

## **AMENDMENTS AND COMMENTS**

On the Government's Proposals for Constitutional Reforms,  
Published by the Ministry of Justice and Constitutional Affairs  
in October 1997.

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Colombo  
Sri Lanka.  
March 1999





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## **Amendments and comments to the Government's proposals for Constitutional Reform published by the Ministry of Justice and Constitutional Affairs in October 1997**

**01. Sri Lanka should be constituted as The FEDERAL REPUBLIC OF SRI LANKA.** This clear and explicit declaration is essential to avoid any Constitutional or legal confusion, without giving much importance to those who oppose it, because they always oppose any form of devolution.

**02. National Flag:**

The present National flag has continued to be in dispute from its day of inception to this date as it conveys the reflection of Sinhala hegemony over the other national communities of Sri Lanka. The National flag of a country should neither reflect the controversial mythical history nor the racial domination of the majority over the other national communities. It must be a true reflection of the sanctity and of the progress and prosperity of the country. The National flag of Sri Lanka, therefore, should suitably be changed, in order to reflect the common aspirations and interests of all the national communities and, equally, be respected by all the people in Sri Lanka.

**03. Two-third majority in the Parliament :-**

- a) Provisions have to be so enacted in the new Constitution, that neither a particular political party nor a particular national community have two-third majority membership in the Parliament in future;
- b) Either by delimitation of the Parliamentary constituencies or by a system of reserved constituencies, the national minority communities should, together, have not less than one third of the membership in the Parliament.

**04. The House of National Communities - Bicameral system of Parliament :-**

All sincere democrats and all those who believe democracy, including the U.N.P. leaders do agree that there is, to the existing politico- social formation and conditions of Sri Lanka, an indisputable need of Bicameral system of Parliament of which the Second Chamber should be constituted in order to uphold and protect equality among all the National communities and to prevent any legislative or executive activity detrimental to the basic rights and interests of any community in the country by any part of the Governance.

The Second Chamber can be named '**House of National Communities**' with following considerations:-

- a) The main national communities in Sri Lanka are Sinhalese, Tamils (of which Up country Tamils may be considered as a separate identity if there is any such demand) and Muslims;
- b) The combined strength of the representatives of all the national minority communities should have majority representation in this house;
- c) Structure of representation of this house shall be formulated, as if that the House is represented by the Regional Legislators, teachers, graduates, universities, scholars, sportsmen, industrialists, traders, accountants, doctors, engineers and lawyers, trade unions, etc.
- d) This House is strictly a part of the Parliament and shares the responsibility for the Sovereignty of the country;



- e) With other functions of a traditional second chamber, the main function and responsibility of this house should be to protect the basic aspirations and interests of all the national communities in the country;
- f) Vice President or a person, appointed by the President from retired public officers who held higher office of the State and who is considered by the President as suitably senior and experienced, shall be the Chairman of this House;
- g) If any bill or resolution, tabled before the Parliament or any Regional Legislative Council, is considered by the members of this house, at least not less than fifty percent representatives of a particular national community, as detrimental to the interests of any particular national community, then, the bill should, at first, be amended and approved by this house before it is made law.
- h) Any amendment to any important provisions of the Constitution, related with the principles of protection of the aspirations and the interests of minority communities, shall need the approval of the two third representatives of this House too.

#### 05. Establishment of Secular State:-

Sri Lanka is a multi- ethnic, multi- religious and multi- cultural country. The Constitution of Sri Lanka has virtually regarded it a Buddhist country from 1972 onwards. This Constitutional arrangement has not provided any constructive development to the country, but only mutual distrust and destruction. Using the great name Buddha for narrow political purposes, is, in deed, against the spirit of the teachings of the great Buddha. Everyone agrees that the Buddha Sasana teaches the human beings higher civilisation and great philosophy of world and worldly affairs. But when it is brought down into the Constitutional affairs, then it is clear that it is politically motivated and used to make the ways and means to discriminate against other religions. This makes the people of other religions feel alienated and discriminated and are made to believe that the Buddha also is another sectarian religionist or fundamentalist. The teachings of Buddha made the Emperor Asoka the Great to become a great ruler against warfare, but the sad thing is here that they are used to create war among the people in this country.

Every religion of this country should be allowed to be apolitical and non-political. Only duty of the state in this matter should be to protect the basic interests and aspirations of the people with different beliefs equally. Beliefs, truths and knowledge are universal neither national nor regional.

The Constitution, as the basic political guide line of a country, should not constrain any religion by any provision. It would be a barrier for the development and evolution of truth and knowledge. Let, therefore, the religions and religious leaders be free and frank. Any religion or religious affair should not be a matter or a part of the Constitution.

#### 06. Citizen ship :-

- a) Acts of 1949 and 1950 related to citizenship and voting rights should be repealed and pacts and agreements with India in regard to the Up-country Tamil people should be treated as annulled and out dated;
- b) Sri Lankan Citizens, on the date of the commencement of this constitution, are :-



- (i) All those who live in Sri Lanka on the date of the commencement of this Constitution, excluding those who entered in and have been living in Sri Lanka as registered foreigners within the period not more than last ten years;
- (ii) Sri Lankan passport holders, residing abroad;
- (iii) Declared or non declared Sri Lankan refugees staying abroad and
- (iv) Sri Lankans, who left Sri Lanka after 22nd May, 1972 and became foreign citizenship holders.

