated that offenders could be detained:

- (a) on conviction after trial;
- (b) before conviction for non-bailable offences; and
- (c) for non-payment of fines.

The Prison Department is assigned responsibility relating to the detention of offenders in various types of

prisons for adult offenders, and training schools or Borstal institutions for juvenile offenders. Non-institutional treatment is carried out by probation and child care service in appropriate cases.

The Magistrate court is the criminal court which deals with most of the offences. The preliminary inquiries of all criminal offences are done by the Magistrate's court and while more serious crimes such as murder, attempted murder, and rape are committed for trial in the High Court. The cases are handled in the high court by the judge and jury or by the judge acting alone. Seven jurors are selected randomly from the list of members authorized as jurors, and fulfil their jury duty when called upon.

The Appeal Court conducts appeals or second instance criminal trials, while the Supreme Court exercises final appellate jurisdiction as well as special jurisdiction for violations of fundamental rights and freedoms introduced by the constitution. The judiciary task of the Supreme Court is carried out by the Chief Justice with the other ten justices.

The Judicial Service Commission, which is composed of three Supreme Court judges under the control of Chief Justice, is assigned authority for judicial administration, including the appointment of judges for lower courts. The justices of the Supreme Court and judges of the appeal and high courts are appointed by the President. Public prosecutors, whenever it is deemed necessary, appear for

trials. These public prosecutors are administered by the Attorney-General's department, of which the top authority, the Attorney-General, is also appointed by the President.

In Sri Lanka, the responsibility for the administration of justice is vested with the Ministry of Justice in matters concerning prosecution, courts and corrections. But the ministry is not supposed to interfere in judicial matters, nor to affect the functions of the Attorney General.

Following the criminal procedure ordinance of 1898, the Code of Criminal Procedure Act was introduced in 1979. Some modifications for the provisions of the Penal Code of 1883 have been introduced by the Code of Criminal Procedure. Whipping should be carried out in the presence of a medical officer, and the maximum sentence is limited to twenty-strokes. With respect to offenders under the age of sixteen, a maximum six strokes with a cane is given in the presence of the court, and optionally, the parents. Despite the wide variety of amendments to the penal code, most of its contents more or less remain the same.

In Sri Lanka, capital punishment is carried out by hanging. Even though capital punishment is imposed by the Supreme Court, the approval of the Governor General at that time, or of the current President, is essential to execute the death penalty. The annals of the Sri Lankan judiciary disclosed that capital punishment had been abolished in 1956 in Sri Lanka. This decision was taken as a tribute to the 2500th year centenary celebrations of the passing away of

the Buddha (Hansard Report, 1956, May 17). However, before the end of the third year, another contradictory act came into force. Its major objective was to specifically punish the criminals who murdered Mr. Bandaranayeka, the person who took the first step to abolish capital punishment (Hansard Report, 1959, Nov. 24). In 1959, capital punishment was reintroduced in the country. Nevertheless, no person has been hanged to date, despite the fact that the authority of doing so was vested exclusively with the Governor General until the present government came into power, and today resides with the President. In addition, all offenders who were found guilty in the insurrection of April 1971 were pardoned under suspended punishment. Some who were found guilty of recent terrorist activities, also benefitted from this privilege. Many of those who were pardoned under the rehabilitation program for criminals, have become law-abiding citizens in society.

The Judicature Act of 1978 provides the basis for judiciary administration of the country. Other significant crime-related legislation includes the Poisons, Opium and Dangerous Drugs Ordinance; the Explosive Ordinance; the Firearm Ordinance; the Offensive Weapons Act; the Prevention of Terrorism Act; and the Offences Against Air Craft Act (Crime and Justice In Asia Pacific, 1990, p. 159).

In Sri Lanka, corrections represents the final stage of criminal justice administration. Following court orders, authorities implement corrections according to what they

feel is most appropriate within the existing institutional and non-institutional structures.

Institutional treatments are provided for offenders through the Department of Prisons. The Department of Prisons in Sri Lanka maintains thirty prison institutions, (see Map 3) made up of 10 closed convict prisons, 6 closed remand prisons, 7 prison work camps, 3 open prison camps, 2 correctional centres for young offenders (16-22 years), one work release camp and a transits camp for marginally involved "terrorist" suspects, 27 prison lock-ups, a training centre for youthful offenders (Borstal) for males between the ages of 16-22 years, and a centre for the training of prison officers and for research in corrections. These institutions are administered by superintendents who are directly responsible to prison headquarters in Colombo.

There are three large prisons i.e., Welikada in Colombo, Bogambara in Kandy, and Mahara in Ragama (reserved for convicted long term prisoners). These prisons are called "industrial prisons" since they have work shops supervised by trained officers, and the prisoners are given vocational training in carpentry, blacksmithy, fibre goods manufacture, tailoring, cloth weaving and masonry while producing various goods.

Since independence, corrections has turned towards a rehabilitative-oriented model for prisons. Corrections in closed prisons have moved towards open prison treatments in the case of selected categories of offenders. Even in closed

institutions, offenders are supposed to be rehabilitated through training programs (academic, religious, industrial and agricultural disciplines). The main purpose of this rehabilitation is to facilitate employment opportunities for offenders once they are released from correctional institutions and thereby to deter possible recidivism. The rationale behind this approach is that Sri Lanka, like many other countries, has been convinced that there was no success to be gained through harsh punishments, nor through locking up offenders for their entire lives, or imposing the death penalty. This has led to an emphasis on the therapeutic aspects rather than the punitive aspects of imprisonment.

The introduction of open prison camps are Sri Lankan-oriented. These open prison camps are intended to prepare long-term offenders for work on their return to society, by teaching them how to assume responsibilities and how to face real life situations in the community to which they will return. In spite of the fact that some of these prison institutions are not planned structurally, they have been growing over the past forty years, analogous to how any other village grows over a forty year period.

The success of this experiment is worth noting. For instance, in the case of Pallekale open prison camp, nearly 3,000 offenders have gone back to society since its establishment. Except for one person, who was readmitted to prison following a conviction, everybody who went home has

become a good citizen in their home land. Only eight prisoners have escaped from this camp during the twenty five years of period. The reason for the success of this program was that offenders were reluctant to break the trust kept upon them by the prison authority. Further, the program was proven successful in its effectiveness of mutual confidence between prison officials and offenders in the rehabilitation activities. (Delgoda, "The open prison camp at Pallekelle", n,d.).

In addition to the open prison camps, open work camps for short term and medium-term offenders were initiated on an experimental basis in 1976. In these work camps, prisoners are supposed to work during the day and stay on permanently until they complete their sentence. There are only a few guards or sometimes, no guards at all, in these centers except for a person who stays with prisoners and takes charge of the day to day management (Delgoda, "A prison without guards, n,d.). Some work camps have virtually become prisons without guards. In these camps, prisoners are allowed their own clothes and work like free men in the community. There is no set task or close supervision like in a regular prison, and everyone is required to work cooperatively. Prisoners are given an opportunity to work with the village community in social services like clearing up the premises of public places, constructing new roads, etc.

It is interesting to note here that in Sri Lanka, many correctional institutions have formed training programs for prisoners in agriculture and in animal husbandry. Many prisoners come either from rural areas or semi-urban areas and usually have experiences in those disciplines. This fact is evident through the illiteracy rate of convicted prisoners, which is well over 50% (Janz, 1986). This coincides with the situation in Sri Lanka in that the majority of uneducated people are employed either in agricultural or the plantation sector as permanent or casual labourers. These people have a genuine penchant for agricultural work. As it is noted, this further shows that instead of employing men under confinement, they could be successfully employed to take part in the national food drive. "It has been found that a large number of our criminals respond to agriculture like ducks to water" (Delgoda, "The open prison camp at Pallekelle". n,d. p. 6). In Sri Lanka, the law provides that prisons should be places for the reception and location of persons who are convicted or remanded by a court of law. However, in the case of Sri Lanka, the distinctive feature is that it is the only country in the Asian Pacific Region where there are more unconvicted or remand prisoners than convicted prisoners who are kept in custody (Janz, 1986). Table 1 shows a constant increase in the admissions of unconvicted

Table 1
Annual Admissions of Convicted and Unconvicted Prisoners
1978-1987

Year	Admissions			Ratio	
	Convicted	Unconvicted	Total	Convicted	Unconvicted
1978	12,005	65,948	77,958	01	05
1979	11,381	64,182	75,563	01	06
1980	11,558	64,009	75,657	01	06
1981	11,086	63,952	75,038	01	06
1982	9,543	59,850	69,393	01	06
1983	9,532	65,146	74,678	01	07
1984	12,983	65,669	78,652	01	05
1985	13,269	57,245	70,514	01	04
1986	14,617	61,952	76,569	01	04
1987	13,355	59,452	72,807	01	04

Source : Prison Statistics of Sri Lanka 1988.

prisoners into the prisons. In contrast, the number of offenders who were convicted are substantially below the former. In numerical terms, for every one convicted prisoner, there were more than six unconvicted prisoners up to 1985. Nonetheless, after 1984 a slight decrease (to 1:4) is seen. Hence it seems that this gap has also contributed towards the increase of overcrowding in prisons, a key issue that must be confronted by the criminal justice administration in Sri Lanka today.

Table 2
Admission of Convicted Prisoners According to Highest Number
of Offences 1984-1987

Type of Offences	1984		1985		1986		1987	
	No.	%	No.	%	No.	%	No.	%
Excise	3,842	29.6	3,563	26.9	3,593	24.6	2,970	22.3
Theft	1,542	11.9	1,354	10.2	1,195	8.2	1,630	12.2
Ticketless Travelling	218	1.7	254	1.9	179	1.2	198	1.5
Other Offences	7,381	56.8	8,098	61.0	9,650	66.0	8,557	64.0
Total	12,983	100	13,269	100	14,617	100	13,355	100

Source: Prison Statistics of Sri Lanka, 1987.

Overcrowding in prisons has worsened with the over emphasis on imprisonment under the prevailing legislation. In Sri Lanka today, even for minor offences, people are being punished with short term imprisonment. For example, Table 2 shows the number of convicted prisoners entering the prisons who were found guilty of relatively trivial offences i.e., excise offences, theft, and ticketless travel. The number of these three categories of offences alone represented more than one third of the total admissions to prisons.

In 1987, 10,470 or 78.39% of a total of 13,355 people who were put in jails were on default of payments of fines.

Certainly, they are people who arguably should not be kept in prison, because the court initially decided that these people did not deserve a prison sentence. The imposition of imprisonment upon those who were unable to pay their fine has generated a three-fold outcome. (1) aggravation of overcrowding of prisons; (2) contamination of prisoners through association with hard-core criminals; and (3) a severe financial burden to the government. Another distinctive characteristic of Sri Lankan corrections is that more than half of the convicted offenders are admitted to prisons for less than a six month period.

In Sri Lanka, rapidly changing economic, social and political policies based on an open economy have weakened community ties among its inhabitants and created tension among community groups. The increasing population and unemployment problems have generated frustration among many youth as well as among adults. The migration of people from rural areas to urban cities to look for employment opportunities has gradually increased. This has led people to concentrate more on profit motives rather than on protecting traditional social values or customs. Consequently, some people tend to follow illegal avenues to earn money, either because they are left with no other means, or they want to gain wealth. This has led Government legislators to enact new laws against these illegal ways of earning money and treating them as crimes i.e., the viewing

of "blue films", and "using dangerous drugs"¹. In 1986, there were 196, and 3,722 prisoners convicted under the above two offences, respectively (Prison Statistics of Sri Lanka vol. 7, 1988). Thereby, the crimes as well as offenders increased.

It should be noted here that the correctional institutions have not been growing to cater to this increasing population. Almost all the closed prisons are over one hundred years old, built during the latter part of the 19th century, under British rule, when the population of the country was less than three million. These prisons no longer meet present day demands, with the population now exceeding sixteen million.

Although the government has given priority to economic and social development, it has neglected the construction of new correctional institutions. Instead, the politicians pay attention to constructing factories, schools and other institutions which would be more appealing to the general public and which would help them to win the elections or to stay in power.

1. In Sri Lanka, the anti-drug legislation divides drugs into five categories - poisons; poppy, coca, and hemp; opium; dangerous drugs; and other drugs- and controls their export, import, and their domestic trade. Dangerous Drug Ordinance forbids many species of drugs rather than defining dangerous drugs. Recently, efforts have been made to reduce drug abuse by issuing licences through the Director of Health Services to those who use prescribed drugs for medical purposes.

The Role of Community-Based Corrections in Sri Lanka

Community-based corrections have gained popularity among many nations as an effective means of rehabilitation of offenders (Boesen & Grupp, 1976; Ekstedt & Griffiths, 1988; Johnson, 1973; Smykla, 1981). Particularly during the last three decades, many countries have insisted on introducing innovations which prepare offenders for re-entry to the community through community correctional programs. The increasing use of community-based corrections in many countries suggests that authorities have already been convinced that offenders should only be incarcerated when they are dangerous and present a threat to society. The rest of the offenders who are convicted of minor offences are thought to be best rehabilitated in the community itself. Many criminologists justify the existence of community-based corrections as a better way of rehabilitating offenders, simply because it is more humane, costs less, and is more successful in reintegrating offenders into the community (Boesen & Grupp, 1976; Ekstedt & Griffiths, 1988; Smykal, 1981).

Community corrections first came into existence in Sri Lanka with the introduction of the probation system through the Department of Prisons. The Probation of Offenders Ordinance was enacted on 16 November 1944, and the probation service was officially inaugurated on 12 March 1945 (Gunsekera, 1985).

In Sri Lanka, "Probation" or in other words, release of offenders under supervision, has its roots in the Buddhist law. When acts of punishment are imposed, probation is introduced as a penalty. Comparatively, modern courts of law defer its final imposition of the sentences to offenders, giving them an opportunity to readjust themselves, while living in the community. The Sinhala word "Parivasa" derives its origin from the Vinaya Pitake of the Buddhist scriptures and has the identical meaning (Rathnapala, 1986).

The Probation of Offenders Ordinance stipulates that the court, if it is of the opinion that an offender is likely to benefit from a period of supervision on probation, and having reviewed all the circumstances including the nature of the offence and the character of the offender, may make a probation order instead of sentencing him/her to any other punishment which the court may have power to impose (Probation of Offenders Ordinance, 1956, Revised).

In brief, the essence of probation is the treatment of selected offenders through (a) careful investigation of persons to be placed on probation; (b) intelligent and well considered action by judge; and (c) skilled supervision of probationers. The selection of offenders depends upon the individual's potential to adjust.

The duration of the probation order shall not be less than one year or more than three years from the date on which the order is made. The violation of conditions may result in cancelling the probation order and imposing a

sentence on the offenders. During this period of probation, the offender lives in the community and regulates his own life under conditions imposed by the court, and is subject to the supervision of a probation officer. The family and society are involved in the rehabilitation process.

It is evident from Figure 1 on page 193 that in Sri Lanka, probation as a method of community-based corrections makes no much contribution in lowering increasing levels of incarceration. The number of offenders placed on probation was roughly constant from 1945 to 1975. However, there was a visible decline beginning from the mid seventies. Even in the 1980s, the probation services seemed stagnant. By 1984, the number of offenders placed on probation for every 100 imprisoned was as low as 7.21%. In Sri Lanka, the number of adult offenders (over 21 years) who were placed on probation was always relatively less than the number of youths and juveniles who were kept on probation.

In Sri Lanka, at present there are only 43 probation units which provide service for 70 judicial divisions, and it seems necessary that there should be, at least, one probation unit for every judicial division. In 1956, probation services were separated from prison services and merged with child care services under the Department of Probation and Child Care Services. The rationale was to save man-power and prevent jurisdictional overlap.

Since probation services are stationed separately, probation officers appear in court only when their service

is summoned. Whenever pre-sentence investigations are to be carried out, the court orders probation officers to do so. The role of officer is, no doubt, affected by a number of constraints: travelling, finances and accommodation problems, and difficulties in finding personal information concerning offenders and their families. This has led to delays in implementation of probation orders imposed by the courts. Until the basic requirements of the probation order are fulfilled, offenders are kept in custody or released on bail. Because of the difficulties found in the procedure of probation, the magistrates tend to have no confidence on the probation system, and sometimes challenge its effectiveness. As a result, the courts usually punish offenders with imprisonment or with similar sentences as a means of preventing those people from involvement in illegal activities.

In Sri Lanka, long-term prisoners are eligible for release on licence. This system has been in operation since 1969 and its objective is to discharge offenders into the community under the supervision of welfare officers prior to the completion of their sentence. The licence idea in Sri Lanka coincides with the parole system in the Western World. Under this concept, prisoners who complete six years of imprisonment, prisoners who served five years in prison in addition to one year at open prison camp, and prisoners who are sentenced to six years on their completion of half the

sentence, are eligible to be considered for release on licence.

The Licence Board, which is appointed by the Ministry of Justice, consists of the Commissioner of Prisons, the Assistant Superintendent of Prisons (welfare), the senior welfare officer of the Department of Prisons, a medical officer, a magistrate, a senior police officer and an Assistant Secretary to the Ministry of Justice. They decide at a hearing, attended by the offender, whether or not the offender should be released on licence. The licence board, in arriving at a decision, also considers the report of the offender submitted by the welfare officer and his/her personal, social and family background along with the possibilities of rehabilitation.

The final authority for granting licence for offenders is vested with the Minister of Justice upon the recommendation of the licence board, though it is the Minister who appoints the licence board. The minister has the power to revoke or vary the licence in the event of any violation concerning conditions stipulated when it deems necessary (sections 11-16 Prevention of Crime Ordinance). Since the Minister of Justice usually represents the governing political party, one cannot rule out possible influences of the Minister when making decisions, particularly in the case of political prisoners. However, to date, the Ministers have their power only in case of

violations, if any, of the conditions of the licences issued.

Since its inception, the licence system in Sri Lanka has been utilized to release 1200 prisoners and there have been only 38 violations (The Asian Journal, No.8, 1990 :35). It is worth noting here that, although the licence system in operation as a method of community-based corrections, it does not make a strong contribution towards the reduction of the prison population. Under this program only 30-40 prisoners are eligible in each year.

