

# THE SEPALA EKANAYAKE CASE - DOMESTIC SRI LANKAN LAW INCORPORATES INTERNATIONAL LAW

By David Averbuck\*

## Introduction

Sepala Ekanayake is his country's only hijacker of an international airplane. While Sri Lanka had ratified all three major international conventions on air piracy,<sup>1</sup> it had failed -- as many other states have failed -- to pass enabling legislation to make Ekanayake's actions criminal in his homeland.<sup>2</sup> Under his nation's Constitution of 1978, there can be no ex post facto criminal statute unless the law is based on general principles of international law recognized by the community of nations.<sup>3</sup> Within three weeks after completion of the hijacking, the Sri Lankan Parliament passed the enabling legislation,<sup>4</sup> and Sepala Ekanayake was tried and convicted pursuant to this ex post facto criminal statute.<sup>5</sup>

This article will briefly examine the history of the Ekanayake case, and the incorporation of international law into the domestic legislation of an independent country. It is the thesis of this article that the **Ekanayake** case and the incorporation of international law by the courts and Parliament of Sri Lanka sets several precedents. Sri Lankan Parliament and courts, to some extent, are now bound by the general principles of law recognized by the community of nations. The courts of the nation now must interpret its domestic statutes in conformity with customary international law, part of which has been adopted in conventions to which Sri Lanka has become a party -- including those relating to human rights.

## A Tale of Three Cities

The story of Sepala Ekanayake has all the makings of high tragicomedy, not only because of his actions, but also due to the unique responses taken by

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