#### 07. Correct terms:-

The term Regional Administration in the proposed draft should be replaced by proper Political and Legal term 'Regional Government'. The Regional administration that is headed by the Chief Secretary, shall be responsible to and under the control and directives of the Chief Minister, who is the head of the Regional Govt.. The Regional Legislative Council is chaired by the speaker/ chairman of the Council. And the Governor is the head of the Regional State that obviously comprises the Regional Govt., Regional Legislative Council, Regional Administration including Regional Police and the Regional Judiciary.

If Govt. thinks or believes that the terms in the proposed constitution should be worded so that the 'majority' people will not 'misunderstand' the devolution package, instead of correctly wording the terms, then that would lead to and make ways for many conflicts in the future and that would pave the way for the anti- devolution elements to use them only in favour of their intentions.

The vast majority of the Sinhala people in this country are ready for peace with any extent of devolution without dividing the country. At the same time similarly, the very majority of the Tamil people are expecting peace with a reasonable degree of devolution within a united Sri Lanka. The Political leaders only need the will and determination, going beyond narrow-political vested interests, to provide peace , democracy , freedom and fraternity to all the people of this country without being dragged on by the narrow - minded motivated extremists from any side.



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## **Regional State**

### **08. Regional Legislative Council ( R.L.C.):-**

- 1) Every Region shall have R.L.C. that makes laws and statutes applicable to the Region with respect to subjects set out in the Regional List.
- 2) Regional Legislative Councils are deemed to be and shall be treated as the essential parts of the governance of the country, not as subordinate institutions to the Parliament or the Central Govt..
- 3) The Governor may summon, dissolve and prorogue the R.L.C. of the Region, when the Chief Minister requests him in writing.

### **09. The Governor:-**

- 1) The Governor is the national representative of the Constitution, appointed by the President for a period of five years to the Region in concurrence with the Chief Minister and the Opposition Leader of the Region and shall be the nominal head of the Regional State which includes the R.L.C., the P.G., and the Public, Police and Judicial administrations of the Region;
- 2) The Governor would only be the nominal head of the executive of the Region and shall use such executive powers only on the advice of the Chief Minister or the Board of Ministers of the Region as long as the elected Government is in power;
- 3) The Governor, in fact, would be a Constitutional monitor, the communicator between the Centre and the Region, the supervisor of the Government of the Region in order to report to the President and in total, he / she shall function as a frontier guard of the national interests of the country in general, and of the welfare of the people of the Region in particular;
- 4) **Formation of care-taker Govt.:-**  
Whensoever the Governor dissolves the Regional Legislative Council on the advice of the Chief Minister, the Governor shall request the Chief Minister to continue in his office until the election, which is declared for the dissolved Council, is held and accordingly, new Government is formed.
- 5) Where the Presidential Rule is proclaimed, the President shall, for the particular period, appoint the Governor and an advisory body comprising not more than five persons, at his pleasure, with different skills, but not from the persons serving in any part of the Govt.;
- 6) On the advice of the Board of Ministers, the Governor shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to matters in the Regional List;
- 7) The Governor shall not involve in any party politics or in any activity of any political party either during his / her term or within five years after the termination of his/ her office;
- 8) A Governor may be re-appointed. Under no circumstances shall any person hold the office of the Governor for more than ten years in total.

### **10. Regional Government ( R.G.):-**

- 1) The Chief minister of a Region shall be appointed by the President and shall take oath of office in front of the President;
- 2) On the request of the C.M., every member of the Board of Ministers of the Region is appointed or dismissed by the Governor;



- 3) The Chief Minister and the Board of Ministers of a Region are collectively responsible, answerable and accountable to their R.L.C.;
- 4) The Chief Minister of the Region shall continue to hold the office as long as he / she carries majority support of the house, on whose floor only, the confidence in him / her may be tested.

# **11. Proclamation of Presidential / Governor's Rule in a Region or Regions.** **Suspension, Dissolution and Dismissal.**

- According to article 223 of the proposed Constitution, the President assumes, under the said situation, the powers and functions exercisable by the Governor, Chief Minister and the Board of Ministers of the Region.
- According to the precedent set after the first North-East Provincial Council was dissolved in 1990, powers and functions were withdrawn back to Colombo. Each Central Minister and his bureaucrats grabbed them immediately and have been discharging them directly from Colombo. So this is the way, by practice, the Constitutional provisions are interpreted. By this practice and interpretation, once a Regional Legislative Council is dissolved or a Regional Govt. is dismissed, the entire Regional system is made defunct, except for retaining a powerless Governor and some ineffective administrators in namesake only. This practice makes the public servants feel vulnerable when working under a Regional administration. When the first North-East Provincial Council was established, everyone knew that there was boldness and enthusiasm among the talented Tamil public servants. But if any attempt is made again to build the Regional State in the manner it was earlier, it would be very difficult to convince the administrators to trust the system, unless the Central Govt. provides open and clear assurances to the senior public servants not to fear serving in a Regional governing system.
- If those who argue that this is how the Indian Constitution deals with this subject, then they must accept and understand the fact that the practices of governance in India have not been followed by the Central Govt. of Sri Lanka for last nine years in relation to the North-East. And one cannot surely expect that the interpretation to the Constitution made here by the Supreme Court of Sri Lanka will be in the same manner the Indian Constitution is interpreted in India. In addition, a peculiar sort of precedent made and established by the Premadasa's Govt. has been followed by the present Govt. too.
- When the new proposed Constitution too says 'the President assumes powers and functions' then the same precedent shall be advocated and applied. The so called 'conventions' and 'customs' cease to have consistent meaning and the autonomy of a region is impaired. So the Constitutional arrangements have to be made with open, clear, direct and transparent provisions that cannot be interpreted in any other way.
- In deed, a Regional Legislative Council may be suspended or dissolved and a Regional Govt. may be suspended or dismissed according to the provisions in the Constitution. But under no circumstances should the Regional governing system be suspended or dissolved as long as the Constitution maintains the system or until and unless by a Constitutional amendment, the system is, as a whole, abolished.