In addition to the conventional forms of community-based corrections such as probation, parole (licence system), there are several laws which enable the imposition of community service orders as an alternative penalty. The community service order is a primary mechanism which is used in an attempt to reduce the over-crowding in Sri Lankan prisons.

The Code of Criminal Procedure Act No. 15 of 1979 defines the community service order;

(a) May impose, in lieu of imposing a sentence of imprisonment, on conviction of an accused, enter an order hereinafter referred to as a "community service order" by which the accused is directed to perform stipulated service at a named place in the state or state sponsored project if regulations have been made by the minister for

implementing such an order;

(b) The duration of the order is limited to less than one year when the order is imposed by a magistrate and three years when the order is entered by the high court;

(c) If the convicted person, who is kept under the community service order, fails to comply with rules of the management of the project, then it shall be lawful for the court which entered the order to revoke it and impose such sentence of imprisonment as it thinks fit;

(d) Through the community service order, the manager or the supervising officer of the project shall forward monthly a report regarding the attendance and work performance of the convicted offender and stating whether the community service order is being or has been complied with and such report shall be final and conclusive on such question (Criminal Procedure Code Cha.2- Sub-section 18 (1)).

The community service order offers a number of potential benefits to both the state and to the offenders. These include (a) lower administrative costs; (b) preventing substantial disruption to the offender's family and work environment; (c) protecting the self-esteem of the offender; and (d) providing treatment in the community so as to prevent hardships which are generated in the prison.

In Sri Lanka, community service orders enable voluntary organizations to establish rehabilitation programs in the community. These programs have shown remarkable progress and

success (UNAFEI 1986:91). Offenders convicted of minor offences, and unconvicted offenders who are awaiting trials are committed to religious institutions where rehabilitation programs are directly under monks and priests. These programs include social and mental development activities which help to divert offenders and to inspire devotion and enthusiasm through meditation and a daily oath to refrain from crime. This is clearly depicted in the Samodaya Service, which is dedicated to rehabilitate offenders through religion. The literal meaning of the Samodaya is "to propagate peace" and the program is dedicated to do exactly that. This service was founded in 1984 by a Buddhist monk with the co-operation of a magistrate. Thus, both convicted and remand prisoners are sent for rehabilitation in this institution.

The functioning of the Samodaya Service corresponds to the relation between the temple and the State during the pre-colonial period. Buddhist monks are also dedicated to perform a similar role to that they played in the past. During the pre-colonial period, Buddhist temples contributed to maintain law and order in the country. They advised rulers to maintain their administration righteously, and helped maintain law and order by directing people to appropriate livelihoods. At present, offenders such as political insurgents those who are engaged in violent activities, drug addicts, etc have become a severe threat to the country. In this regard, the Samodaya Service supports

the government in its attempt to convert wrong-doers into law abiding citizens.

In order to maintain this rehabilitation program, the State provides facilities through the Ministry of Justice, National Dangerous Drug Control Board, National Youth Service Council, and Probation and Child Care Department. Further, the government has implemented some policies following those introduced by the Samodaya Service in correctional enterprises. For instance, Conciliation Boards are employed at the village level to settle disputes among villages. Those Boards resemble the Justice Relief Service operated in the Samodaya Service.

Since the Samodaya Service has been initiated under the authority of the Sarvodaya Shramadana Movement, some of its policies coincide with those of the Sarvodaya Movement, and the program also operates under the Sarvodaya Shramadana Movement.

The Sarvodaya Shramadana Movement

The literal meaning of the Sarvodaya Shramadana is "To awaken all through mutual sharing". The Movement was founded in 1958 by a group of teachers and students of Nalada College, in Colomobo, Sri Lanka. The basic concepts of the Sarvodaya Movement are based on the principles of Buddhism, i.e., four Brahma Viharana - *Metta* (loving kindness), *Karuna*

(compassion), *Muditha* (sympathetic joy), and *Upekkha* (equanimity) (Rathanapala, 1986).

The Sarvodaya Movement developed with the vision of integrating rural development programs. The objectives of the Movement include the following:

1. To organize programs with a view to eradicating distrust and social disintegration arising from such differences as caste, race, creed, and party politics, and religion
2. To disseminate qualities of selfless service, self-denial, co-operation, self-discipline, and the dignity of labour among the people of land.

The members of the Movement are encouraged to accept some principles for which they shall strive. Among them are: (1) To observe truth, non-violence and self-denial at all times; (2) To attain progressively the goal of a simple way of living; and (3) To attempt to replace the present system of private ownership of wealth, competitiveness, hatred, greed, and force with a Sarvodaya social order based on community ownership, co-operation, love and self-denial, by non-violent methods (Rathnapala, 1986).

The Sarvodaya Movement aims at reawakening community development according to indigenous religious traditions which had disappeared during the colonial period when Western invaders attempted to weaken the influence of *Sangha* (the order of monks) and to separate the subjugated people from the inspiration to dignity, power, and freedom which they experienced in their tradition.

Though the Sarvodaya Movement was originally inspired by the Buddhist tradition, it is active throughout the multi-ethnic society including the Hindu, Muslim, and Christian communities. The Movement emphasizes an awakening from the rural village (*Gramodaya*) to the whole nation (*Deshodaya*) on the base of truth, non-violence, and self-reliance, which are precepts common to every religion. The Sarvodaya utilizes community development as the means of helping people to understand goals that are essentially religious. It encourages people to improve their self-image and their relation with others. Indeed, the transformation of personality - the building of a new person - is offered as the chief aim of the Sarvodaya Movement. In order to achieve this objective, Sarvodaya enters into the communities through religious institutions and with religious leaders such as Buddhist monks, Muslim mullahs, Christian pastors, and Hindu priests (Macy, 1983).

The participation of the Sangha or *bhikkus* in the development activities initiated by the Sarvodaya development projects extends itself, while revitalizing their order and their sense of vocation by restoring the wider social responsibilities they carried in precolonial days.

Since social service activities in rural Sri Lanka have been temple-related, Sarvodaya bases its work on the temple and forms such work on the existing religio-cultural basis. The Buddhist monk's work as a community organizer is

enhanced by the prestige and trust the villagers accord him, and by his familiarity with village resources, both human and material. The temple is the central nexus of the web of village life. The monk knows "what is going on" in the village better than anyone else (Macy, 1983).

According to the status and strategic location of the monk and temple, monks can bring together land owners, rich merchants as well as poor farmers in the village. Through customary rituals such as "malpuja", offering of flowers to the Buddha, monks, who work with Sarvodaya, see villagers' needs and lead them to work together to meet their requirements.

The monks, who work with the Sarvodaya Movement in villages, utilize customary rituals as a means of preventing crime and of rehabilitating offenders. For example, as N. Rathnapala (1976) states, at the time when the village protection society was in existence, all incidence of petty crime such as cattle lifting, quarrels, robberies, brewing of illicit alcohol, and gambling were dealt with by society. Anyone violating the established laws had to come to the temple and take part in the "malpuja". The society directed offenders not to the police but to the temple. Having participated in the "malpuja", offenders would promise the monk and all those assembled not to indulge in such activities in the future. If it was a robbery, what was robbed had first to be restored to the lawful owner. The

police ceased legal action against the offender on the letter given by the monk. The transgressors of the law were supposed to participate in "malpuja" regularly for their rehabilitation.

Summary

After the independence of Sri Lanka, the criminal justice system continued to operate with some changes. Corrections turned towards rehabilitation, and away from the retributive model which prevailed under the colonial administration. New additions such as home-leave, work release, open prison camps, open work camps, and release on licence helped offenders to be rehabilitated in the community.

However, the liberalization of the economy led people to be motivated in illegal avenues and created enormous problems in correctional facilities. It was evident from my earlier literature review that the overcrowding of prisons, recidivism rates, and number of people being imprisoned, all increased subsequent to these reforms. Since the government was not able to cater to increasing prison population and criminals, it enacted new laws through which offenders were being rehabilitated in the community. The increase of crimes in contemporary Sri Lanka has led Buddhist monks and the Sarvodaya Movement to take further action in order to prevent crime and rehabilitate offenders. This is perhaps

more evident in the Samodaya service which relies on traditional methods for rehabilitation of offenders in Sri Lanka. This brings us to the analysis of the Samodaya Service which I have undertaken for my thesis. The following chapter discuss the method used in my study.

CHAPTER IV

METHOD

Criminal justice practitioners and scholars have pointed out the ability of Buddhist clergy and ordinary people both in crime prevention activities and rehabilitation of offenders (Delgoda, 1984; Perera, 1984; Rajapaksa, 1984). The Samodaya Service utilizes religious practices, as well as community participation, to rehabilitate offenders and prevent crime. Although this service has been in operation for years, no research has been carried out to examine the role that the Samodaya Service plays in corrections within Sri Lanka.

This thesis is designed to fill the aforementioned void and contribute to the literature of community-based corrections through the use of structured interviews with the manager and the officials of the Samodaya Service, offenders who have been released and who are undergoing treatment in the Samodaya Service, and with the judges.

The Location

The study was conducted at the Pathakada Samodaya Service Centre in Sri Lanka during December 1990, to the middle of January 1991. This institution, located on a small mountain one mile away from the Palamadulla city in the Sabaragamuwa province (see Appendix E), houses offenders who are sentenced by the courts for the purpose of rehabilitation. Accommodating

up to sixty offenders, the two buildings are designed similar to Sri Lankan guest houses rather than traditional jails. There are no guards or guard rooms as in jails, and offenders have the opportunity to escape at any time if they desire.

The Sample

For the purpose of obtaining a well-rounded picture of the Samodaya Service at Pathakada, a sample was selected consisting of both released offenders and offenders who are undergoing rehabilitation, the manager, the officials of the Samodaya Service, and the judges. All these individuals, except some of the judges, have experienced the rehabilitative program or have had direct or frequent contact with the Samodaya Service.

Offenders who have been released from the program had a good understanding of the rehabilitation treatments and the follow-up programs at the Samodaya Service and their comments helped to identify changes in the Samodaya Service, particularly those which occurred during the last four years.

Offenders who were undergoing rehabilitation at the Samodaya centre were also clearly aware of the rehabilitative programs available at the time the survey was conducted. I felt that their opinions on the operation and the administration of the Samodaya Service, as well as their comments on the religious activities, the officials of the program, and the manner in which the rehabilitation process

affects their lives, would greatly enhance the study. Since officials of the Samodaya Service are dealing with various kinds of offenders as well as outside people, their perceptions and comments would provide further insight into areas discussed.

The opinions of the judges, concerning the criminal justice practitioners in the Samodaya Service and their relation with the prevailing criminal justice system and the law, would also enhance the value of the study. Both judges who have had contacts with the Samodaya Service, and those who had not, were chosen as interviewees of the study.

Finally, the opinions of the manager, who was the founder of the program in 1984, provided important insights into the structure, administration, and operation of the Samodaya Service. His perceptions and comments as a Buddhist priest on the origin, evolution and the possible future enhancement of the Samodaya Service are crucial for an understanding of the program.

Interviews were carried out on twenty offenders selected from the population. The sample was chosen by picking every third name (starting from the third on the list) from the total of sixty-one offenders who were serving sentences in the Samodaya centre at Pathakada. The sampling frame was provided by the Samodaya Service. A similar procedure was employed to select twenty released offenders out of the sixty

offenders who had been released from the Samodaya Service during the period from 1987-1989.

The entire population of four actively employed workers in the Samodaya Service participated in the interview. The manager of the Samodaya Service, under whose guidance the Samodaya Service operates, was interviewed according to a separate interview schedule.

The opinions of both the judges who had official connections with the Samodaya Service, and those who didn't, were equally important to this study. Therefore, it was decided to interview all the judges (there were only twelve) from courts covering the area from Balangoda to Colombo. These judges were given particular attention because the Samodaya Service had relations with some of those courts located in this area. Nevertheless, the interviewer was able to interview only ten judges; The remaining two were not available at the time this study was carried out.

The Research Instrument

The interviews were designed primarily to provide the different categories of respondents with the opportunity to reveal their experiences and attitudes concerning the Samodaya Service. Questions relating to the role of Buddhism, as well as the role of the family and community in the Samodaya Service, were asked of every category of respondents. Questions pertaining to the background profiles of the

interviewees, their experiences in dealing with the Samodaya Service as well as perceived advantages and disadvantages of the Samodaya Service in comparison to the general corrections in the country, were also presented. In addition, different interview schedules were structured with regard to professions or the way interviewees participated in the work of the Samodaya Service. This semi-structured, open-ended procedure took approximately forty minutes per interviewee. However, the length was subject to considerable individual variation.

The Procedure

The judges and the manager of the Samodaya service selected for the interviews were initially notified of the study by an introductory letter explaining the purpose of the survey (see Appendix B). Respondents were then approached in person to determine whether they would be interested in responding to a set of interview questions. Upon their agreement, interviews were scheduled at the convenience of the interviewees. Accordingly, interviews were held while respondents were off duty, in their offices, or at their homes.

The approach for the interviews with offenders varied slightly in that in-person verbal introduction occurred prior to the request for participation. The discussions with unreleased offenders were held in private in the Samodaya centre at Pathakada. Released offenders were requested by mail

to appear at the Samodaya centre at an appointed time so as to participate in the interviews. Upon the request of the manager of the Samodaya Service, thirteen released offenders who presented themselves at the Samodaya centre were interviewed. Interviews with seven released offenders were held at their homes.

Responses were tape recorded in most instances. However, written notes were taken when someone felt uncomfortable speaking into the machine.¹ Most participants were amenable to having their responses verbally recorded, thereby facilitating the data collection for the survey. Assurance of confidentiality and the voluntary nature of participation were verbally expressed to those who participated in the interviews.

Limitations of the Data

The data collected through the survey covered only the structure, administration, and operation of the Samodaya Service at Pathakada. The programs which operate in Galle, Matara, Hambantota, and Kegalle districts are attached either to the Sarvodaya district or divisional centres. These services are not under the direct supervision of the founder of the Samodaya Service, instead, they are under the supervision of district coordinators of the Sarvodaya Movement. Many interviewees who participated in the present

1. Two judges preferred not to be taped.

survey were aware of the Samodaya Service at Pathakada. Hence, the discussions with interviewees selected from different areas where the Samodaya Service is in operation may perhaps be different in terms of the responses received in the interviews used in this survey. The results have not been cross-checked using institutional records. Therefore, the analysis of the present survey solely reflect the attitudes and perceptions of the interviewees who participated.

The findings of the interviews are presented in the following chapter. There is an analogy between the methods used by the traditional Sinhalese criminal justice system in the Kandyan kingdom and those of the Samodaya Service. In traditional Sinhalese society there were no closed prison institutions or guards to keep regular vigilance upon the offenders. Instead, offenders were imprisoned in villages and allowed to rehabilitate in the community, in contrast to the colonial administration. The rehabilitation of offenders in the Samodaya Service was not based on punishment. Further, offenders' families and relatives took part in the rehabilitation of the offenders within traditional society, as they now do in the Samodaya Service. Similarly, there were no closed prison institutions or guards to protect offenders escaping from the Samodaya Service. Rehabilitation programs in the Samodaya Service operate in the community, and the offenders have the opportunity to work in the community while

they are serving institutional treatment. The "follow up" programs are completely designed for this purpose.

The relationship which existed between the State and the temple until the Sinhalese kingdom ceded to the British in 1815, has been revitalized after the independence of Sri Lanka. Similarly, the role of the Buddhist monks in traditional society - in settling disputes and directing people to the correct path - seems to have been renewed in the 20th century. Their responsibilities have evolved in rehabilitating offenders as a response to the increasing crimes.

CHAPTER V

THE SAMODAYA SERVICE

Profiles of the Sample

The manager of the Samodaya Service is 34 years old and has obtained education up to High School from a prestigious college in the Capital of the country. He is known as the founder of the Samodaya Service, and has seven years working experience in the Service. The typical official of the Samodaya Service was 29 years of age² and had undertaken college or university education. Three (75%) officials had taken a community development course conducted by the Sarvodaya Movement, and had more than three years of working experience in the Samodaya Service.

Offenders who were serving sentences averaged 27 years (median) of age; 25% (n=5) of them had a high school education, while the rest (75%, n=15) had obtained senior school education. The current charges against them were 50% (n=10) drug offences, 30% (n=6) insurgency, and 20% (n=4) were charged with theft, robbery, and sale of illicit liquor.

Fifty percent (n=5) of the drug offenders had previous convictions. Thirty percent (n=3) of drug offenders had been incarcerated a total of one to two times while the rest 20% (n=2) had been punished with fines one to three times.

2. The median age of the officials was taken due to a skewed distribution.

Offenders who were under the charge of insurgency had not had previous convictions for any offence, but 83.33% (n=5) of them had been undergoing rehabilitation treatments a total of one to two years in other camps. Half (50%, n=2) of the offenders who were currently charged with theft, burglary, and sale of illicit liquor had previously been imprisoned one to two times. Only 25% (n=5) of the inmates of Samodaya Service were married, and their families, except one, consisted of one or two children.

Released offenders who were interviewed averaged 29 years (median) of age, with varied educational backgrounds. Ten percent (n=2) of them had obtained higher education while the remaining 90% (n=18) had less than senior school certificate. Nearly half of the released offenders (45%, n=9) who were interviewed had been charged with theft; next most common were charges for drugs and alcohol (20%, n=4), followed by robbery (15%, n=3), attempted rape (10%, n=2), and murder (5%, n=1), and then cheating for money (5%, n=1). Twenty percent (n=4) of the interviewed released offenders had been incarcerated previously one to two times in prisons for less than one year. The rest (80%, n=16) of them did not have any conviction prior to being rehabilitated in the Samodaya Service. The released offenders who were interviewed had been in the Samodaya Service for periods ranging from 0-2 years; the distribution of their time in the program is shown in Table 3.

