

## The Concept of Witness and Victim Protection in the International Criminal Law: A Comparative Study

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This paper discusses how the British judges created communal divisions in Sri Lanka during the colonial rule through their decisions. The British colonial rule was established in Ceylon after capturing in 1796 the maritime areas hitherto held by the Dutch. The whole Island was brought under their rule only in A.D.1815 after major military offensives between the national patriotic forces and the invading colonial army. However, after major rebellions against the British colonial rule in 1818 and 1848, Ceylon regained her lost pride and sovereignty with the grant of dominion status in 1948.

Nevertheless Sri Lanka became a fully Sovereign and Independent Republic only in 1972. The highest appellate court in Sri Lanka until 1972 was the Privy Council, which heard our appeals in Britain. During the period that spans from 1796 to 1972, the British judges heard our cases and in particular the judgments delivered by them during the first 50 years of the British rule very clearly reflect 'divide and rule' considerations that were taken into account in forming these judgments.

This paper intends to critically analyze those decisions with a view to understand how the British colonial judiciary interpreted indigenous laws, customs and values to justify and fortify their rule in Ceylon by offering illogical constructions and interpretations to those indigenous laws thereby creating divisions among the different communities in Ceylon.

Accordingly the paper will discuss the following areas: Restricting the applicability of Kandyan law; the law that was applied to the entire Island to certain areas in the Kandyan provinces thereby transforming it to a territorial law; Exclusion of the Europeans and other inhabitants from the application of Kandyan law to transform it into a mere personal law; Narrow interpretations given to the customary rights relating to land inheritance, marriage, and other civil aspects for the purpose of making division between low country Sinhalese, up-country Sinhalese and Tamil inhabitants in the Northern part of the country; The paper will discuss some landmark case decisions such as *Re Carshow v Nicole*, *Williams v Robertson*, etc. The paper will conclude with the implications of decisions on the present national issue and what next should be done judicially to put record straight.

Key Words: Concept; Witness; Victim; Protection; International Criminal Law;

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