- If it is, otherwise, dissolved, then it would be contrary to the very first article of the Constitution and as long as the said system exists, no Central Minister has any authority to grab any executive power and function, fully or partly, devolved to the Regional system. Only legislative powers devolved to the Regional Council shall be exercised by the Parliament during the said period.
- It shall be the duty of the Central Government to protect every Regional State against any external aggression or internal disturbance and to ensure that the Government of every State is carried on in accordance with the provisions of the Constitution. In fact, the Central Govt. should strengthen the Regional system so that it could deal with the problems it faces and discharge its obligations and responsibilities as provided in the Constitution. If it is weakened for any reason then that shall, in turn, alienate and isolate the people of the Region not only from the Regional State but also from the entire National Establishment.
- Where the President is of the opinion that the C.M., the Board of Ministers as a whole, or the R.L.C. is functioning by misusing the office in order to endanger the unity and integrity of the Republic, then the President shall use his/her power, with the concurrence of the Cabinet of the Centre as provided in the Constitution, to suspend the Regional Govt. or the Regional Legislative Council or both. The proclamation of this kind shall be referred to a higher degree Tribunal specially formed by the President within fourteen days of the Proclamation to adjudicate whether the Regional Govt. needs to be dismissed or the Regional Legislative Council be dissolved or both. And then only the Parliament could finalise the decision of the dismissal and the dissolution by a special resolution.
- If the Proclamation of suspension is revoked by the President or the Tribunal or the Parliament, then the elected Regional Legislative Council and the Regional Govt. shall be allowed to continue for their due period, without including the period of suspension.
- Every extension of the Proclamation of Governor's rule beyond six months shall need the approval of the two third members in the Parliament.

## 12. Public Administration of the Regional Government:-

- a) On the advice of the Chief Minister of the Region, the Governor shall appoint the Chief Secretary, Ministerial Secretaries, Heads of Departments / Boards, and Heads of Districts, from the National Administrative Service officers in the Regional administration;
- b) Appointments of the executive heads of the professional or the technical departments shall be made by the decision of the Board of Ministers from the personnel of the relevant services of the Region as per the law made by the R.L.C.;
- c) All other appointments to the Regional public administration shall be made by the decision of the Board of Ministers of the Region from the National Services or Regional Services in compliance with the law of the R.L.C..



### 13. Regional Administration of Justice:

- 1) Regional Govt. shall constitute and administer the District and the subordinate and lower courts which are not referred to in the proposed Constitution;
- 2) Judges to the district courts and the subordinate and lower courts shall be appointed by the Governor on the recommendations of the R.J.S.C.;
- 3) There shall be a Regional Judicial Service Commission(R.J.S.C.) in each Region. This Commission shall function as an advisory and consultative body to the Regional Government on the matters of Regional administration of justice in the Region. This commission shall be appointed by the Governor on the advice of the Board of Ministers;
- 4) There shall be a 'Rural Juries Board' constituted and regulated by the statutes of the R.L.C. in every Grama Sevaka division to settle the disputes at local level itself.
- 5) The Governor shall appoint or dismiss the Justices of Peace in the Region with the concurrence of the Regional Judicial Service Commission.

### 14. The Solicitor General (Attorney General / Advocate General) of the Region:

- a) There shall be a Solicitor General in every Region, as there is an Attorney General at the Centre;
- b) Functions and responsibilities of a Solicitor General is almost in parallel with the Attorney General;
- c) The Governor shall appoint the Solicitor General of the Region on the advice of the Chief Minister;
- d) The Solicitor General of the Region is the chief advocate \ attorney of the Regional Government;
- e) All the matters related with the Solicitor General shall be determined by the R.L.C..

In this matter, the Proposed Constitution has an ambiguity that needs to be corrected accordingly.

### 15. The Chief of Auditor Generals and the Auditor Generals:-

- a) There shall be an Auditor General at the Centre as well as in every Region;
- b) There shall be a Chief of Auditor Generals as the head of all the Auditor Generals in the Country;
- c) The Chief of Auditor Generals shall be appointed by the President with the ratification of the Cabinet of the Centre, whereas, the other Auditor Generals shall be appointed by the Governors to their respective Regions, in consultation with the Chief of Auditor Generals with ratification of the related Board of Ministers;
- d) Necessary laws and regulations shall be made by the Parliament and the needs and necessities shall be provided by the Central Govt. in relation to the powers and functions to enable the Auditor Generals to audit the accounts of the governments at the Centre as well as of the Region;
- e) Every Regional Govt. may have its own auditors set up to audit the accounts of the Regional Administration. And it may have its own rules and regulations without overriding the rules and regulations made by the Parliament and the Central Govt.
- f) Regional Govt. also may require the office of the Regional Auditor General for any specified job/s in relation to finance and accounts of the Regional Administration or any institution functioning under the Regional Govt.