Table 3

Length of Period Spent in the Samodaya Service by Interviewed
Released Offenders

Duration	Number of Offenders	%
Under 6 months	9	45
7 months to 12 months	6	30
13 months to 18 months	4	20
19 months to 2 years	1	05
	Total 20	100

Sixty percent (n=12) of the interviewed released offenders were married and had one to four children in their families; the rest 40% (n=8) remained unmarried. Prior to their charges, the majority had been employed as laborers (30%, n=6), farmers (15%, n=3), gem miners (10%, n=2), businessmen (10%, n=2), and teachers (5%, n=1). The rest (30%, n=6) of the offenders had engaged in casual labouring work.

The judges, on average, had six years experience in their career. In addition, all of them had prior experience in the legal profession.

The Origin and the Evolution of the Samodaya Service

Details about the origin of the Samodaya Service were obtained in an interview with the Buddhist monk who was acting as its manager. On the 3rd of July 1980, this monk had entered the Sarvodaya Community Leadership Bhikku Training Institute

at Pelmadulla to follow a Six-Month Bhikku Training Course. After the successful completion of the course, he had the opportunity to act as the course organizer when circumstances availed him to do a field survey in the Welikada prison. He said that during his survey, he was deeply convinced of the need to start this Samodaya Service. To the question as to why such a thought originated in his mind, he replied that during his interviews with the prisoners, almost all prisoners repented an infinite number of times for the crimes that they had committed, and therefore it would be easy to put them on the correct path.

When this monk consulted the Commissioner of Prisons and the Secretary to the Ministry of Justices, they too, agreed on the importance of rehabilitating criminals in the community. Accordingly, on the 9th of May 1984, the Samodaya Service was inaugurated in collaboration with the Ministry of Justice, with the primary objective of rehabilitating criminals and delinquents and thereby helping to prevent crime.

The program, which was inaugurated at the Pathakada Bhikku Training Centre, was later shifted to the Sarvodaya Centre at Elle Gewatte in Kahawatte. This shift was due to the non-availability of a permanent institution. In August 1987, 8 acres of Crown land were provided for this purpose, and the Samodaya Service is still carried on there today.

The objective of the Samodaya Service, as stated by the

manager, is:

The amount of crimes that occur daily in Sri Lanka, and their complexities, are the results of moral degradation in society. Having understood this situation, Sarvodaya has started the Samodaya Service with the aim of building up a just and peaceful society by giving priority to the code of moral values which have enabled the progression of the human race for ages in consonance with the laws of nature. The rehabilitation of offenders is one of the ways used in achieving this main objective.

When offenders are handed over to the Samodaya Service by the judiciary, an officer attached to the prisons or to the court accompanies them as a guardian. The offenders who enter the Samodaya Service are received by the manager and the staff of Samodaya Service with a friendly smile and pleasant words. Thereafter, offenders are given a questionnaire concerning their mentality, family, and social life. After they have answered the questionnaire, their mentalities and the causes that led them to crime will be scrutinized. From this, twenty four pictures that are made to create a religious environment, mental confusion, love and hate, kindness and intelligence, are distributed among the offenders and they are required to answer a set of questions based on those pictures orally and in writing. According to the responses made by the offenders to these tests, inferences on their lives will be drawn and their behavior patterns will be analyzed. The manager said

that the correctional methods and the lectures important for them would be determined according to the answers given by the offenders to the above tests, and also determined by their mentalities and the causes that led to their crimes. The rehabilitation procedure of the Samodaya Service operates under two main stages:

- 1 Home care rehabilitation for offenders who are institutionalized according to the decree of the Court of Justice.
2. A follow-up program for offenders in the community.

Home Care Rehabilitation

Through the home care rehabilitation program, offenders are enabled to have their mental and physical development in a proper way, while they are made to understand the seriousness of their offence. In this way, actions are taken to prevent committing further crime.

The manager explained the way offenders are being rehabilitated in the Samodaya Service. Accordingly, the Samodaya Correctional Service is comprised of two major components: the long term and the short term. The short term correctional service is for offenders who enter the Samodaya Correctional Service for a short period. Through this, offenders are encouraged to develop their mental faculties to the required standard, and they are made to understand the

nature of the offence committed and the value of living as a good citizen. In the long-term correctional service, practical training is provided. Those who do not have vocational skill are given vocational training. In addition, long term offenders who are interested in agricultural activities are directed to an economic project at Kuttigala.

Each offender in the Samodaya Service has to act according to a methodically set time-table.

- 5.00 a.m. - Getting up
- 5.30 - Meditation
- 5.45 - Pubudu Hamuwa (Morning Gathering) and Health program
- 6.15 - Tea
- 7.30 - Breakfast
- 8.00 - Engaging in vocational training courses and agricultural activities.
- 10.00 a.m. - Tea interval
- 10.15 - Reengaging in relevant activities.
- 12.00 noon - Mid day meal.
- 12.45 - Mid day spiritual family gathering.
- 1.30 p.m. - Re-engaging in training activities.
- 3.00 - Tea interval.
- 3.15 - Re-engaging in training activities.
- 5.00 - Sport activities and using the library.
- 6.45 p.m. - Night family gathering.
- 8.00 - Dinner.

9.30 - Group discussions.

10.00 p.m. - Worshipping Buddha, pledge, sleeping.

Expressing his views on the offender correctional procedure, the manager said that the Samodaya Service gives priority to the development of mental faculties especially through religious activities. The offenders who are being rehabilitated begin and end their day with religious observances. Every morning and when the day's activities are over, they must pledge that they shall not commit any future offence, and instead will practise restraint and become good citizens.

After getting up in the morning, meditation is practised for ten minutes. The manager states that after meditation, the day's work can be started with a "pure heart". In answer to the question of what offenders from other religions are doing, the manager said that they should observe their religions in a similar way.

After meditation, the offenders get physically cleaned and report to the Pubudu Hamuwa (Morning Gathering). All in the Samodaya Service who are present at that time participate in the morning gathering. All should cultivate compassion for two minutes and then one person should voluntarily come forward and receive the gathering by greeting "Good morning brother, sister". Thereafter, all sing the morning song (Pubudu Geethaya) which is based on the theme of abstaining from bad activities, killing living beings, theft, abusive

language, back-biting and so on, and instead engaging in spiritual activities.

The offenders are then directed to the training courses, vocational training, or agricultural activities after their breakfast. During this time, chores are assigned to them. In addition, it is of significance that they are engaged voluntarily in other cultivation work of the institution. As noted by the manager, the Samodaya Correctional Service is a community-based program, so the offenders are directed to be engaged in public work (Shramadana and Welfare work) within the community. Opportunities are made available for the offenders to participate in the construction of roads, wells, cleaning of the temple surroundings, and so on. The manager said that this greatly helps to create social bonding among the offenders, while removing misconceptions in society about the offenders. He added that when the offenders are working with the community, peace and amity develops, and the community will be inclined to think that the offenders are also a group of persons who are entitled to all human rights.

All offenders take their mid-day meal at 12.00 noon. Thereafter, they participate in the mid-day spiritual family gathering. Here, the offenders get an opportunity to improve their skills, when they confess to the offences they have committed. At these family gatherings, offenders are provided with opportunities to listen to important Dhamma sermons, to advice and instructions of the religious leaders and also to respectable persons in society. Further, offenders are given

the opportunity to participate in workshops, conferences, and listen to lectures which are conducted by correctional officers, police officers, and scholars.

After the mid-day spiritual family gathering, the offenders re-engage in their training activities. After washing, they engage either in sport activities, or reading activities in the library. The offenders' participation in sport activities is aimed at enabling them to accept victory or defeat as it comes their way, thereby inculcating morals like tolerance and restraint. The library provides them with the opportunity to read books, magazines and articles that have a direct bearing on their well-being. This library, which has been constructed for the use of offenders, has a wide collection of books which illustrate the evil consequences of alcohol consumption and drug abuse; and also has books written on the importance of adults like teachers, parents, and elders, and the autobiographies of socially accepted important people. In addition, during their leisure time, the offenders are provided with opportunities to improve their artistic talents by writing poems, short stories and so on.

Everyone attends the family gathering which starts about 6:45 P.M. At first, all observe their religion. First, those offenders who belong to other religions are given the opportunity. After the religious observances, newly arrived offenders introduce themselves to the gathering. Thereafter, one of the offenders has to make a 15-minute speech on a meaningful, timely topic that will have special significance

to the other offenders. For example, this speech often highlights the importance of non-violence and law-abiding citizens in the society. Then, the offenders who have taken meals after family gathering, should report to their particular group for discussions. These group discussions are presided over by the monk, who is the manager of the Sarvodaya Samodaya Service. During the time of these discussions, every offender should confess their offences, and discussions on them follow. "Here the offenders reveal the true condition of their offences and they really repent on them" said the manager. After giving them an opportunity to listen to a Dhamma sermon, which is equally important for all offenders, the discussions will end. The daily program of work will come to an end when the offenders observe their religious rites and go to sleep.

Commenting on the role that the offenders' families and the community participation plays in rehabilitating activities of the offenders, the manager said that all programs of the Samodaya Service are community-based and it has no other different programs to rehabilitate offenders by keeping them away from the community. During the period in which the offenders stay in this institution they are required to be engaged in work connected with the community such as Shramadana, Pinkam activities (religious acts to invoke blessings), and the community work and welfare activities in villages. These rehabilitation activities are arranged within

the community, mostly in keeping with the life styles of the community.

The manager of the Samodaya Service stated that, unlike in prisons, offenders are not kept for a long time in the Samodaya Service. The objective of institutional rehabilitation is to give necessary training for the offenders to live in a socially acceptable way. "From the day that the offenders are released from the institution and enter the society they will concertededly engage in community-based rehabilitation work", said the manager. The members of offenders' families are also given the opportunity to participate in the rehabilitation work intended for the offenders. The manager requests that members of the offenders' families participate especially in the Shramadana activities and the Pinkam ceremonies, as well as in the work connected with community development at the village level. In addition, family members are expected to meet the manager at least once a month in order to discuss problems associated with the offenders and their correctional work.

The Follow-Up Program

Offenders are directed to rehabilitation activities under the follow up program, upon their release from the institution. Before the offenders obtain their release and go home, they have to meet the leader of the Sarvodaya Gramadana Society located nearest to their house. Future rehabilitation

work will be handled by this *gramadana* society in the manner that has been instructed. As stated by the manager, there are fourteen Sarvodaya Divisional Centres within the Ratnapura district alone, and each Divisional Centre has five *gramadana* societies. The leaders of *gramadana* societies have been given training on Community Leadership by the Sarvodaya Movement. This Community Leadership Course has given them training as to how the offenders who are released through the Samodaya Service will be rehabilitated. After the offenders have been released, they will be coordinated with the Sarvodaya Shramadana Society and will be required to report to the *gramadana* society once a week or once a month. Here the offender will be asked to participate in community work such as the *shramadana* and *pinkam* ceremonies organized by the *gramadana* society. If the offender has any problems, they will be looked into and the necessary solutions will be found. The activities carried out by the *gramadana* society regarding offenders are also a part of the rehabilitation program organized by the Samodaya Service. The correctional activities for offenders are implemented for about two years by the *gramadana* society.

After the offenders have been released, the village members of the *gramadana* society keep vigilance on the offenders in case they are tempted to commit crimes again, or if they are keeping company with known criminals. If there is any tendency for them to engage in crimes, the *gramadana* society will advise them to prevent it. If the *gramadana*

society were to fail in doing so, it would then inform the Samodaya Service. After that the offender will be summoned by the Samodaya Centre and be advised, and remedial actions taken, to remove the possibilities that lead such a person into crime again.

The Samodaya Service does not take part in correctional programs carried out by the government, and the institution does not follow the supervision of the government in any way. On most occasions, offenders are sentenced to the Samodaya Service through the judiciary. Every month or annually, as the court requests, the manager of the Samodaya Service has to present a report to the judiciary regarding the offenders referred to the Samodaya Service by the judiciary. According to the manager's report, the judiciary decides if the offender should be released or made to undergo a further period of rehabilitation, or be dealt with in court with a warning or payment of compensation or, in some cases, to pay a fine to a religious organization or to the Samodaya Service.

Commenting on the difference between the Samodaya Service and other correctional institutions, the manager of the Samodaya Service said that there is no other voluntary organization which is engaged in rehabilitating offenders as does the Samodaya Service. This institution has procedures of its own in offender-rehabilitation activities. The Samodaya Service is dedicated to the rehabilitation of offenders on the theme of attaining spiritual development.

When compared with prisons, the offenders in the Samodaya Service enjoy more privileges. While they are provided with a well-balanced diet, they are also given a dessert after meals. In addition, facilities are made available for every offender to sleep well, to listen to radio and also to watch television. Though it is the practice in prisons to assign a number for every prisoner, here every offender is called by his name. The offenders have permission to wear clothing of their choice. A predominant characteristic noticed within the Samodaya Service is that there are no security guards. Offenders who are being rehabilitated for more than six months are given an opportunity to visit their homes once a month. As the manager stated, these visits are intended to bring the offender into contact with his family and neighborhood.

In order to build an intimate relationship between offenders and outside people, opportunities are made available for the offenders to speak freely with visitors, and for them to engage in community development work and other social activities with outside people. He added that there is a marked difference between the officials in the Samodaya Service and the officials in other correctional institutions. There could hardly be observed any gap between the officials and the offenders in the Samodaya Service. No bureaucratic level or attitude is seen within this institution. Instead, they act as a group of persons who assist offenders in their rehabilitation process. According to the manager, these officials have higher qualities in their lives. When the

officials are recruited, the manager is personally involved in finding out their perceptions and talents. They are appointed as permanent staff only after they have completed a three month probationary period. During this period, they are given training on related work.

The objectives of the Samodaya Service have been changing with time. The manager of the Samodaya Service stated that the objective of the Samodaya Service at the inception was to prevent crime through rehabilitation of offenders. But in keeping with present day needs, this objective has been changed. As a result of problems of drug abuse in Sri Lanka, mushrooming drug addiction, and the non-availability of a proper correctional program launched by the government to counter these drug abuse problems, a program was started within the institution in 1989 to rehabilitate offenders who are addicted to drugs.

As a result of the aftermath of anti-government insurgent activities that broke out in Sri Lanka in 1989, a large number of youths were arrested by the State. About fourteen thousand youths have been detained in Rehabilitation Camps. As is mentioned by the manager of the Samodaya Service, there is a great urgency to rehabilitate these youths. Accordingly, from 1990, under the scheme of Youth Rehabilitation, a program was started to rehabilitate insurgents³. The priority has been

3. Although the Samodaya Service rehabilitates political offenders, the author assumes that it does not imply the Samodaya Service is under pressure of the present government. Rather, it condemns the violence because insurgents engage in killings, damaging private and public property, burning and

given for the rehabilitation of drug addicts and insurgents since they are more harmful to society than ordinary offenders. The rehabilitation of drug addicts is limited to four months. Based on the behavior pattern of offenders, the manager decides whether it is necessary to give further attention to those offenders who seem as if they did not receive a proper rehabilitation during this four month period.

As the manager of the Samodaya Service stated, the rest of the offenders who are being rehabilitated through the Samodaya Service are provided with every facility. When deprived of these facilities, there is a tendency for them to re-engage in crimes. With the objective of preventing this, the Samodaya Service inaugurated a production project at Kuttigala on the 20th of September, 1986. The offenders who enter the Samodaya Service for long term rehabilitation are directed to this production project. The main objective of this is to give the offenders agricultural training. The land area of Kuttigala Samodaya farm comprises fifty acres. The offenders who are being rehabilitated for the long-term, are engaged in cultivating this land area. At this farm, offenders are required to prepare their own meals, and do not enjoy the facilities provided for the short-term offenders. Vegetables

destroying. Therefore, the Samodaya Service thinks that these offenders need to be rehabilitated if they are to be reinstated. The Samodaya Service believes in the democratic way rather than violence. Further, it assures the operation of the elected government though not all policies are accepted. In short, the Samodaya Service encourages policies that are essential for the development of the country. This symbolizes the role that the Buddhist monks played during the pre-colonial period.

are cultivated on this farm and the income derived from them contributes to the welfare of the offenders. The manager of the Samodaya Service stated that since the rehabilitation given at the Samodaya Institution equips them with the spiritual development required for long-term offenders, although the facilities are not adequate, they are not displeased about it, since they engage in their work with diligence.

The Samodaya Service receives financial supports for its maintenance in several ways. The manager explained the financial support of the Sarvodaya Shramadana Movement. Fines are imposed on the offenders by the judiciary to be paid to the Samodaya Service; private donations are received; donations are made by the guardians or the parents of drug addicts after the commencement of rehabilitating drug addicts in 1989; and funds are given by the National Dangerous Drugs Control Board.

According to the manager of the Samodaya Service, it is the Sarvodaya Shramadana Movement that provides the greater part of aid in the maintenance of the Samodaya Service. Of this, the payment of salaries for the workers, the supply of transport facilities to the institution, and the management of buildings and equipments are of vital importance. In addition, when it comes to the organizing of activities like ceremonial functions and religious festivals, the officials attached to the Sarvodaya Movement extend their fullest cooperation to this service. Most of the work connected with the Follow Up

program of the offenders is entrusted to the Sarvodaya Divisional Centres and the Gramadana Societies. Therefore, it becomes a main task of the Sarvodaya Movement as well as its employees, to maintain the offender rehabilitation activities of the Samodaya Service.

The responses of outsiders towards the Samodaya Service are not quite propitious. The manager of the Samodaya Service stated that there was a protest, though not substantial, against this program at the beginning. Now public opposition seems to be on the wane. According to the manager's opinions, outside people do not like rehabilitating offenders by eliminating the chances for them to commit crimes again. Their opinion is a reflection of the British justice which supported the view that offenders should be punished. While some are still of this opinion, others believe that when outside offenders are brought to the village and rehabilitated, it could result in crimes within villages. The manager added that the number of residents who give their cooperation voluntarily to the Samodaya Service is increasing.