## 16. Basic Rights of the Council:-

In the proposed Constitution, para. (3) of article 2 of chap. 1. is a denial of basic democratic rights of the members of the Regional Legislative Councils and the Regional Governments and a matter of uncalled for and unjust interference in their basic privileges. The matter mentioned in (a) of (2) of article 2. is an acceptable one, but not the other matters referred in (b), (c), (d) and (e). On these matters, Regional Legislative Council or Regional Govt. may not have the power to act on their own. But their right to make representation with suggestions, proposals and recommendations cannot and should not be denied, where the power of final decision and implementation is vested with the Parliament and the Central Government.

Therefore, amendment suggested is that sub para. (b), (c), (d) and (e) should be removed completely from the paragraph of that article, or the sub para. (3) of article 2. should be written as ' Anything in paragraph (2) of this article shall not be read and construed as prohibiting a Regional Legislative Council or Regional Government from making representations to the Central Govt. regarding the matters referred to sub-paragraphs (b), (c), (d) and (e) of that paragraph.

## 17. Inter-Regional Rivers and Irrigation Schemes:-

In the Govt. proposal, these subjects are referred to as two different subjects (no.25 and no.40 in the Reserved List.) and vaguely so that it may, in future, be used by the Centre for its own convenient interpretations that can create very wide ranging powers on water resources, water use, land and land development, land settlement, and in most other matters related with irrigation and irrigation schemes, as happened in the 13th Amendment. The Regional Govts., particularly North-East Regional Govt. can be made to become defunct in these matters since all the rivers flowing through the North-East region are inter-regional rivers. Everyone, who is very supportive of the Govt.'s proposal, understands that the Govt. is not resorting to deception as a means to illegitimate objectives. However, it is obvious that the provisions in the proposed Constitution in these matters can be conflict-prone. Therefore, certain clauses have to be added to make these provisions clear and transparent in defining and limiting the powers of the Centre in these matters. ( See the Lists annexed herewith for suggestions on how present proposals concerning these matters could be amended.)



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## **18. Lists of Subjects** **-Scheduled for Devolution of Powers-**

Since the residual powers are lying with the Parliament and the Central Government, any omission or ambiguity in the Regional List would likely be interpreted in favour of the Central Govt.. This could lead to an unnecessary political crisis that could impair confidence in the devolution process. All the efforts made today with goodwills may, in future, be sabotaged by the same elements holding out against a just peace. Therefore, the subjects and powers to be devolved to Regional Legislature and the Regional Governments should be listed fully and properly as comprehensively and as clearly as possible.

There are Four main aspects to be necessarily considered in reorganising the Lists properly. They are,

- (1) Matters omitted or missed in the Regional List;
- (2) Matters related to the devolution of financial powers;
- (3) Matters which could be used to interfere with and dilute the functions of the Regional Government on important matters, even on a day to day basis, under the guise of "National Policy", "National Programs", "National Standards" and "National Importance" ; and
- (4) Matters that are written in the Lists ambiguously that may be used, in the future, by the Centre to take back devolved Powers and Functions as it happened earlier in the case of implementation of the 13th Amendment to the 1978 Constitution.

These matters are listed here not on the basis of mere calculation of possibilities or imagination, but on the basis of the direct lessons and experiences unforgettably learned from the Central Ministers and the Central bureaucrats during the first North-East Provincial Council.

### **18a. The Missing matters**

The following sentences are missing in, or are to be added into, the Regional List:-

- (01) Production, possession, transport, purchase and sales of intoxicating liquors and all the other matters related with;
- (02) Price control and regulations of commodities within the Region;
- (03) Direct investment and economic activities of the Regional Govt.;
- (04) Regional Census and Statistics;
- (05) Auditing and Chief Auditor of the Regional administration;
- (06) Registration of Births, Marriages and Deaths;
- (07) Determination of Cadres to all Regional Services;
- (08) Lagoons, Bays and Beaches within the Region;
- (09) All types of Hotels, Motels, Inns and Restaurants and businesses of like nature;
- (10) Govt. Circuit Bungalows and Rest Houses;
- (11) Plantations excluding Tea;
- (12) Regional Library Services;
- (13) Salaries and Allowances of the Members, the Speaker and Deputy Speaker of the Regional Legislative Council;
- (14) Powers, Privileges and Immunities of Regional Legislative Councils and its Members and Committees of the Council; Enforcement of Attendance of persons for giving evidence or producing documents before Committees of the Council or Commissions appointed by the Council.



- (15) Emoluments, Allowances, Privileges and Rights of the Chief Minister and other Ministers of the Govt. of the Region; and the Emoluments, Allowances and Rights in respect of leave of absence and other conditions of service of Public servants of the Region.

## **18B. Financial Devolution**

- ❖ Chapter xxi of the Proposed Constitution details the matters related with finance and financial Devolution. According to (4) (a) of the article 207, Taxes on wholesale and Retail sales (other than the sales by manufacturers) shall be levied and collected by the Central Government but shall be apportioned to the concerned Regional Govt.. Taxes on wholesale and retail sales within the Region should be, both, levied and collected by the Regional Revenue Administration under the Regional Govt. alone ( this is a matter, the 13th amendment to the 1978 Constitution clearly devolves to the Provinces.).

If the power of collection of Sales Taxes and the Excise taxes, devolved to the Regional Government, will continue to be retained by the Centre, it will definitely undermine the basis of devolution, since these taxes are the major revenue sources of the Regional government.

They have to be collected by the Regional Govt. revenue machinery itself. To evolve the Revenue collection machinery at Regional level may take time. It is, in fact, the duty of the Central Govt. to assist the Regional Govt. to develop such machinery. An intermediary arrangement can be made till such time in concurrence with the Regional Govt.. In contrast, Constitutionally keeping the power of revenue collection with the Centre will never allow such machinery to evolve and develop at Regional level. And partisan politics of a Party at the Centre can use this opportunity to destabilize the Regional system at any point of time when that is ruled by another Party. Therefore without any ambiguity and inhibitions, all legislative powers on these taxes, the powers to collect them and the revenue collection machinery have to be devolved to the Region by the provisions of the Constitution.

- ❖ Taxes on intoxicating liquors, which would form the second major income for a Regional Govt., are also missing in the list of powers of financial income. All taxes on all type of intoxicating liquors are clearly devolved to the Provinces in the 13th amendment to the 1978 Constitution. In the proposed Constitution, excise taxes on all productions are, in fact, left for the Central Govt. to decide.

### **18B.1 Finance of the Region:-**

Financial powers to the Regional State are inadequate to discharge its duties and responsibilities provided by the Constitution and to implement its development programs successfully. Therefore, in addition to the fund provided by the National Finance Commission from the Fund of the Central Govt., the following Financial Powers should be formulated as the minimum:-

- a) Taxes on Wholesale and Retail sales within the Region;
- b) Taxes on capital and wealth of trading individuals, companies and corporations;
- c) Betting taxes and taxes on prize competitions and lotteries;
- d) Fees and taxes on the possession, transport, and sale of intoxicating liquors, including excise taxes on productions and toddy tapping and selling license fees, liquor bar and tavern license fees;
- e) Excise taxes on items of productions and manufactures except those excluded by the Parliament (in this matter the Parliament can devolve the powers on the



basis of the size of the industries as if the Regional Govt. shall have power of taxing excise taxes on productions and manufactures made by factories/ industries of less than 50 workers);

- f) Motor vehicle registration and license fees;
- g) Dealership license fees and taxes on drugs and other chemicals;
- h) Duties and Taxes on transfer of movable and immovable properties within the Region;
- i) Toll collections;
- j) Taxes on agricultural and farm incomes;
- k) Fees and fines charged under any act or ordinance related with the matters excluding those in the Central List;
- l) Fees and fines imposed by Courts, including stamp fees on documents produced in court;
- m) Regulatory fees and charges on Weights and Measures;
- n) All kinds of land revenues;
- o) Taxes on movable and immovable private properties;
- p) Taxes and license fees on mines and minerals;
- q) Estate duties and taxes on plantation excluding those of tea;
- r) Taxes on goods entering into or exiting from the Region;
- s) All types of road taxes;
- t) Taxes on entertainments and amusements;
- u) Taxes and fees on items other than those not mentioned in either list;
- v) Aids and grants and loans meant for programs and projects of the Regional Govt. from foreign individuals or private organisations, foreign countries or international donor organisations;
- w) Public debts and grants from Sri Lankans abroad to the Regional Govt. fund;
- x) Funds and gifts and public deposits collected from any individual or organisation within the country for the programs or projects of the Regional Govt.;
- y) Grants and credits from the Central Govt. fund.
- z) Net proceeds of the taxes collected by the Centre and transferred to the Region.

#### **18B.2. Finance of the Centre:-**

The following list show the sources of the Finance of the Central Govt.

- a) Taxes on income of individuals, companies and corporations other than the taxes from agricultural and farm income;
- b) Excise taxes, excluding those to be determined and collected by the Regional Govt.;
- c) Customs duties, including duties on import and export trade and commerce;
- d) Taxes and duties on tea and tea estates;
- e) Stamp fees and duties on matters in this list;
- f) Taxes on transactions in stock exchange and future markets;
- g) All the taxes on newspapers;
- h) Income from public sector undertakings of the Central Govt.;
- i) Funds, gifts and public deposits collected from individuals and organisations within the country for the programs or projects of the Central Govt.;
- j) Grants and loans collected from Sri Lankans abroad to Central Govt. fund;
- k) Aids and grants from foreign individuals or private organisations, foreign countries and international aid organisations meant for the Central Govt. programs and projects;
- l) Net proceeds of the taxes collected by the Region and transferred to the Centre.
- m) Fees in respect of any matters in this list, but not the fees taken in any court.



Though the number of items for the financial income of Centre is comparatively less than those in the Regional List, income capacity of the Central Government is still much larger than the Total income of all Regional Governments together since the three major sources of Govt. income, Taxes on Income, Custom duties and Excise taxes, are still retained by the Centre. A major share of Central income, therefore, should be distributed to the Regions according to the National Development Plan and the annual formula made by the National Finance Commission.