Commenting on the difficulties that arise in the maintenance of the Samodaya Service, the manager stated that there are no difficulties from offenders, but there is a great impediment from the general public and parents as they do not like to recognize this rehabilitation service. Those who obtain their release from the Samodaya Service are further rehabilitated under a Follow Up program. It is the responsibility of the offenders' families and their parents to

encourage them to participate in rehabilitation carried out by the Gramadana society at the village level. As a result of this task not being properly fulfilled, there exists the possibility that the offenders could be tempted to recidivism.

For the future enhancement of the Samodaya Service, it is hoped that vocational training centres will be established at Divisional Centres of the Sarvodaya Movement. For this endeavour, foreign and local aid, State assistance, and the assistance of the Sarvodaya Movement are expected. Accordingly, it has already been planned that the offenders will be provided with the necessary vocational training while they are under Follow Up Programs, as was the case when they were in the Samodaya Centre. This would be done by affiliating them with the Sarvodaya Divisional Centres. Buildings are being constructed in order to provide residential facilities for the rehabilitation of a large number of offenders. The manager hopes that a larger number of offenders will be rehabilitated from the year 1992. The Samodaya Service is presently carried out in the districts of Ratnapura, Kegalle, Galle and Matara and it was hoped that this service would be further expanded in the districts of Kegalle and Matara during the year 1991. In the year 1992, it is hoped that this service will be started in the districts of Hambantota and Colombo.

When the manager of the Samodaya Service was requested to rate the functioning of the Samodaya Service, he remarked that it was functioning at a good level. A reason he mentioned was that the Samodaya Service is the only voluntary organization

in Sri Lanka which is engaged in rehabilitating offenders. The vast majority of offenders (90%) who were rehabilitated in this institution are now living as peace-loving citizens without getting involved in any crime again. Figure 2 (in Appendix F) shows the number of offenders who entered the Samodaya Service since 1984 and also the number who have successfully completed rehabilitation. Figure two shows that from 1986 to 1988 there was an increase of intake of offenders to the Samodaya Service. After an early rise, it shows a declining trend of admission. This declining trend is fairly obvious after 1987. The manager of the Samodaya Service admitted that this was mainly due to the change of location of this institution which took place during this period, and also partly due to capacity constraints concerning offender-accommodation.

It is further evident from the Figure 2 that the proportion of those who have been successfully rehabilitated is fairly high when compared with total intakes. In percentage terms, this averages around 94% who have been successful in not committing new offences upon release for a two year period of time.

With the objective of preventing crime and delinquency, the Samodaya Service had started a Relief Service for the Execution of Justice (Justice Relief Service). At the time my data being gathered this Justice Relief Service was available only at a few Sarvodaya Centres. Land disputes, family

Table 4
The Number and Nature of Disputes Settled by
the Samodaya Service

Disputes	1984	1985	1986	1987	1988	1989	1990
Land Disputes							
Received	13	28	41	16	24	45	62
Settled	12	26	38	12	18	38	49
Unsettled	01	02	03	04	06	07	13
Family Disputes							
Received	24	15	21	15	19	21	17
Settled	20	12	14	10	16	20	15
Unsettled	04	03	07	05	03	01	02
General Disputes							
Received	16	44	95	33	28	30	59
Settled	14	41	89	21	25	19	43
Unsettled	02	03	06	11	03	11	16
Total							
Received	53	87	157	64	71	96	138
Settled	46	79	141	43	59	77	107
Unsettled	07	08	16	21	12	19	31

Source : The Samodaya Service, 1990.

disputes, and other general disputes in the area are settled through this Justice Relief Service Unit. Since the Buddhist monk who lives in each village has a good understanding of the village problems, the Justice Relief Service solicit the

assistance of these Buddhist monks. At the Samodaya Service, the manager alone settled disputes. In some ways, his role resembled that performed by the Buddhist monks in the past. As the manager stated, the disputes that originated at the village level are mostly given an amicable settlement by the Samodaya Service. On most occasions, the Judiciary had directed minor cases to the Samodaya Service for settlement. The number of disputes settled by the Samodaya Service from 1984 to 1990 are shown in table 4.

Table 4, indicates that the Samodaya Service was successful in settling over 80% of the total disputes it received. These efforts reduce the burden to the judiciary. At the same time, this program helps people reach amicable settlements without cost or delay.

Role of the Samodaya Service in the Context of the Historical, Economic, Political, and Social Environment of Sri Lanka.

Since the Samodaya Service operates under the Sarvodaya Movement, both institutions share similar characteristics. These rules are explicitly defined in case of the Samodaya Service.

The predominant role that the Buddhist monks played in the pre-colonial society has been revitalized by the Sarvodaya Movement (Macy 1986). The Samodaya Service, which operates under the Sarvodaya Movement, involves the participation of

Buddhist monks in bringing peace in the country. Recall (from chapter 1) that it was the Buddhist monks who played an important role in settling disputes in the traditional Sinhalese society.

Further, in the traditional Sinhalese society, offenders were "imprisoned" in villages and were looked after by the villagers. At present, under the Samodaya Service, offenders are allowed to associate with villagers and work with them towards the well being of the whole society. In this way, the Samodaya Service renews the traditional mission of facilitating community participation in the rehabilitation of the offenders.

It seems that the community or village people are given more responsibilities in looking after offenders under the follow-up program. Here, villagers who attach to the *Gramadana* Society help offenders to overcome the problems that they have to face, and are thereby directed to be good citizens. If there are possibilities of offenders going astray, the village people take the necessary steps to avoid these, by informing the officials of the *Gramadana* Society or the Samodaya Service.

Economic Background

The Samodaya Service depends primarily on financial aid provided by the Sarvodaya Movement. In turn, the Sarvodaya Movement utilizes assistance received through foreign

agencies, i.e. Dutch, German, American etc. This financial aid is being used for the development of self-help and appropriate technology programs. Operating expenses and compensation for workers of the Samodaya Service are assumed by the funding provided by the Sarvodaya Movement. In addition, the National Dangerous Drug Control Board and local philanthropists also contribute towards the mission of the Samodaya Service. It also receives some financial support through fines imposed on offenders by the court when they are asked to credit those monies to the Samodaya Service.

The Samodaya Service gives particular attention to the development of the country, not only through attempts towards enhancing productivity by directing offenders to appropriate livelihoods, but also through its dedication to reinstatement of a disciplined society by inculcating moral values. The manager of the Samodaya Service stated that it would not accept some principles and economic policies of the national government, such as profit motives based on the creation of false needs, or the promotion of acquisitiveness. Further, he noted the Samodaya Service's emphasis on the conservation of material resources, their human use, and their equitable distribution among the citizens.

However, the Samodaya Service refuses to divorce the economic activities from its spiritual goals. It aims at the total well-being of the moral and economic aspects of the people. Therefore, the Samodaya Service tries to develop the moral and spiritual environment of the offenders while giving

them vocational training, in the hope of finding suitable employment upon their release.

Following the Buddhist principle of *arthachariya*, the Samodaya Service gives equal status to both voluntary and remunerative work. The unpaid work is exalted as *dana* or gifts for the public. The free sharing of labour in village development works can be seen as ennobling individuals and thereby the society. This procedure corresponds to "*rajakariya*" who were bound to offer their labour voluntarily for the good of society during the traditional period.

Political and Social Background

In the eyes of the Samodaya Service, contemporary party politics in Sri Lanka often creates constraints for even the best public programs, and can hinder the activities of many other local organizations. As the manager stated, party politics further fragment human dignity and cooperation. Since local social and economic efforts are heavily politicized, the local community cannot be united under the auspices of political parties even towards their well-being. Therefore, the Samodaya Service is dedicated to rehabilitating offenders in the community, while rejecting any divisions of the community created through party politics, class, and caste-based status. This striking feature of the program results in increasing its sense of belonging in the community.

In the manager's opinion, the Samodaya Service protects the nonpartisan nature of its politics by not accepting any political involvement in the running of the program. The Samodaya Service does not emphasize fragmentation of the community by religion, class, caste or race. Its services are available equally to all citizens of the country. As the manager of the Samodaya Service stated, most of the precepts on which it operates are recognized in many religions. Therefore, the nature of equanimity of this program should cause no confusion or conflict among the detainees or the general public.

The Causes of Crime

Perceptions of the Samodaya Officials and the Judges

The officials of the Samodaya Service, judges, and offenders perceived various causes that led to crime in Sri Lanka. The manager of the Samodaya Service stated that poor knowledge of social life was a main cause of crime. He noted that 96% of the offenders who come to the Samodaya Service have family disorganization problems. Some parents have divorced legally from their family, while others have had illegal sexual affairs outside the family. The lack of understanding among parents about their family life has brought them to a dysfunctional married life, and to poor care of their children. In many instances, children of these families become involved in criminal activities.

Similar opinions were expressed by the four officials of the Samodaya Service who were interviewed. All the officials also believed that the main cause of crime was people being unaware of how to maintain their family lives. Fifty percent (n=2) of them also identified poverty as a major cause of crime in the country.

Eighty percent (n=8) of the judges insisted that the socioeconomic backgrounds of the people influence them to commit crime. Drunkenness was perceived to cause over 50% of the crimes in Sri Lanka. In addition, poverty and family disorganization were thought to be among other major factors that cause crime. One of the judges also insisted that malfunctioning law enforcement agencies are an influential factor in committing crime. The rest of the judges (20%, n=2) stated that lack of education and moral training from the parents were the main causes of crime.

Perceptions of the Released Offenders and Unreleased Offenders

The lack of parents' protection and their guidance, bad associations, illiteracy in social life, and insanity appeared to be major causes of crime, according to more than half of the released offenders (55%, n=11), who were interviewed. Another 30% (n=6) of released offenders felt that injustices prevailing in the country, i.e. economic inequality, unemployment, and corruption in the administration, were the major causes of crime. The rest (15%, n=3) of the released

offenders who were interviewed identified poverty as the major cause of crime in the country.

When asked what caused them to commit crime, released offenders cited different reasons than they gave for the causes of crime in general. Accordingly, 45% (n=9) cited bad associations, 25% (n=5) poverty, 10% (n=2) sudden provocation, 10% (n=2) previous enmity, 5% (n=1) unemployment, and 5% (n=1) broken family relations as the causes of their criminality.

Nearly one third (35%, n=7) of the offenders who were undergoing rehabilitation in the Samodaya Service identified poverty as the cause of crime. The same number of offenders considered ignorance of the subsequent outcome of the crime as the cause of crime. The rest of the offenders (30%, n=6) named bad associations, mental problems, and social injustice and corruption as the cause of crime in general.

Having asked what made them commit crime, these offenders responded as follows: broken family relations 25% (n=5), economic difficulties 30% (n=6), bad associations 20% (n=4), mental problems 10% (n=2), personal enmity 10% (n=2), and enjoyment 5% (n=1) were among the major causes.

Remedies for Crime

Officials and the Judges

The manager of the Samodaya Service stated that the major cause of crime in Sri Lanka was the poor knowledge of social life among people. In order to respond to this cause better, he suggested the necessity of replacing the prevailing educational system with a new educational system that better suits the country. A new educational system would require educating the whole society to prevent them from criminal activities. As the manager stated, in Sri Lanka today, the public cannot speak against those who engage in criminal activities, because existing party politics in the country direct politicians to protect those wrong-doers for their advantages. As the manager stated, this situation is not conducive to preventing crimes through rehabilitation of offenders.

Similar opinions were received from the officials of the Samodaya Service concerning the best way to respond to the causes of crime. They stated that offenders should be allowed to understand for themselves the wrong or gravity of the crime that they committed, and then direct themselves to the correct way of life. In order to achieve this objective, they pointed out the importance of educating the whole society. Further, they stated that the sentences should be administered in such a way that offenders would not enter criminal life again.

Therefore, the best way of responding to crime would involve rehabilitation of offenders, thereby eliminating their criminal mentality.

Forty percent (n=4) of the judges who were interviewed stated that the implementation of law and order without bias or partiality is the best way of responding to the causes of crime. According to 20% (n=2) of the interviewed judges, imprisonment of habitual offenders, while rehabilitating minor offenders and offenders who have had fewer previous convictions in the community, is the best way of responding crime. The rest (40%, n=4) of the judges identified economic difficulties as the causes of crime. They insisted that the way to get rid of these difficulties was by providing employment for the unemployed, and a way of living for those who experience economic difficulties. In addition, offenders should be rehabilitated without labeling them as offenders, such that no stigma is attached to them. They felt that the government should enact laws to facilitate offenders being sentenced to community-based corrections programs. Offenders such as hard-core criminals and long term prisoners could be rehabilitated in family rehabilitation centres⁴ by giving them vocational training.

4. In family rehabilitation centres long-term offenders are allowed to live with their nuclear families. They are directed to engage in agricultural activities as their livelihood.

Released and Unreleased Offenders

The responses of the released offenders who were interviewed concerning the best way of responding to the causes of crime, were as follows: 30% (n=6) cited rehabilitation of offenders by making them understand their faults; 25% (n=5) cited the provision of education for both adults and youngsters as a way to keep people away from crime; 15% (n=3) cited imposing punishment; 10% (n=2) wanted employment for those who were unemployed; 10% (n=2) wanted a reduction of corruption in the country; and the rest (10%, n=2) emphasized rehabilitation of offenders while inflicting deserving punishments.

Forty percent (n=8) of the offenders who were undergoing rehabilitation in the Samodaya Service stated that provision of employment, and relief for the poor (including their protection) were the best ways of responding to the causes of crime. Rehabilitation of offenders was suggested by 25% (n=5) of offenders, while 15% (n=3) of offenders stated that offenders should be given both punishments and rehabilitation so as to avoid committing further crime. The rest of the offenders (20%, n=4) stated that since there are many causes for crimes such as poverty, sudden provocation or impatience, illiteracy, and bad associations, the best way to respond to crime is eliminating these possible causes of crime while educating people towards this objective.

Summary

Among the causes of crime in Sri Lanka, illiteracy, poverty, socioeconomic factors, bad association, and corruptions of the administration were perceived as prominent. Interviewees suggested different remedies to overcome these causes. The manager of the Samodaya Service suggested elimination of party politics, and new educational reforms as two major factors to get rid of crime. The Samodaya officials as well as the majority of the judges perceived rehabilitation of the offenders in a religious environment as a better way to rehabilitate offenders. The majority of the offenders, both released and unreleased, appreciated offenders being rehabilitated in the Samodaya Service rather than being imprisoned.

The Samodaya Service provided two programs i.e., home-care and follow-up programs, both of which were religiously oriented. All the offenders worked according to a time table, and no one was forced to work. Most of the rehabilitative programs were operated in the community, and offenders had opportunity to associate with outside people. The assistance given by the offenders, families and the community was of great importance to this program. The Samodaya Service had changed its objectives as required, and presently, priority has been given to the rehabilitation of drug offenders and political insurgents. It should be recognized that the "rehabilitation" of political insurgents raises many

questions, beyond of this thesis, about the role of the Samodaya Service in managing offenders who could be classified as "political" criminals.

The coming chapter will examine the perceptions of interviewees - offenders, judges and the Samodaya officials - concerning the Samodaya Service. Also, it addresses religion and its impacts on the rehabilitation of offenders, the role that family and the community plays in the Samodaya Service, and the strength of the Samodaya Service in rehabilitating offenders.

CHAPTER VI

Opinions Concerning the Samodaya Service

Opinions of Offenders

Both the offenders who were being rehabilitated in the Samodaya Service, as well as the released offenders, emphasized that the Samodaya Service is quite distinct from other correctional institutions. The prominent characteristics are freedom and equality within the institution, priority for religious activities, and the exemplary conduct of the officials.

Nearly one half of the offenders (45%, n=9) who were in the program said that the Samodaya Service differs from other correctional institutions because it rehabilitates offenders by giving priority to religious observances. Forty percent (n=8) of the offenders were of the opinion that, unlike other correctional institutions, the Samodaya Service does not rehabilitate offenders by means of punishment or coercion. Instead, it seeks the causes for the perpetration of crimes, and rehabilitates offenders by remedying those causes. Further, they said that, unlike other institutions, there exists neither bureaucratic differences among the officials, nor any gap between the officials and the offenders who are being rehabilitated. The rest of the offenders (15%, n=3) said that there is more freedom for offenders in the Samodaya Service than in other correctional institutions. As stated by

one of them, there is no need to be subject to the harassment of the officials nor to work under their control in the Samodaya Service.

Thirty five percent (n=7) of the offenders released from the Samodaya Service explained the Samodaya Service differed from other correctional institutions in its attempts to inspire a spiritual awakening within them, thus enabling them to live as good citizens in the society. Another 35% (n=7) said that the Samodaya Service looks into the causes that prompted offenders into crimes, and takes the necessary steps to eliminate them. Thirty percent of the released offenders (n=6) added that the Samodaya Service is unique in that it not only lays the foundation for the offenders to live a virtuous life, but also helps to safeguard their human rights, as well as those of other people in the community.

When asked about how they compared officials of the Samodaya Service with the officials of other correctional institutions, all the released offenders felt the officials of the Samodaya Service are a group of people who maintain exemplary conduct and equality, and work with the offenders in a very affable manner. Unlike officials in other institutions, they do not subject offenders to harassment. One offender, expressing his views in this regard, said that the officials in the Samodaya Service are perfect. "They treat the offender as brothers" he added. It is a special characteristic of the Samodaya Service to treat the offenders in a human way so that this will bring relief to the mentally oppressed repentant

offenders. In appreciating the service rendered by the Samodaya Service, one released offender said:

Officials in the other correctional institutions either assault or intimidate offenders; they do not talk to the offenders pleasantly. But the officials in the Samodaya Service deal with offenders very kindly. While the officials in other institutions are in the habit of smoking and indulging in alcoholic drinks, they prohibit them for offenders. But the officials in the Samodaya Service neither engage in such acts nor do they allow the offenders to do them. They look into our problems and try to solve them in the best possible way.

When interviewing the offenders who were being rehabilitated in the Samodaya Service, it became clear that there is a healthy relationship among the offenders, as well as between offenders and officials. The majority of offenders (90%) said that they were living as a group of brothers. One, explaining his views in this regard, said;

The offenders who are being rehabilitated in the Samodaya Service as well as the officials, are living as the members of one family. The manager of the institution, too, sleeps together with us. Never have I seen a monk who is living so hard a life as the manager.