- Until the Regional system is geared up to function fully and effectively, taking the extraordinary situation also into consideration, it is the responsibility of the Central Govt. to provide additional financial support as necessary to the Regional Govt. to fulfill its needs, in order to strengthen the Regional Govt. and establish the confidence of the people of the Region.

**18C.** The matters numbered 45, 46, 57, 58, 59, 60 and 63 in the Reserved List in the Proposal have to be considered very carefully. Because, though the sentences pertaining to these subjects refer explicitly to the Parliament's power of making "National Policy" and "National Standard" and identifying "National Importance", in practice the implication of executive powers on these subjects are bound to be overused or misused by the concerned Central Ministers and their bureaucrats in disturbing and interfering in the authorities and functions of the Regional Govt. and the Regional administration, since the provision of the Constitution on executive powers of the Centre says that the Central Govt. has the executive powers on all the subjects on which Parliament has Legislative Powers.

Therefore to avoid this confusion and possibility of misinterpretation, these matters should be removed from the Reserved List and written in the Regional List so that the legislative powers and the executive powers of the Regions on these subjects are clearly limited within the "National Policy" or the "National Standard" made available by the Parliament while the Centre has no executive powers on these subjects. (see the annexure - the Regional List- the way it should be written).

- Similarly, the specialised Housing programs and National poverty alleviation programs also have the possibilities of misinterpretation. The Central Govt. may insist that these are programs of the Central Govt. to execute directly in the Regions. If it is so, then that would be a clear violation to the basic spirit of the devolution.
- Central Govt. should never have any idea to compete with the Regional Govt. on its ground. There may be electoral political competition between two Parties, but not between the Central Govt. and a Regional Govt. with the the help of the Constitutional provisions. The Central Govt. could initiate such programs - planning, designing and funding - but the Regional Govt. alone should execute - implementation including determination of beneficiaries. ( see the annexed the Central and Regional Lists - the way they should be written in the lists).

**18D.** Any omission in the Reserved List need not be debated as long as the legislative powers on Residual matters rest with the Parliament.

**18E.** See the Central List and the Regional List, written with considerations of above matters and annexed herewith as **annexures- 1 and 2.**



**Central List**  
**The Subjects, on which Legislative Powers exclusively rest with**  
**the Parliament**

1. National Defense and National Security Forces:-
  - a) Defense of Sri Lanka and every part thereof, including preparation for defense and all such acts as may be conducive in times of war to its prosecution and after its termination of effective demobilisation;
  - b) Naval, military and air forces; any other armed forces of the Government of Sri Lanka;
  - c) Deployment of any armed force of the Government of Sri Lanka or any other force subject to the control of the Government of Sri Lanka or any contingent or unit thereof in any Region in aid of the civil power, jurisdiction, privileges and liabilities of the members of such deployment;
  - d) Delimitation of cantonment areas, and control and regulation within such areas;
  - e) Naval, military and air force works; and
  - f) National Security Commission.
2. The Central Police:-
  - a) The Central Police forces, their establishments, maintenance, administration, deployments and functions;
  - b) Central intelligence and Central Department of Investigations;
  - c) Protection of railway, air services and industries established by the Centre;
  - d) Preventive detention for reasons connected with National defense and foreign affairs and other matters as mentioned in the Regional list;
  - e) Central Police Commission.
3. Currency, coinage, notes, other kinds of money, legal tender and foreign exchange;
4. Bills of exchange, promissory notes;
5. Central Bank of Sri Lanka;
6. National Savings Bank;
7. Regulations and control of banking, insurance and other financial institutions;
8. Regulations of stock exchange and futures markets;
9. External affairs:-
  - a) Foreign Affairs:- all matters which bring Sri Lanka into relation with any foreign country;
  - b) Diplomatic, consular and trade representations;
  - c) United Nations Organisation;
  - d) Participation in international conferences, associations and other bodies and implementing of decisions made thereat;
  - e) Entering into treaties and agreements with foreign countries and implementing treaties, agreements and conventions with foreign countries, provided that any such treaty or agreement shall not be detrimental to any major ethnic group of Sri Lanka.
10. War and Peace.
11. Foreign jurisdiction.
12. Immigration and Emigration and Extradition and Expulsion.



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13. Pilgrimages to places outside Sri Lanka.
  14. Piracies and crimes committed on the high seas or in the air; offences against the law of the nations committed on the high seas or in the air.
  15. Adoption of children.
  16. Citizenship, Naturalisation and Aliens.
  17. Regulation and Control of Trade and commerce with other countries.
  18. Regulation in maintaining and enhancing quality standards on productions to be exported.
  19. Civil Aviation, Air Ways and Aerodromes.
  20. Train Transports, Railways and Railway Stations.
  21. Harbours and Ports with international trade and transportation.
  22. Regulation of Shipping and Navigation:-
    - a) Regulation of maritime shipping and navigation on the high seas within or beyond territorial waters; provision of education and training for the mercantile marine and regulation of such education and training provided by the Regions and other agencies;
    - b) Seamen's and marine hospitals;
    - c) Regulation and controls on maritime zones including historical waters and territorial waters (Exclusive Economic Zone and Continental Shelf);
  23. Light houses, light ships, beacons and buoys.
  24. Postal and Telecommunications.
  25. National Media including Central Broad Casting and Television.
  26. Arms, Ammunitions and Explosives.
  27. Generation of Atomic Energy and Hydro power.
  28. Maintenance and Management of Central Power Grid.
  29. Regulation and Development of Fuel Oil Fields, Petroleum and Petroleum products and Mines and Mineral resources specifically listed by the Parliament.
  30. National Highways (defined super grade highways connecting District Capitals one to another) and bridges and ferries thereon.
  31. Provision of regulation on Inter - Regional Transport :-
    - a) On carriage of passengers or goods between Colombo and other Regions; and
    - b) On carriage of passengers or goods beyond adjoining Regions.
  32. Education:-
    - a) Schools funded and administered by the Central Govt.;
    - b) Universities funded and administered by the Central Govt.;
    - c) Establishing and managing institutes on education, technologies, fisheries, business management and industrial research and training, etc.;
    - d) Examinations for National General Certifications;
    - e) National Education Commission:- composed of representative of the Centre and the Regions entrusted with the following functions:-
      - (i) formulating basic standards of Central Govt. secondary level schools and universities, and identifying them from each Region in
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- concurrence with the relevant Chief Minister. And, stipulating criteria for admission into these schools and universities and supervising them.
- (ii) setting minimum standards for the secondary school teachers training, education, curriculum and recruitment and
  - (iii) providing guidelines to maintain a common national standard relating to the Professional educations and trainings.
33. Development of Sports and Sports' Infrastructure at National level.
  34. Regulating Inter - Regional Supply and Distribution of specified Essential Items like Wheat flour, Sugar, Tea, Salt, Coconut, Fertilizers, Cement and Paper.
  35. Fishing and any Activities beyond Territorial Waters.
  36. Tea plantation.
  37. Central health administration:-
    - a) Existing special purpose hospitals;
    - b) Teaching hospitals affiliated to the Universities administered by the Central Government;
    - c) General regulation on production and distribution of manufactured medicines;
    - d) Quarantine.
  38. Adulteration of foodstuffs.
  39. Regulation and Control on Drugs, Poisons, and Narcotics.
  40. National Archives and National Museums and Archaeological Sites declared by the Parliament to be of National Importance.
  41. Incorporation, regulation and judicial winding up of corporations, whether trading or non-trading, with objects of multi - Regional establishments and branches;
  42. Establishment of National Standard on Weights and Measures.
  43. Specially Planned Housing program and National Poverty Alleviation Program:-
    - a) These programs are whole country based and formulated and planned in consultation with the Chief Ministers and funded by the Central Govt.;
    - b) Determination of and distribution to the beneficiaries shall be made by the concerned Regional Govt.;
    - c) Execution of these programs within the region shall be done by the concerned Regional Gov.
  44. Assistance and Intervention in instances of Natural Calamities or Environmental Disasters and Epidemics.
  45. National Surveys and Surveys for the purpose of any matter in this List.
  46. National Organisations for the Astronomical and the Meteorological Observations.
  47. Projects on the Inter-Regional Rivers:-
    - a) Setting a formula of water and power distribution from the concerned projects, among the relevant Regions;
    - b) Planning and construction of dam projects in concurrence with the relevant Chief ministers of the Regions through which the river flows; and
    - c) Mediating on water resources disputes between the Regions and providing a fair solution.
  49. National Census and Statistics.
  50. National Development Planning Commission.



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51. Religions:-
- (1) Upholding of all National Religions :- Buddhism, Hinduism, Islam and Christianity,
  - (2) Protecting religious rights impartially,
  - (3) Preserving historical religious sites, and
  - (4) maintaining Secularism.
52. Audit of the Government of Sri Lanka and the Governments of the Regions and Auditor General in Chief of Sri Lanka.
53. Commissioner General of Elections and Elections other than those mentioned in the Regional List.
54. The Supreme Court and the High Courts.
55. Criminal law including all matters included in the penal code but excluding offences against laws with respect to any of the matters specified in the Regional list.
56. Criminal procedures.
57. Civil procedures.
58. Contempt of Courts.
59. Bankruptcy and insolvency.
60. Administrative System of the Central Government to implement the matters in this List.
61. Sri Lankan Administrative Service(S.L.A.S.) and Sri Lankan Police Service(S.L.P.S.).
62. Central Public Services and the Central Public Service Commission and determination of cadres to the All Sri Lanka Services and the Central Services
63. Public Sector Undertakings of the Central Govt..
64. Labour Welfare:
- a) National policy on labour welfare and labour disputes;
  - b) Regulation of labour safety in health hazardous and physically dangerous industries;
  - c) Industrial disputes concerning employees of the Central Govt. and its public sector undertakings.
65. Copy Rights, Patents on Inventions and Designs, Trade Marks and Merchandise Marks.
66. Central Budget.
67. Public Grants and debts of the Central Govt..
68. Foreign Aid and Foreign Investment Program of the Central Govt. and the National Policy making on Foreign Aid and Foreign Investment.
69. Income from the Public Sector Undertakings of the Central Govt.
70. Determination and collection of Taxes, Duties and fees and other Revenue receipts of the Central Government as listed following:-
- a) Taxes on income, other than that on agricultural and farm income
  - b) Excise Taxes, other than the taxes on intoxicating liquors and agricultural and farm products and other excise taxes other than those permitted to the Regional Govt.;
  - c) Custom duties, including those on import and export items;
  - d) Taxes and duties on Tea estates;
  - e) Stamp fees and duties on matters in this list;
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- f) Taxes on transactions in stock exchanges and futures markets;
- g) All the taxes on newspapers.;
- h) Fees in respect of any matters in this List, but not including fees taken in any Court.