Among the offenders there were few (10%) who expressed different views. One of them (5%) said that he did not have so close a relationship with the others. Another stated that he participated in all work done in common, but he preferred

having an independent life without a close relationship with others.

Ten of the offenders (50%) in the Samodaya institution, were engaged in vocational training and vocational activities. The offenders (n=10) who were convicted for drug abuse were engaged neither in vocational training nor in vocational activities, but were allowed to engage in agricultural activities at their discretion. Those who have received vocational training (30% of all offenders) are engaged in driver training, carpentry, electronic training, and masonry. When asked how the vocational training that they received has helped them continue their future existence, all of them said that it would perhaps help them to find employment once they were released. One of them said "if I stayed at home, I would not have had the necessary finances to receive Driver Training. Therefore, I think this is a great service done by the Samodaya Service, is it not?".

Those offenders who receive short term rehabilitation in the Samodaya Service are not directed for the Vocational Training. Similarly, those who receive long-term rehabilitation, too, if they had employment and have received vocational training, will not be given vocational training.

The majority of the released offenders (80%, n=16) had the vocational training prior to this program. Therefore, they were not given further training by the Samodaya Centre. The remainder (20%, n=4), who had no training before, were given vocational training in carpentry and masonry by this

institution. From the interviews held with them, it was revealed that they were engaged in occupations related to their training.

From the interviews held with the offenders, it was found that many offenders (95%, n=19) were willingly engaging in cultivation work on the land belonging to the institution. They were also engaged in the construction of the necessary buildings for the institution by their own consent. Only one offender (5%, n=1) said that he is not taking part in labour activities.

Upon inquiring about the relationship between the offenders and the community, the majority (60%) of the offenders said that they have few opportunities to associate with outside people. These offenders stated that, with the exception of their association with people who come to the Samodaya Service, they have a chance to associate with outside people only on those occasions where they engage in community work. The rest of the offenders stated that they had had many opportunities to associate with outside people. They cited instances where they go out for their vocational training and the occasions where they work with the villagers according to their vocational capabilities. But a few of them (10%) said that, although they get chances to associate with the outsiders, they are not interested in doing so.

Except for a few offenders (10%) the majority of offenders stated that they did not encounter any difficulties at the Samodaya Service. One offender (5%) complained that the

food given to him was inadequate and another offender (5%) said, while he had been given permission to visit his home once every three months, it was difficult to find the money to do that.

Released offenders who were interviewed said that they faced problems, not only during their period of rehabilitation in the Samodaya Service, but also following their release. The Samodaya Service had been able to find solutions to some of the problems of the offenders, though it was unable to solve all of them. Four (20%) of the offenders stated that they had problems finding funds for the maintenance of their families during their period of residence in the institution. But they were of the opinion that the Samodaya Service was not in a position to help them overcome those economic problems. One offender (5%) said that since he had committed offences, the members of his family were not willing to accept him. But, through the involvement of the Samodaya Service, his family members were called and the matters were explained to them, and consequently his problem was solved. However, the majority (75%, n=15) of the offenders were not inconvenienced during their period of residency. Upon the release of the offenders, many of them (80%, n=16) said that they did not come across difficulties as such. Only a few of the offenders (20%, n=4) stated that they had to face difficulties after their release. Some of them were faced with difficulties in finding employment while others had problems relating to gaining

social acceptance. The Samodaya Service had helped them to overcome those problems. As one offender stated:

Even after I was released, society was not willing to accept me as a reformed person. But the Samodaya Service provided me an opportunity to work with the other members of society. I was able to erase the wrong impressions that people had about me by speaking at ceremonial occasions, starting 'sil'⁵ campaigns and engaging in community work. It was the Samodaya Service that even eliminated the chances of my children getting involved in delinquent acts.

Religion and Its Impact on Rehabilitation of Offenders

All the offenders who were in the Samodaya Service engaged in religious activities voluntarily. They admitted that they have been disciplined through these religious activities. As one offender stated:

When I was at home I did not follow even the five basic religious precepts that laymen are supposed to follow according to my religion (Buddhism). As a businessman I used to exploit labour indirectly from my subordinates. But after I entered in the Samodaya Service my mind has changed surprisingly. Now I am a humble person as one who observed sil. Now I have good patience. I could

5. Observing 'sil' means devout Buddhists renew their vows to follow precepts in their external behavior while observing emotional discipline.

develop and learn virtues of life within three months which I would not have obtained even during my life time if not for the Samodaya Service. Now I realize what I did in the past was wrong.

Another offender said "I had taken to alcohol. But now I understand I have in vain wasted my earnings on liquor. Now I have made up my mind".

The rehabilitation facilities of the Samodaya Service are open to everybody, regardless of their race or religion. The prominent feature is that all the offenders follow Buddhist-religious activities. One offender stated:

Although I am a Christian, I have learned the religious observances of Buddhism. I follow its five precepts (Pancil) with pleasure. Now I feel that my life has been organized systematically as it had not been before.

There were some offenders (10%, n=2) who emphasized some other factors rather than religious observances which affected their rehabilitation. One of them stated that the associations he had with the officials and his dedication towards rehabilitation are very important. Another commented that he does not like to follow religious observances, and he merely follows them since others do so.

Four-fifths (80%, n=16) of the released offenders who were interviewed stated that they were able to abstain from a criminal life after their release from the Samodaya Service. They highlighted some programs such as observing sil, meditating, and listening to the manager's advice, that they

thought helped a lot in their rehabilitation. One released offender detailed how his life has been changed. He stated:

I used to take one and half bottles of Arrack and two bunches of cannabis everyday. Now I have given up those habits. I observe sil every poya day (once a month) and maintain a first-aid program free of charge for those who need it. I live with my family and manage a small business as my livelihood. I am happy to say that the Samodaya Service helped me to be a law abiding person.

One fourth of the released offenders stated that association with the manager and his advice helped them keep away from a criminal life. One of them said " Rev. Bodhananda has a special ability to identify offenders' needs and know how they need to be rehabilitated. I think his association and advice were most influential for my rehabilitation".

The Role of the Family and the Community

Sixty percent (n=12) of the offenders who were in the rehabilitation program appeared to be free of any problems with respect to their families. However, 15% (n=3) of them stated that while they had family problems before they came to the Samodaya Service, those problems had been solved with the help of the Samodaya Service. This was the response of those who were under the charge of drug offences. Forty percent (n=8) of the offenders stated that they had family problems when they were in the rehabilitation program, because they

were the main bread-winners in their families. In their absence, their family members found it difficult to earn a living.

According to unreleased offenders, a large number of the family members of the offenders (75%, n=15) participated in special programs: community work, religious ceremonies as well as family counselling services conducted by the Samodaya Service. However, one fourth (25%, n=5) of offenders' family members were not interested in these programs, largely because they were far away from the Samodaya institution and also due to financial difficulties. One of these offenders (5%) refrained from giving any comment as to why his family did not take part in this program. All the offenders believed that the role of the family upon their release was to protect them from committing crime again.

The majority of offenders (70%, n=14) stated that the community's role when they are being rehabilitated is to give them more chances to take part in public works together with the community residents. Further, they thought that this would help them feel less isolated from the community and help them feel a sense of belonging in society. One offender (5%) insisted that this also helped to keep him away from a monotonous life.

Many offenders (80%, n=16) stated that upon their release, they had opportunities to work with the community through the programs arranged by the Sarvodaya Shramadana societies. They felt this work was a means of building

intimate relationships in the local communities which, in turn, helped them get assistance to solve their day to day problems. The opportunities given to them, particularly to deal with important people in the village, as well as those who are in Sarvodaya Shramadana society, are appeared to help them refrain from criminal activities. This idea was supported by one fifth (20%, n=4) of the offenders. Further, they thought that these close relations with the community, especially during the post-custodial period, would be a useful contribution for them to experience a positive way of life.

Three-fourths (75%, n=15) of released offenders stated that their family members tended to keep in touch with the Samodaya Service during the period of their detention. These relationships appeared to be established through the participation of the family members in religious work and the communication between them and the manager of the Samodaya Service. Nevertheless, the rest (25%, n=5) confirmed that their family members had no opportunity to keep relations with the Samodaya Service while they were in the program.

The responses of the released offenders regarding community participation in their rehabilitation process were different from those of who were in the Samodaya service. Sixty per cent (n=12) of them stated that they worked co-operatively with the community especially when they were in residence at the Samodaya Centre. Nevertheless, thirty per cent (n=6) of released offenders stated that the community was not pleased to see offender being rehabilitated in an open

setting at the Samodaya Service. As one offender (5%) commented, "Village people did not like to see offenders observing sil or commit to the religious observances because they did not believe that we would become law abiding people. Therefore, they tended to think that our being in a open environment was a threat to their village". Another released offender (5%) stated that "village people worked with them co-operatively but they limited this co-operation only for those moments when community work was performed. It seemed that they remembered us as offenders, and, in turn treated us as offenders".

Most of the released offenders had relations with both the Samodaya Service and the Shramadana societies in their native areas. They (80%, n=16) stated that they continued to participate in community work as well as religious work organized by these institutions, even after their release. They felt it would help them to maintain moral strength, especially when they were faced with problems in their lives and sought favourable solutions to get rid of those problems in a peaceful manner. Nevertheless, one-fifth (20%, n=4) of the released offenders had few relations with these institutions, because they thought that they no longer run the risk of committing crimes.

The Strength of the Samodaya Service

With one exception, all of the offenders agreed with the idea that the Samodaya Service was capable of sending them back to the community as responsible citizens. The one who held a different attitude stated that he was indifferent in expressing a view regarding the strength of the Samodaya Service in rehabilitating offenders.

However, all the offenders (n=20) appreciated the contribution of the Samodaya Service towards their future well-being. But they held different attitudes with respect to the individual benefits. Thirty five percent (n=7) of them stated that the Samodaya Service provided them a better opportunity to learn how to make better decision about their lives which in turn helped them to be law abiding citizens after they returned to the community. Another 25% (n=5) of offenders were keen about the spiritual training, especially in dissuading them from committing further crimes. One offender said:

This rehabilitation program is important to my life because it teaches me how to become a good citizen upon my return to the community and also I experience spiritual training through religious work, which will certainly help me in all my future endeavors.

Supporting the same idea, another 20% (n=4) of offenders also stated that they have learned to keep away from evil thoughts and to lay right foundation to their lives through

religion-based teaching. A few (n=4) offenders, those who underwent vocational programs, believed that their vocational training would be helpful for them in finding employment upon their release. As one offender stated, "I am now aware how to deal with problems that I had with my family members before I did training in Samodaya Service. Now my thoughts are different and I know how to deal with people in the right way". Another responded that the rehabilitation programs were a help to him in becoming a good citizen in society. He ranked the Samodaya Service as an institution which tries to do something constructive in society, especially by way of religious-oriented activities; finding employment for its service recipients, and providing vocational training to those who previously were unskilled.

In addition, the released offenders confirmed that they believed in the effectiveness of the Samodaya Service in rehabilitation activities. Similar responses were received from many other released offenders. Ninety percent (n=18) of the released offenders stated that they have been led to a better life through religious, social, and other cultural programs of the Samodaya Service. One offender stated:

Observances of sil, meditation and participation in community work were new experiences in my life. I shall say once I got used to these programs, they gave me not only mental satisfaction but also a better understanding of the right way of life.

In addition to the above-mentioned religious programs, the opportunity to interact with the manager was also felt to be helpful for some offenders (10%, n=2) in changing their former criminal life styles. One offender commented:

My life could have ended up in tragedy if not for the Samodaya Service. Because I know everybody with whom I committed crimes have all passed away. But I am not that unlucky. I was fortunate to experience the real facts of life through this rehabilitation program. Indeed, I am indebted to Hon. Bodhananda thero (the manager of the Samodaya Service) who helped change my life completely.

Samodaya Programs and the Offenders

In general, religious programs and family gathering activities were very popular among the detainees in the Samodaya Service. The religious programs and family gathering activities are popular among 30% (n=6) of total offenders; another 35% (n=7) of them preferred family gathering, whereas the other 15% (n=3) were more fond of religious programs. Ten per cent preferred the freedom they experienced in the Samodaya Service. Another 5% (n=1) liked almost every feature of the Samodaya Service, and one participant (5%, n=1) was more attracted to the vocational training and to the religious programs.

The most popular feature in the Samodaya Service for many of the released offenders (70%, n=14) appeared to be the

participation in the religious programs and family gatherings. In addition, some offenders (15%, n=3) stated that they were very fond of building mutual understanding among the members of the community, and, further, to take part in the community development work conducted by the Samodaya Service. A few other offenders (15%, n=3) mentioned that the thing they liked the most was participation in meditation and observing Sil. In addition, one offender stated that he liked sil because it helped him to observe a spiritual life which he thought useful for his future well being.

All of the offenders expressed their willingness to maintain their contact with the Samodaya Service after their release. There were various reasons given for this. One half (50%, n=10) of the offenders said that the Samodaya Service helps them to solve problems that arise after release. Further, they stated that "since the Samodaya Service provides us the necessary foundation to resolve problems lying ahead, we like to maintain our relationship". Appreciating the role of the manager of the Samodaya Service, one of them said "I intend to associate with the manager as the teacher of my life". The rest of the offenders' (50%, n=10) responses were that since the Samodaya Service is an organization which is capable of rendering service to the country, they would like to continue their connection as a way of extending their support to it, as well as a way of expressing gratitude.

There was a positive relationship between the released offenders and the Samodaya Service. Nearly one third (35%,

n=7) of the released offenders who were interviewed, responded that they visited the Samodaya Service on the days that they had leisure. Some other offenders (20%, n=4) stated that they attended the functions organized by the Samodaya Service. The responses of nearly one third of the offenders (30%, n=6) were that they would not work with Sarvodaya Shramadana Society since the Samodaya Centre is located far away from the places where they reside. The responses of the rest of the offenders (15%, n=3) were that they would visit the Samodaya Service only when they received a message from the manager requesting them to come.

The Overall Perception of the Offenders

The offenders expressed various views regarding their overall perception with respect to the Samodaya Service. Slightly more than half of the offenders (55%, n=11) were of the view that the program was successful at putting misguided persons on the correct path. About 25% (n=5) of the offenders said that, in terms of rehabilitating offenders, this facility was doing a yeoman service which the other correctional institutions or the State prisons are incapable of rendering. One of these interviewees was of the opinion that, unlike the offenders incarcerated in other correctional institutions, over 90% of the offenders who had been handled by the Samodaya Service would not go astray. The responses of the other offenders (10%, n=2) were that the Samodaya Service was a

program which was involved in "building up peace", and the rehabilitation of offenders was one such successful part of the program. Among the offenders who expressed different views, one (5%) was of the opinion that this program enables offenders to undergo spiritual development, and helps them to find solutions for the problems that they encounter when they go out into society again. He added that if this method was to be further modified and more officials were to be recruited, then the time spent by the offenders in idleness could be put to much better use so that rehabilitation would be much more effective. Another offender (5%) expressed a slightly different view:

Samodaya Service is a service that brings in successful results. It is better if the offenders could be sent to institutions like Samodaya Service for rehabilitation rather than sending them to prisons. By the pleasant words of the monk (the manager) in this institution, the restless thoughts disappear. The path followed by the Samodaya Service is successful.

Opinions of the judges concerning the Samodaya Service

Half the (50%, n=5) judges who were interviewed did not have much understanding regarding the rehabilitation activities carried out by the Samodaya Service, and hence they did not direct offenders to the Samodaya Service for rehabilitation. The rest of the judges (50%, n=5) were in

touch with the Samodaya Service. They had gained experience about the direction of offenders in the Samodaya Service and had knowledge of activities related to them.

The general view of two fifths (40%, n=4) of the judges was that the Samodaya Service was a voluntary institution established with the aim of rehabilitating offenders through religion, thereby enabling them to cultivate religious values and have spiritual development. One judge (10%) stated that the Samodaya Service was an institution which endeavored to rehabilitate offenders through activities such as meditation and observance of 'sil', which enabled them to perceive a spiritual awakening, which in turn provided them with the necessary mental capacity to restrain from any propensity towards crime so that they are turned to the positive side of society. Some judges (20%, n=2) stated that they had heard that the Samodaya Service is an institution which makes use of religion in the rehabilitation of offenders. The rest of them (30%, n=3) stated that they did not know much about the Samodaya Service or its functions, and it was therefore difficult for them to comment on it.

The sample (n=5) of judges who were familiar with the activities of the Samodaya Service said that, when offenders are directed to the Samodaya Service for rehabilitation, there is no legal connection between the Judiciary and the Samodaya Service. Though another half of the judges (50%, n=5) who were interviewed did not have enough understanding about the activities of the Samodaya Service, they, too, stated that

there were not any legal arrangements between the judiciary and the voluntary organizations. These judges stated that the Judiciary had the power to direct offenders for rehabilitation at correctional institutions according to section 19, under the Community Service Order enacted in 1979.

The judges who utilized the Samodaya Service noted that the selection of offenders for the Samodaya Service program was based on several criteria:

- a) No previous convictions or few convictions;
- b) Their condition at the time of their convictions; and
- c) Possible adverse repercussion on offenders' employments and status by imposing other sorts of punishments.

After careful review in regard to the above requirements, and if the Judiciary was convinced that an offender could be assisted through the Samodaya Service, then he would be sent to the program. Others might be sent to the program if the lawyers for the accused made a request for the judge to do so, providing the offender met the above requirements and the Samodaya Service was willing to accept the offender. The rest of the judges were of the opinion that the offenders who had committed minor offences according to the law could be rehabilitated at the community correctional institutions supported by the State. They said that when selecting such offenders, their previous convictions should be examined. At present in Sri Lanka, nearly 60% are confined for minor offences, and there exist many possibilities for them to be

rehabilitated at voluntary institutions such as the Samodaya Service.

The Judiciary expects a written report from the manager of the Samodaya Service when offenders are released from there. In the written report, the manager advises the court whether the offender should be released or kept in the program. Half (n=5) of the judges stated the decision as to whether to release the offender was based on that report. The rest of the judges (50%, n=5) were of the opinion that when offenders are released by such an institution, according to the Community Service order it could be done with the recommendation of the manager of that institution.

If an offender escaped during the period of his residency in the institution, he would be re-arrested and would reappear before the judiciary. Action can be taken against escapees under Community Service Order No.18, established in 1979.

Almost every judge expressed his willingness to send offenders to the Samodaya Service. Half (n=5) of them had already established connections by sending offenders to the Samodaya Service, while the rest (n=5) of the judges said that they would be willing to do so if they were better informed by the Samodaya Service or by the government about the correctional activities of the Samodaya Service. One judge (10% of the total) stated that, while he preferred to send offenders to a religious milieu, this would increase the workload of the judiciary and so he preferred to fine the offenders and terminate the cases.

Religion and Its Impact on Rehabilitation of Offenders

Commenting on why the law emphasizes the rehabilitation of offenders through religion, the judges stated that it helps generate spiritual development among them and is also an effective way of preventing them from recidivism. Nearly one third of the judges (30%) stated that, in Sri Lanka, 80% of the population belongs to a religion. But now, for many of them, religion is only one aspect of their lives. For these offenders, it is very important for them to be exposed to religious activities. In addition, they stated that sudden provocation, bad associations, and economic desperation often drive people towards criminal activities. The remainder of the judges (70%) emphasized the importance of rehabilitating offenders, and they felt this was a useful way of protecting offenders from negative experiences in prison. Further, they stated that the rehabilitation of offenders through religion would assist in developing the spiritual and mental condition of offenders, and thereby help rid them of their evil thoughts.

The Role of the Family and the Community

As the judges (60%) stated, the role of the family counselling service is twofold. First, family members play a vital role in encouraging offenders for their rehabilitation work and second, they can help find effective solutions to the obstacles that arise after the offenders are released. Commenting on the role of the community in rehabilitating offenders, several of the judges went on to say that during the tenure of institutional treatments and after release, the community helps to rehabilitate offenders by giving them opportunities to work with them co-operatively. The remaining judges (40%) were reluctant to comment on the Samodaya rehabilitation program, as they had had little experience as to how it is being administered.

The Strength of the Samodaya Service

It was the attitude of half (50%, n=5) of the judges who were interviewed, that the Samodaya Service had the potential to achieve its objectives. They also said they had few offenders appear in court a second time, particularly after they had been rehabilitated through the Samodaya Service. One of judges said that the Samodaya Service was able to rehabilitate offenders because of the dedication of its staff to their work, and the implementation of properly planned programs in rehabilitation activities. It was the view of the

remaining judges (50%, n=5) that minor offenders, first time offenders, and those who had committed few offences previously, are the categories which can be best rehabilitated through community-based correctional programs.

The majority of the judges (70%, n=7) who were interviewed stated the Samodaya Service was effective in facilitating the rehabilitation of offenders. The remaining thirty percent (n=3) refrained from commenting on its role since they had little awareness of the program. Almost half (n=5) of the judges stated that the offenders who had been rehabilitated in the Samodaya Service showed less proclivity for recidivism in comparison to those who had been confined in the State prisons. However, the judges refused to make critical comments on the Samodaya Service. Instead, 20% (n=2) of the judges stated that since the Samodaya Service was a voluntary organization, its services were confined only to a limited number of offenders. They also emphasized that further support in terms of financial aid would help broaden its activities to a larger numbers of offenders. Appreciating the rehabilitation of offenders in the Samodaya Service, the judges (30%, n=3) stated that they could direct fines to the credit of the Samodaya Service if the Samodaya Service requested them to do so.

All the judges who were interviewed discussed existing constraints to establish institutions affiliated with the Samodaya Service nationwide. Three fifths of them (60%, n=6) stated that, since the Samodaya Service was a voluntary

institution, it was faced with many constraints regarding its infrastructure (such as finances, buildings and officials) and that these factors had retarded its growth. The rest of the judges (40%, n=4) said that although there would be a lot of financial constraints for the spread of this type of voluntary institution, it would also take quite a lot of time to build public confidence in these institutions.

Opinions of the Officials Regarding the Samodaya
Service

The officials of the Samodaya Service stated quite similar opinions concerning its procedures. Their view was that the role of the Samodaya Service was to build justice and peace in society. Recently, its objectives have extended to building a drug-free society. Many of them insisted that its objective of rehabilitating offenders through spiritual development was of great significance. This procedure is seen as being two fold: First, the officials look into what causes someone to be a criminal and second, he is rehabilitated in such a way that those causes won't lead him to commit further crimes.

All the officials stated that they were dedicated to the service and cultivated patience, humbleness, and honesty required to deal with offenders during their detention. Since the Samodaya Service attempts to rehabilitate offenders through religious activities, the compassion and loving

kindness of staff play a vital role when dealing with offenders in a friendly rather than forceful manner. The Samodaya Service encourages offenders to work on officials' requests, which in turn helps them create intimacy between the two parties.

The direction of the offenders to the Samodaya Service takes place subsequent to the decree of the judiciary. As one official stated, the Samodaya Service attracts not only minor offenders but also those who found guilty of criminal offences such as homicides, thefts, robberies, etc.

These officials noted that special procedures were used for drug offenders. These offenders have more freedom than others, and are not given vocational training; instead, they engage in physical work at their discretion. The rest of the offenders have to undergo vocational training, and those with skills are allowed to work during their detention in the institution.

There was a close relationship between officials and the offenders in this institution. So, conflicts between these two parties were not very likely. Moreover, the administration of the Samodaya Service is by no means done in a bureaucratic way. Unlike other institutions, officials and offenders are more or less very friendly when they are in the Samodaya Service. Commenting on the relationship between these two groups, one official said "here, we all work together to make our objectives accessible. We treat offenders as our friends though we are recognized as officials and offenders". However,

one official expressed his own opinion that the intimacy between officials and offenders tended to create misunderstandings among offenders, particularly when they worked with the officials. For example, sometimes when offenders are assigned a task, their responses are not to an appropriate standard, owing to the intimacy between officials and themselves.

All of the officials stated that it was their experience that offenders responded positively towards the program. This was because most of these detainees found the program a new experience in their lives. Further, the offenders' co-operation in their routine work helped officials to operate the program effectively and achieve its objectives. One official stated that many released offenders continued to visit the Samodaya Service even after they were released. Some of them stayed in the institution for a few days when they visited. Many of the released offenders did not forget to come to express their gratitude to the manager, especially during the New Year period⁶.

One official noted that offenders were likely to face some problems when they returned to the community. The major problem he saw was that the offenders were not being recognized as good citizens, even though they had become respectable citizens through the Samodaya Service. Further, the increasing unemployment rates in the country made it

6. It is a Sinhalese custom that people visit their relatives as well as Buddhist monks during the New Year time.

difficult for them to find jobs, even though they had undergone vocational training.

Religion and its Impact on Rehabilitation of Offenders

Commenting on the impact of religion on the rehabilitation of offenders, officials stated that the prominent characteristic of the Samodaya Service is its utilization of religious precepts as a means for rehabilitating offenders. The objective of directing offenders towards religious observances is to diminish their criminal mentality by inculcating virtues such as loving kindness, compassion, and sympathetic joy. Lectures, seminars, and discussions, held in the day time, are directed towards developing good personalities among offenders according to Buddhist teachings. In addition, offenders are taught religious virtues through the family gatherings held thrice a day. The Dhamma sermon held at night attempts to convince offenders of the importance of living a virtuous life.

One official stated that offenders have a lack of understanding about religious activities. Therefore, they are keen about the religious activities carried out by the Samodaya Service, and many offenders participate in them.

The Role of the Family and the Community

The Samodaya Service attempts to involve the family and the community in its rehabilitation efforts. As the officials stated, the family has to help in rehabilitating offenders not only when they are under the direction of the Samodaya Service but also after their release. For this task, the Samodaya Service conducts a family counselling service with the objectives of facilitating solving problems that offenders have to face while they are in the Samodaya Centre and also after their release. Moreover, it is intended to prevent offenders from re-offending.

The participation of the community in rehabilitation programs takes place while offenders are in the Samodaya Service as well as when they are in their follow-up programs. As the officials stated, the Samodaya Service has also implemented programs which are aimed at public awareness of rehabilitation activities. These programs provide the public with an understanding of the procedures that have to be followed both to rehabilitate offenders and to prevent crimes. Further, the community-based programs are aimed at strengthening mutual understanding and relationships between the offenders and the community. Often, offenders are directed to religious work and community work in villages such as road construction work, building schools and religious institutions. This gives them more opportunities to work with the community, to help reduce any misunderstandings the

community may have about offenders. Rural communities join hands with the Sarvodaya Shramadana societies, particularly when released offenders are being looked after under the follow-up program. It was the common attitude of more than half of the personnel in the Samodaya Service that this coordination plan would be a great help in rectifying erroneous views about offenders in the community. Further they stressed that the opportunities that arise from these coordinated activities facilitate the development of close relationship within the community.

In the view of officials in the Samodaya Service, the attitudes of the general public about the Samodaya Service were not, however, favorable. As the officials stated, awareness among the public about this program was in its infancy. The people who have the best understanding of the program are offenders and their families. At the beginning, there was not substantial support from the village community for this program. Instead, they suspected that the criminals who were taken into the Samodaya Service would be a threat to village security. However, these misunderstandings have been gradually disappearing. Officials stated that many villagers, along with the rest of the community, are beginning to recognize the importance of the Samodaya Service and some of them have expressed a willingness to give volunteer support for the enhancement of the program.

The Strength of the Samodaya Service

The officials of the Samodaya Service had an optimistic attitude towards its role in rehabilitating offenders. All of the employees (100%, n=4) stated that the Samodaya Service was capable of rehabilitating offenders better than any other institution which ran similar rehabilitation programs for offenders. One official said that, since the Samodaya Service had already rehabilitated even hard-core criminals, there was no doubt about its potential for the future expansion of its services. Expressing a similar view, another stressed that, when compared with its counterparts, for many years, the Samodaya Service had been doing a better job in offender-rehabilitation activities.

All of the officials emphasized the effectiveness of the Samodaya Service in the rehabilitation of offenders, and noted the low recidivism rates among the released offenders. Further, the effectiveness of the Samodaya Service was felt to be enhanced by the dedication of the manager and his staff, and the systematic procedure it has adopted for the rehabilitation of offenders.

Three-fourths (75%, n=3) of the officials did not find difficulties when dealing with offenders. As one official commented "so far I did not find any difficulties in my career. If I come across some in the future, I would try my best to face them". However, one official stated that he did have some difficulties when dealing with offenders.

Particularly those who have developed bad habits from their prison experiences. Some offenders, but certainly not all, attempt to follow the same lifestyle they had in prisons; for example, some times by being dishonest for the officials' orders, smoking in the absence of officials, etc.

The responses received from the Samodaya officials with respect to the steps to be taken for further development of the Samodaya Service were similar to the responses of the judges. They stated the necessity of financial support from the government and related organizations so as to expand the facilities of rehabilitation in the Samodaya Service. Through extended financial support, it would be possible to recruit officials and provide more facilities for a large-numbers of offenders. As one official mentioned:

we have only one vehicle for everything in this institution. This creates difficulties, especially in transporting offenders when they want to participate in religious work or community work outside the premises. We have taken in offenders for whom facilities are available. If the government provides enough financial support, hopefully this service can be extended.

Summary

The characteristics of the given priority for religious activities, rehabilitation of offenders by remedying the causes of crime, and the freedom prevalent in the Samodaya Service were noted by the both released and unreleased

offenders as unique to the Samodaya Service. For offenders, Samodaya officials were like brothers who maintained exemplary conduct while treating them in a humane way. Those who did not have vocational abilities but engaged in vocational training felt that their training could assist them to find employment upon their release. And they had better opportunities to associate with outside people than the rest of the offenders. Except a very few, the majority of offenders did not find any difficulties in the Samodaya Service. Offenders had been assisted by the Samodaya Service to solve their problems even after their release from the program. All the offenders who were undergoing rehabilitation program in the Samodaya Service expressed their will to keep up their association with the Samodaya Service subsequent their release. The majority of the released offenders, too, have been continuing their association with the Samodaya Service.

Half of the interviewed judges were not familiar with the work of the Samodaya Service. Therefore, some of them were reluctant to comment on areas of the rehabilitation program. However, the majority of the judges identified the Samodaya Service as a voluntary organization which was dedicated to rehabilitate offenders through religious activities. They expressed their willingness to send offenders other than hard-core criminals for the rehabilitation provided by the Samodaya Service, and opinions about the need for improving facilities for more offenders.

All the officials of the Samodaya Service stated that the objectives of their organization is to rehabilitate offenders through spiritual development. They emphasized the effectiveness of this program pointing out the importance of low recidivism rate among the released offenders. Among the factors which contributed to the success of this rehabilitation program, the dedication of the manager and his staff who are keen about their responsibilities were found to be prominent.

The judges stated that law also emphasized the rehabilitation of offenders through religion since it was helpful to protect offenders from negative prison experiences. Some of them were of the opinion that the rehabilitation of offenders in a religious environment is a more effective way than putting them in prisons. The majority of offenders also admitted that they have been disciplined through religious activities.

Nearly one-third of the offenders' families participated in the special programs conducted by the Samodaya Service while the rest were not interested, for various reasons. Offenders who were in the Samodaya Service felt that they could get rid of their sense of isolation and monotony because they felt a sense of belongingness when working with the community. All the interviewees held an optimistic view concerning the strength of the Samodaya Service. Their perceptions were that the Samodaya Service

was in a position to rehabilitate offenders through its rehabilitating procedure.

The concluding chapter of this thesis provides a summary and the conclusions concerning of the findings of this study. Further, it addresses the policy implications, program strategies, and the avenues for future research.

CHAPTER VII

Conclusions

This thesis was designed to explore the nature of the Samodaya Service which is dedicated to rehabilitate offenders through religion. Through the use of structured interviews, the perceptions and opinions of the manager and officials of the Samodaya Service, both released and unreleased offenders, and the judges were solicited. Separate interviews were scheduled for the different categories of interviewees.

Since the current manager of the Samodaya Service was also its initiator, the interview held with him enriched the study with valuable data concerning its inception to the date the interview was carried out. The officials' experiences in the Samodaya Service also contributed significantly towards the objectives of the study. In addition, the data collected through the interviews with both released and unreleased offenders, revealed their opinions on and perceptions of the program as it operates both within and outside the formal institution. The judges as legal professionals participated in the interviews and their data were important as those who had experiences in Sri Lanka's criminal justice system.

The research techniques, particularly in-person interviews, were successful in collecting data, relating to

different categories of respondents. Further, open-ended questions helped obtain responses for this study. The findings of interviews as analyzed in chapter V, and VI meet the objectives, i.e., exploration of the structure, administration, and operation of the Samodaya Service. Since the branches of the Samodaya Service are located in separate districts under different Sarvodaya district coordinators, any attempt at generalizing the findings of the present study to those programs should be done cautiously.

The functioning of the Samodaya service resembles the relation between temple and the State which existed during the pre-colonial period. Buddhist monks acted as counsellors and spiritual leaders, dedicated to bringing peace to the community. Similarly, contemporary leadership intends to foster Buddhism and the Buddhist community. Presently, the Samodaya Service follows a way that leads to secure 'peace' in the country: all categories of interviewees generally felt that the Samodaya Service rehabilitates offenders and directs them to be good citizens. They noted that the Samodaya Service also encourages people to settle their disputes amicably, and therefore helps them to get rid of confusions and disparities among villagers. The present government has also attempted to reestablish relations with the temple. Buddhism has been officially recognized as the State religion, and rulers look for the advice of the Buddhist monks for the administration of country. As a tradition, the leader of the country (the President) assumes

duties only after consulting the chief Buddhist monks, and pledging to carry out administration righteously, and protect the Buddha Sasana (community of Buddhist monks). The Government has thus taken necessary measures to protect and foster Buddhism and the community of Buddhist monks by giving them an exalted place. Buddhist monks seem to have regained their role as spiritual leaders and counsellors to the rulers and the general public. Most of monks support the development activities of the country and Buddhism. Similarly, they stand against the activities that are harmful to the nation (Ross, 1990).

In Sri Lanka, the increasing number of criminal activities and the size of the prison population has emerged as a national issue during the recent decades. In this regard, the Sinhalese population expects Buddhist monks to contribute to the peace making process in the country. Specially, criminal justice practitioners affirm the potential of Buddhist monks to rehabilitate offenders as they did in the past (Delgoda 1984). Under these circumstances, the Samodaya Service was initiated by a Buddhist monk to combat crime through rehabilitating the wrong doers.

It is evident in Sri Lanka that there is no tradition for the separation of temple and State as there is in Western Europe. These two have long been interpenetrated and merged with one another (Wriggins, 1960). Rulers protected Buddhism; in return, the Buddhist monks administered the

country righteously. It can also be seen that the Samodaya Service may help to relieve the State's burden of increasing crime. The perceptions of the majority of interviewees would indicate that the Samodaya Service, as an experimental program, may effectively rehabilitate offenders with less cost. Offenders such as drug addicts and insurgents, who are perceived to be as dangerous and a threat to the maintenance of peace in the country, may be rehabilitated by the Samodaya Service. The State patronizes this movement by giving financial support through the National bodies.

The non-political stance of the Samodaya Service results in equal treatment for offenders from different political groups. The Samodaya Service cooperates with each and every political group to build a peaceful environment in Sri Lanka. The Samodaya Service attempts to rehabilitate offenders by creating an environment conducive to change. It educates parents, family members, as well as offenders in order to avoid criminal activities. Through seminars and public gatherings, the Samodaya Service tries to make the public awareness of the importance of non-violent livelihood and thereby support offenders to do away with their criminal life style. The programs which are based on promoting spiritual training, education, and vocational skills of offenders, aim at facilitating offenders' rehabilitation and eventually to make them law-abiding citizens in the country.

As the findings of the survey reveal, poverty, unemployment, broken family background, lack of knowledge of

how to look after children, injustice and the corruptions of the administration are the factors most commonly perceived to be associated with crime. The rehabilitation programs of the Samodaya Service may help offenders to address the reasons that led them to commit crime. Both spiritual training and vocational training aim at developing mental and physical training which help building skills of offenders. The training given by the Samodaya Service for offenders addresses only few causes of crime that have mentioned above. But the causes such as corruptions and injustice of the administration, and inequality of the society are beyond the objective of the Samodaya Service.

The contribution of the Samodaya Service in dispute settlements among the villagers has propelled the State to implement new judicial policies. For example, the Conciliation Board Act of 1988 was a reflection of the Justice Relief Service, or Dispute Settlement Service, of the Samodaya Service. Under the Conciliation Board Act of 1988, the Ministry of Justice appointed twenty volunteers, (social workers, priests, leading people) as conciliators in areas where deemed necessary. Their effort is not to punish the wrong-doers but to make amicable settlements or conciliation between two parties. Since 1990, the founder monk of the Samodaya Service has been appointed by the Minister of Justice as the president of the Conciliation Board in Palmadulla area.

The Samodaya Service reflects the relation between the State and the temple in the 20th century in Sri Lanka. When compared with the pre-colonial period, Sri Lanka today is more diverse, with ethnic groups such as the Sinhalese, the Tamils, the Muslims, and the Burghers. This ethnic diversity is further strengthened by religions and languages peculiar to each ethnic group. In a situation where diverse political and communal power leads to a serious threat to the stability of the island, the Samodaya Service exemplifies the role of the temple to engage in a peace-making effort regardless of ethnic, religious, racial or linguistic aspects. The functioning of the Samodaya Service resembles the relation between temple and State held during the pre-colonial period.

The findings of the thesis show an analogy between the method used by the traditional Sinhalese criminal justice system and those of the Samodaya Service. During the Kandyan period in Sri Lanka, there were no closed prisons or guards to keep regular vigilance upon offenders; instead, the community where offenders were detained held responsibilities for assisting offenders in their rehabilitation. Similarly today, there are no closed prison institutions or guards to protect offenders in the Samodaya Service. Most of the rehabilitation programs in the Samodaya service have been scheduled in the community, and there seems to be growing levels of support from the village communities towards rehabilitation of the offenders. Upon

release of the offender his village community voluntarily contributes to direct ex-offenders towards a crime-free path of life. In defining Community-based corrections, Smykla (1987, p. 10) suggests "the more a program involves clients in supportive, legitimate community activities the more it is community-based". The Samodaya Service as a correctional program is thus clearly community-based since the Samodaya Service has structured its programs in the community to support offenders when they are in the Samodaya Service and after their release.

During the Kandyan period, offenders were given required food and accommodation by villagers, and were also allowed to earn by labouring in the community. Similarly, the Samodaya service provides accommodation for offenders, and those who were trained in vocations are allowed to work in the community. Offenders can support their dependants with the money they earn by labouring in the community, or, alternatively, can save their earnings for use upon their release.

The contribution of family members and relatives to the rehabilitation of offenders was in existence during the Kandyan time. It was evident that offenders who were imprisoned in villages were supported completely by their family members (Knox, 1681). In addition to the financial support given by offenders' families, their participation in rehabilitation activities is a similarly prominent characteristic of the Samodaya Service. The possibility of

"backsliding" by offenders is addressed through meetings with the offender's family members. Family members are kept aware of the offenders problems and thereby offer assistance in rehabilitating offenders. The family counseling service operated by the Samodaya Service helps to fulfil those objectives.

The thesis revealed that the role that Buddhist monks played in the traditional Sinhalese society as the teachers and mediators in settling disputes in villages can be viewed, to some extent, through the work of the Samodaya Service. During the pre-colonial time Buddhist monks settled disputes whichever brought before their temples. Similarly, at present, the Samodaya Service settles disputes of villagers with the objective of making amicable settlements among the disputants. These dispute settlements by the Samodaya Service have proven to be successful. On the one hand, it relieves disputants from the burden of heavy costs and provides an alternative to the time consuming formal judicial process of the country. In this way, it also relieves the heavy work load of the formal judicial system.

The interviewees felt "the low recidivism rate" as a striking feature of the success of the Samodaya Service. However, since the annual intake of offenders to the Samodaya Service is limited and small in comparison to the total number of offenders released on probation. This observed success rate is not substantial when compared with the other community-based correctional programs.

The low recidivism rates of the Samodaya Service and its relatively low cost meet the rationale of the community sentences. Therefore, the expansion of the Samodaya Service nationwide, the author believes, would probably help to reduce the problem of overcrowding of prisons in Sri Lanka. However, such an expansion should not occur if it will contribute in "widening the clients' net", rather should represent a true alternate to the government correctional institutions and programs. Further, the Samodaya Service also attempts to rehabilitate offenders by providing opportunities for them to work with law-abiding citizens rather than being labelled as "offenders". Therefore, it is recommended that the introduction of similar programs to the prisons and other correctional institutions be analogous to those operated in the Samodaya Service.

The findings of the survey indicates that the awareness of the judges concerning the Samodaya Service was relatively low. Half of the judges who were interviewed had not had any contact with the Samodaya Service. The institution has not attracted by most of judicial units in the country due to its limited facilities. At the time that the survey was carried out, its facilities were limited for sixty offenders and no vacancy remained. Hence, it is recommended that the judges be made more aware of this program, which would be helpful in sending fines to the credit of this institution for its future development.

In the opinions of the majority of the offenders and officials interviewed, the Samodaya Service is an innovation to corrections and a program which has proven to be successful in Sri Lanka. Offenders who participated in the program stated that they were very rarely tempted to recidivate. The majority of them felt as if they were being disciplined through religious activities, and explicitly stated that their way of thinking had changed. Therefore, it can be suggested that the expansion of this program would help to direct offenders towards a meaningful life. The establishment of branches of the Samodaya Service in every electorate may help alleviate the overcrowding problem of the prisons. In this regard, the required financial support and recruitment of officials should be carried out without affecting the basic principles of the Samodaya Service. In other words when recruiting staff, priority should be given to those who have been trained by the Sarvodaya Movement in community leadership. However, success would still depend on the ability, dedication, of the person to be appointed by the Samodaya Service as head of each center.

Western scholars argue community-based corrections have failed; they generate a "minimum security society" through the State intervention in offenders and their families by the community-based corrections (Lowman, Menzies & Palys, 1987, p. 219). Further community-based diversion programs are viewed as "widening the client net" , i.e. filling these community-based correctional programs with minor offenders

whose offenses would not have resulted in a conviction unless community-based programs existed (Cohen, 1985). I would assert that some of these criticisms are relevant to the Samodaya Service. Although the Samodaya Service does not anticipate state intervention in its operation, Samodaya officials, offender families, and their neighbours are taking care of "security" aspects of corrections, and thereby keep vigilance upon offenders' behavior. The community intervention of offenders' lives might cause creating minimum security society. It is difficult to ascertain whether offenders who are sent to this program would have been freed in the absence of this program, the author assumes they would otherwise have been more likely chances to be imprisonment as a substitution to the Samodaya Service. Nonetheless, the Samodaya Service may be helpful because it maximizes the protection of the general public through disciplining offenders prior to their reentering to the community, and hence minimizes the chances of offenders being involved in criminal activities.

Several factors which may contribute to the success of this program are not present in Western cultures such as Canada and the United States. As it was revealed by over 95% of both released and unreleased offenders, the commitment of the manager as a Buddhist priest coupled with the dedication of officials was very important to its success. These offenders showed strong belief in the religious program. This was because offenders believed in the role that

Buddhist monks have been playing for the benefit of laymen. In contrast, in a country like Canada where people come from multicultural backgrounds and have diverse languages and religious faiths, it may be difficult to muster up offenders around a faith of one religion. Further, Samodaya officials showed very close association with offenders and dedication for their service beyond any bureaucratic order. They do not work just for money, rather they seek the self-satisfaction of helping offenders. But this is the kind of dedication of officials one hardly expects from correctional officers who work in a more bureaucratic order, who often and think more in terms of individual benefits and cost-benefit analysis, rather than moral satisfaction.

Community participation in the rehabilitation of offenders was perceived by officials and offenders to be another important feature of the success of the Samodaya Service. The community assisted offenders in the Samodaya Service to get rid of their isolation, and thereby made them feel as if they still belong to the community. Upon release of the offenders, the village community helped them do away with their criminal life while keeping a closer eye on their behavior. The author assumes that since Canadian society is comprised of many cultures, and is a largely urban community, it cannot be expected that Canadians would participate in helping rehabilitate offenders as do the people of Sri Lanka.

Although there were some unique features in the Samodaya Service that were limited to the Sri Lankan culture, some of the findings can be nonetheless be considered in the light of community-based corrections at the international level. Specially, one might consider:

- 1) Giving freedom to offenders with minimum security and without interference of guards;
- 2) The appointment of officials who are not bureaucratic representatives, but friends who want to help offenders in their rehabilitation;
- 3) Seek assistance of the offenders' neighbors to avoid backsliding of offenders;
- 4) Providing counselling for offenders' parents and family members to facilitate rehabilitation of offenders; and
- 5) Use methods which convince offenders of the negative outcomes of the crimes they have committed, and thereby deter their criminal mentality.

Future Research

. Only the opinions of the officials, offenders, and the judges concerning the Samodaya Service were discussed in this thesis. If a proper survey of the general public could have been carried out, particularly at all the locations where the Samodaya Service has been established, it would have been possible to look into whether the inhabitants of those areas run a risk in their day to day lives, due to the absence of security at the Samodaya Service. Also, it may be

useful to compare a similar sample of offenders with those who were incarcerated in State-operated prisons.

A study aimed at analyzing the opinions of the officials attached to the Sarvodaya Divisional Center, *Gramadana* Societies, and the village communities (all of which deal with the work of these institutions) would add more insight into the Samodaya Service and its offender-rehabilitation, especially the follow up programs. It is hoped that this thesis will provide the ground work for further research concerning the Samodaya Service.

APPENDIX A

Interview schedule for the Manager of the Samodaya Service

Personal information:

1. What is your age?
2. What is your highest educational qualification?
3. How long have you been working in the Samodaya Service?

Scope of Crime and Criminality:

1. In your view, what are the causes which lead offenders to commit crime? And how these causes are best responded to?

Structure of the Samodaya Service:

1. What are the circumstances which initiated the Samodaya Service?
2. What are the purposes of the Samodaya Service?
Correctional Program?
3. In what way does the Samodaya Service relate to general corrections in Sri Lanka?
4. How does the Samodaya Service differ from other types of Correctional programs?

Administration and Operation of the Samodaya Service:

1. What is the role of the Samodaya Service in responding to criminality?
2. What are the programs which have been implemented to prevent crime?
3. Do the programs set out to rehabilitate offenders? How?
4. How do you get financial support to maintain these programs?
5. What kind of government supervision does the Samodaya

Service receive?

6. How do the programs treat short term sentenced offenders?

How about long-term offenders?

7. How do the officials who are involved in the Samodaya

Service treat offenders?

8. What sort of relations do offenders have with outside people?

9. How does the Samodaya Service release offenders?

10. What are the responses of outside people to this program?

11. In what ways has the Samodaya Service changed since its origin?

12. What are the difficulties that you face in maintaining this program?

13. What sort of contribution do you receive from the members of the Sarvodaya Organization in maintaining this program?

Family and Community:

1. What is the role of the community and the family in this program both during the offenders' sentences and after their release?

Function of the Samodaya Service:

1. In your opinion, how do you rank functioning of the Samodaya Service?
2. What are your expectations concerning future enhancement of the Samodaya Service?

Interview Schedule for Unreleased Offenders

Personal Information:

1. What is your age?
2. Are you married? If married, number of children?
3. What is your highest educational qualification?
4. What type of a job did you hold before you were incarcerated?
5. What your sentence? How many months have you been incarcerated thus far?
6. Have you ever undergone community-based corrections? If yes, how long?

Scope of Crime and Criminality:

1. In your view, what are the causes which lead offenders to commit crime? And how these causes are best responded to?
2. What led you to commit the crime which brought you here?

The Samodaya Service:

1. How does the Samodaya Service differ from other types of corrections?
2. How would you compare the officials involved in this program with those in other correctional programs?
3. How do you get along with inmates and officials of the program?
4. Are you undergoing a vocational training program? If yes, how do you think it will assist to maintain your future life?
5. Are you engaged in labouring work? If yes, do you like or

dislike it?

6. How do you associate with outside people?
7. Overall, how do you feel about this program?
8. Would you like to keep, or avoid, a relation with the Samodaya Service after your release? Why?
9. What are the difficulties you have encountered in the Samodaya Service?

Religion:

1. Are you being "disciplined" with religion? If yes, how? Do you like or dislike to follow them?

Family and Community:

1. Have you experienced any family problem during the period of your sentence?
2. What is the role of the family and the community with respect to this program during your sentence and after your release?

Strength of the Samodaya Service:

1. What is your attitude on the strength of the Samodaya Service in rehabilitating offenders? Is it beneficial for your future life? Please comment.
2. What you like the most\least of the Samodaya Service?

Interview Schedule for Released Offenders

Personal information:

1. What is your age?
2. Are you married? If married number of children?
3. What is your highest educational qualification?
4. What was the cause for last conviction?
5. What is the length of your sentence? Number of months incarcerated thus far?

Scope of Crime and Criminality:

1. In your view, what are the causes which lead offenders to commit crime? And how these causes are best responded to?
2. What made you commit crime?

Samodaya Service:

1. How does the Samodaya Service differ from other type of corrections?
2. How do the officials of this program compare to the officials of other types of correctional programs?
3. How long have you been in the Samodaya Service?
4. Have you ever been given vocational training by the Samodaya Service? If yes, did it help you after you were released?
5. What sort of services did you receive from the Samodaya Service after your release?
6. What are the problems that you have encountered during your period of sentence and after release? Did the Samodaya Service help you to overcome them? In what way?

7. What type of association do you have with the Samodaya Service now?

Religion:

1. Do the religious disciplines help you to refrain from crime?

Family and the Community:

1. What was the role of the family and the community in this program during the period of your sentence and after your release?

Strength and the weaknesses of the Samodaya Service:

1. What is your attitude on the strength of the Samodaya Service in rehabilitating offenders? Was it beneficial for your life? Please comment.

2. What do you like the most\least about the Samodaya Service?

Interview Schedule for Officials of the Samodaya Service

Personal information:

1. What is your age?
2. What are your educational and professional qualifications?
3. What is duty in this program and how do you perform it?
4. Are you working for money? If not, please specify the reason?

Scope of Crime and Criminality:

1. In your view, what are the causes which lead offenders to commit crime? And how these causes are best responded to?
2. In your opinion, what kind of problems of offenders need to be addressed in the program?

The Samodaya Service:

1. What is the role of the Samodaya Service?
2. What are the specific characteristics officials should possess in dealing with offenders?
3. What kinds of offenders are selected into the Samodaya Service? And how do you treat different kinds of offenders?
4. What are the positive and negative relationships between the officials and the clients?
5. How do the offenders respond to this program?
6. What kinds of problems do offenders have upon their release?
7. What are the responses of the general public concerning

this program?

8. Do you think the Samodaya Service is effective or ineffective in correcting offenders? Please specify.
9. Do you find any difficulties in dealing with offenders? If so, please specify.

Religion:

1. How are the religious programs being utilized to discipline the offenders?

Family and the Community:

1. How do the family and the community contribute for the rehabilitation of offenders?

Strength of the Samodaya Service:

1. What is your attitude on the strength of the Samodaya Service in rehabilitating offenders?
2. Do you predict important measures to be undertaken for the future development of the program?

Interview Schedule for Judges

Scope of Crime and Criminality:

1. In your view, what are the causes which lead offenders to commit crime? And how these causes are best responded to?
2. What is the optimum punishment for different kind of offenders and offences?

The Samodaya Service:

1. How familiar are you with the Samodaya Service?
2. What is your general view regarding the Samodaya Service?
3. Is there any legal bondage between the Samodaya Service and the court?
4. What requirements are to be met by an offender in order for him to be sent to the Samodaya Service?
5. What are the criteria taken into consideration in deciding whether to release, or to extend punishment?
6. How does the legal order affect escapees from the Samodaya Service?
7. Do you like or dislike to send the offenders into the Samodaya Service? Please explain.
8. What characteristics of this program are not available in other community-based correctional programs in Sri Lanka?
9. What are the difficulties that you observe as constraints in extending this program nationwide?

Religion:

1. Why does the law emphasize rehabilitation of offenders through religion?

Family and Community:

1. In your opinion, in which way family and the community participate in rehabilitation of offenders in the Samodaya Service?

Strength of the Samodaya Service:

1. What is your attitude of the strength of the Samodaya Service in rehabilitating offenders?
2. Do you observe any weaknesses of the program? If so, please comment.

APPENDIX B

Introductory letter

November 20, 1990

TO WHOM IT MAY CONCERN

The bearer, Mr. Madawala Jayasundara, is reading for his Master's degree in the School of Criminology at Simon Fraser University, in Canada. His area of interest for his thesis is "community-based corrections in Sri Lanka" where he wishes to carry out a field survey during December, 1990 and January 1991. I would be obliged, therefore, if you would give him your fullest cooperation in this regard.

Sincerely

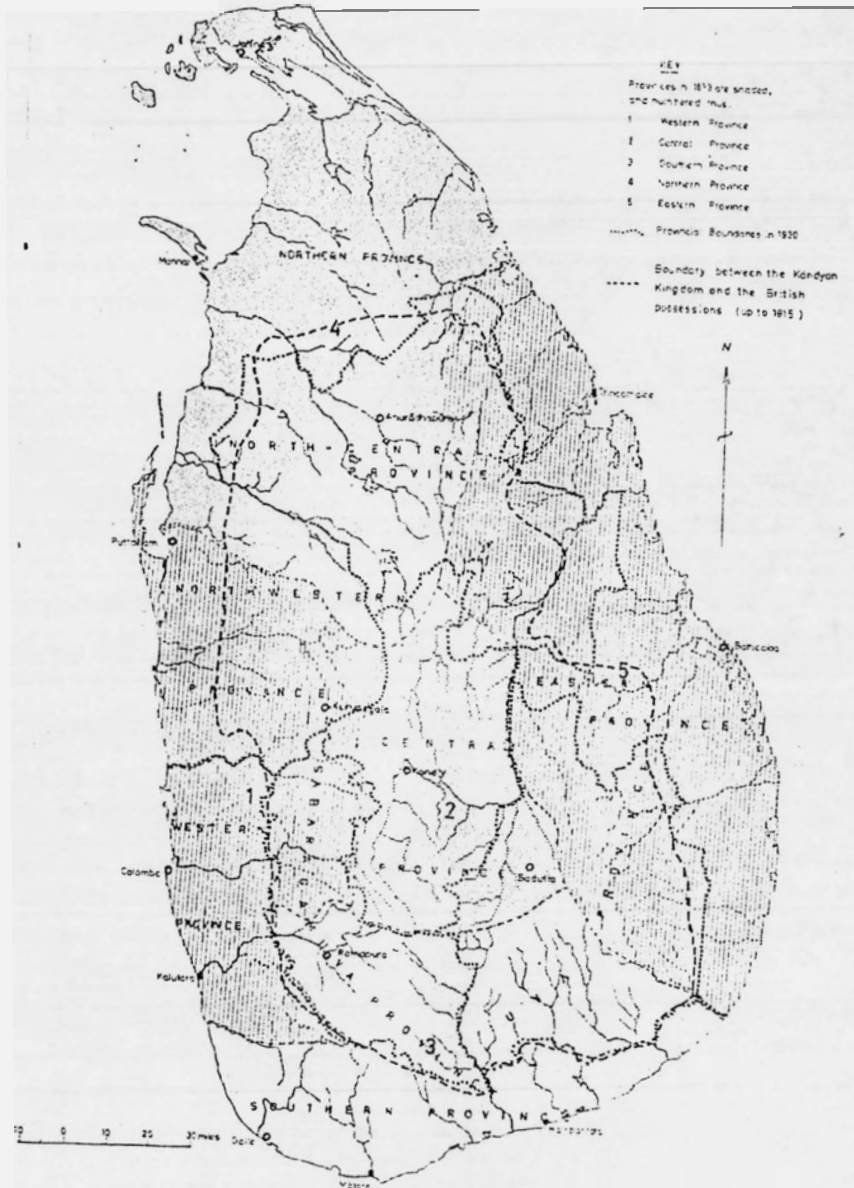
(Signature)

Curt T. Griffiths, Ph.D.

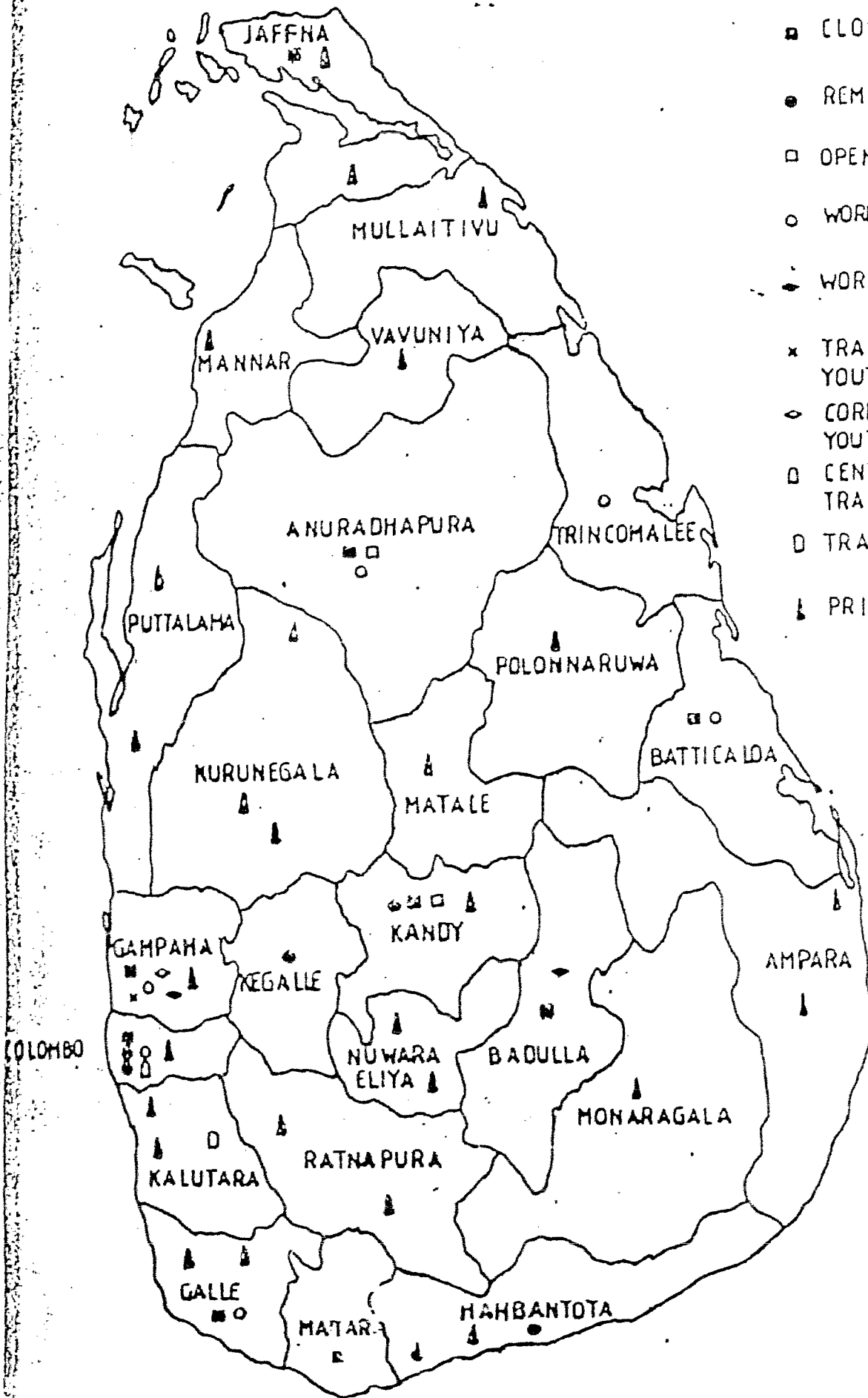
Thesis Supervisor

Appendix C

Map of Sri Lanka Showing the British territory in 1815



Adapted from De Silva, 1981



- CLOSED PRISONS
- REMAND PRISONS
- OPEN PRISON CAMPS.
- WORK CAMPS.
- ▲ WORK RELEASE CENTRES.
- ✕ TRAINING SCHOOL FOR YOUTHFUL OFFENDERS.
- ◇ CORRECTIONAL CENTRE FOR YOUTHFUL OFFENDERS.
- ◻ CENTRE FOR RESEARCH AND TRAINING IN CORRECTIVE
- ◻ TRANSIT CAMP.
- ↓ PRISON LOCK-UPS

Map of Sri Lanka showing geographical positions of the Samodaya Service.

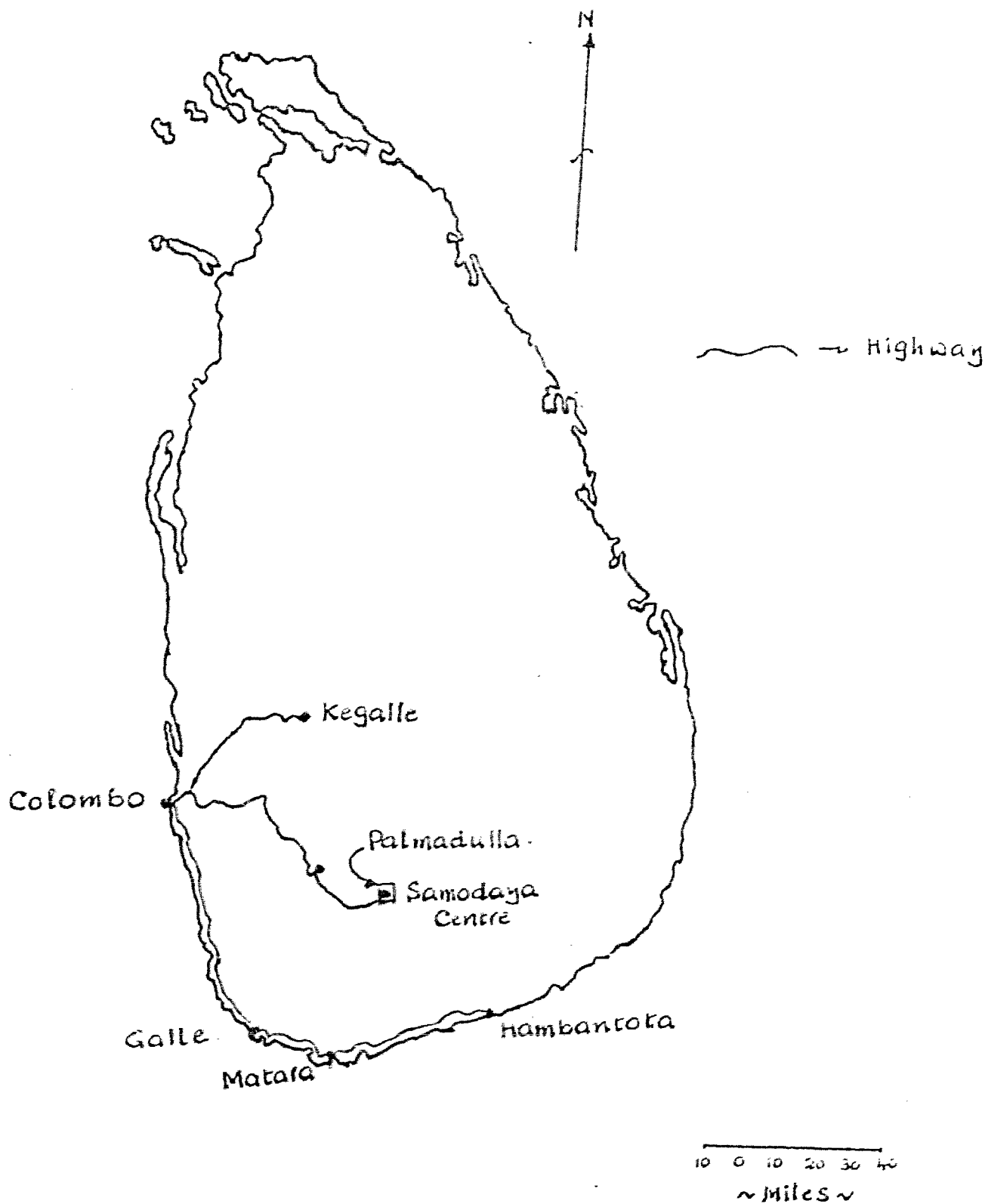


Figure 1

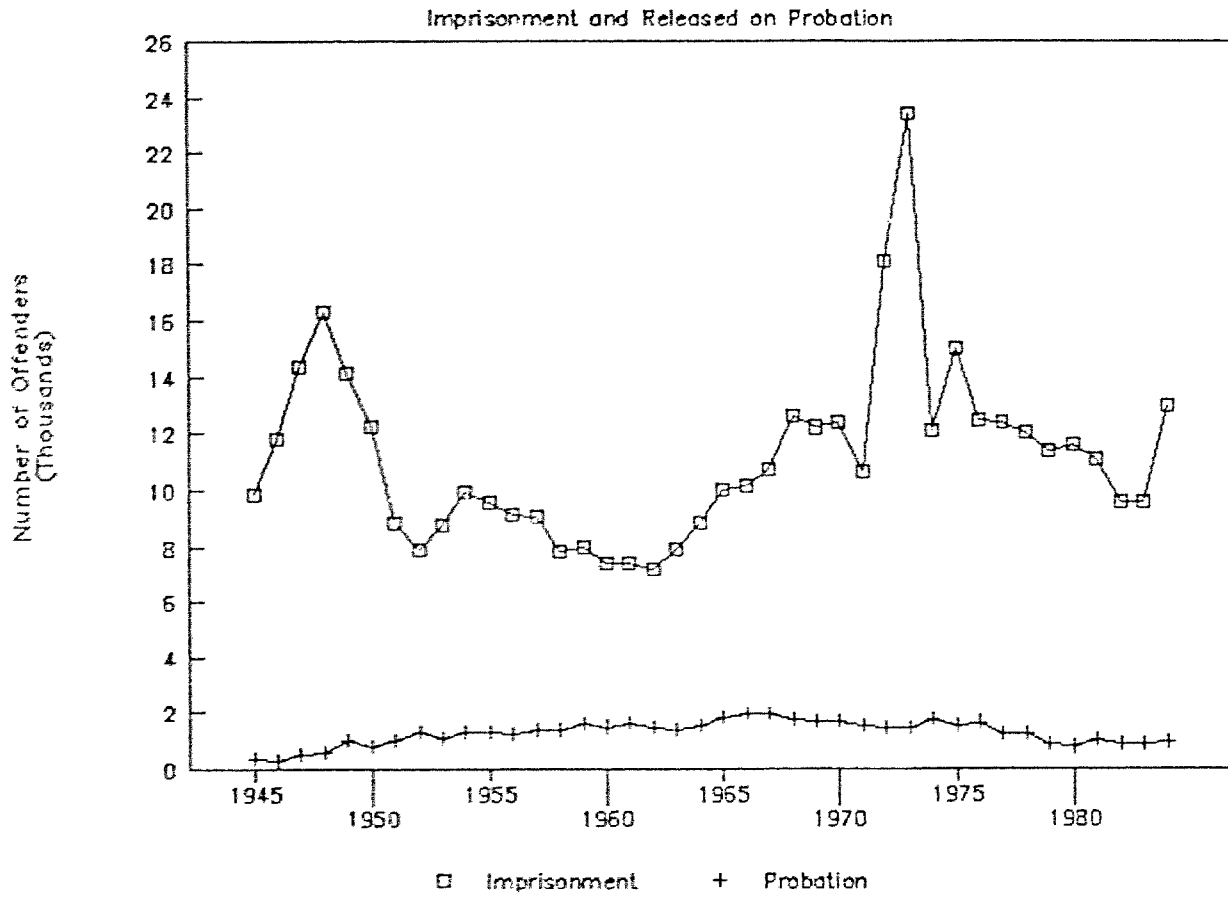
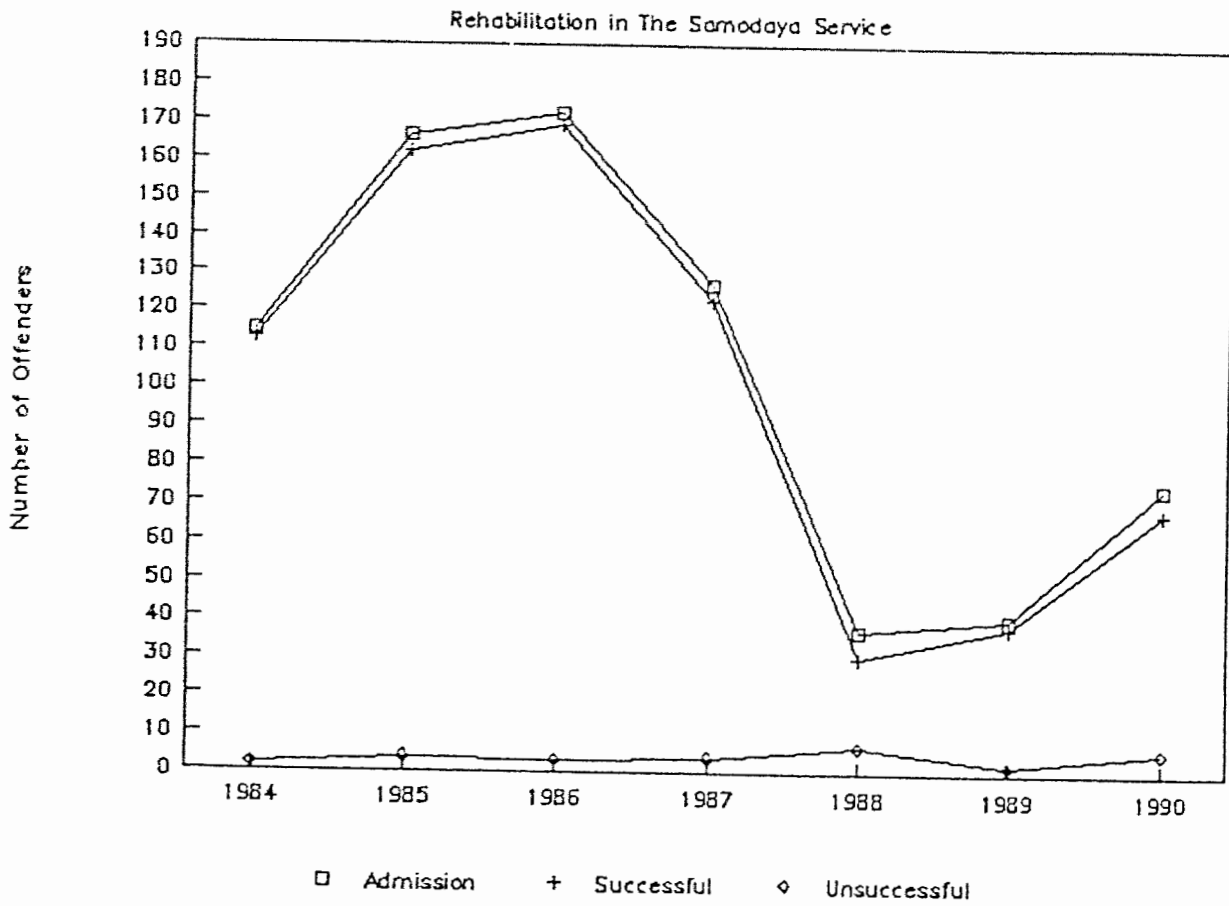


Figure 2



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