71. National Finance Commission.
72. Lotteries Organised on the whole country basis.
73. Properties of the Central Govt. and Revenue therefrom.
74. Pensions payable by the Central Govt. or out of its Consolidated Fund.
75. Salaries and Allowances of Members, and the Speaker and Deputy Speaker of the Parliament
76. Powers, Privileges and Immunities of the Parliament and the Members and the Committees of Parliament; Enforcement of attendance of persons for giving evidence or producing documents before Committees of the Parliament or Commissions appointed by the Parliament.
77. Emoluments, Allowances, Privileges and Rights in respect of leave of absence, of the President and the Governors: Salaries and Allowances of the Ministers of the Central Govt; the Salaries and Allowances and Rights in respect of leave of absence and other conditions of service of the Chief Justice, the Commissioner General of Elections and the Chief of Auditor Generals.
78. Actionable wrongs.
79. Offences against Laws with respect to any of the matters in this List.
80. Residual subjects those are, directly or indirectly, not related with the subjects in the Regional list.

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**Regional List**  
**Subjects on which Legislative power**  
**exclusively vested with the Regional Legislative Council**

1. Regional Public Administration:
  - a) Formation constitution, organisation and reorganisation and regulation of the
    - (i) Ministerial Secretariats of the Regional Govt.;
    - (ii) Departmental Secretariats of the Ministries; and
    - (iii) District Secretariats and Regional line Ministries' organisations at district level and below down to the Grama service sub-divisions as if Regional Govt. feels that it can perform its duties and responsibilities satisfactorily;
  - b) Appointments, Postings, Transfers and Disciplinary control of administrators of the administration, who are serving anywhere under the Regional Govt. either they are of the Sri Lankan service or Regional service;
  - c) Re-demarcation of boundaries of the existing districts, A.G.A. divisions and grama service sub-divisions according to the convenience of administration of the Region.
  - d) Creating and naming new districts in concurrence with the National Development Planning Commission.
  - e) To create newly, naming or renaming any A.G.A. division or Grama service sub-division.
2. Regional Services, Regional Public Service Commission (R.P.S.C.) and Determination of cadres to the Regional Services.
3. Law and public order and Regional Police:-
  - a) Formation, constitution, organisation, administration, regulation and control of Regional police forces consisting of Regional Civil Police, Regional Special Armed Police, Regional Police Volunteer Force, Regional bureau of investigations, Regional intelligence bureau and other institutions regarded with enforcing the laws and the public order in the Region;
  - b) Preservation of public order within the Region and prevention, detection, investigation and institution of prosecution in the relevant Courts in respect of all offences except the offences specified below:-
    - i) Offences against the President, the Prime Minister, Speaker and Deputy Speaker of Parliament and any Minister of the Centre;
    - ii) Offences against any higher level Public officer specified by the Parliament;
    - iii) Offences committed against coinage, currency, and government stamps,
    - iv) Offences against the defense forces, and
    - v) International crimes,
  - c) Regional Police Commission;
  - d) Administer and control the personnel of the Central forces made available and place them under the C.M. of the Region by the President / Prime Minister, whenever the C.M. seeks the assistance of the Central Police Forces or of the Armed Forces or both to preserve the public order within the Region;
  - e) Determination of number of cadres and provision of all facilities and necessities excluding the fire- arms and ammunitions, to the Regional police forces.



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04. Judiciary and Administration of Justice:-
- Constitution, organization and administration of the courts in the Region other than the Supreme court and the High courts; and
  - Regional Judicial Service Commission.
05. Prisons, Reformatories, Borstal Institutions and other institutions of like nature, excluding the prisons of the Central Govt.
06. Development Planning of the Region; including,
- Planning and Implementation of Regional socio-economic development plans and programs;
  - Formulation of the plan strategies and appraisal of the implementations;
  - Directing and controlling the progress of the plans;
  - Monitoring progress of public and private sector investments in the Region, and evaluation of the performance of institutions and enterprises engaged in economic activities in the Region;
  - Analysis and presentation of relevant data in the achievements of the plans;
  - The dissemination of information concerning achievements of the plans,
  - Publicity of the plans and the programs;
  - Manpower, employment and unemployment data bank.
  - Nutritional planning and programs; and
  - Population control and family planning.
07. Education and Educational Services: including,
- Matters related with all schools within the Region, other than the schools of the Central Govt.:-
    - Establishment, management, supervision and provision of facilities to the Govt. schools;
    - Regulation control and supervision of all pre-schools and any private school;
    - Recruitment, appointment, transfer and disciplinary control of educational personnel within the Region, i.e, teachers, principals and education officers and subordinate staffs.
    - Training of teachers and other educational personnel;
    - Preparation and implementation of educational development plan of the Region;.
    - Conducting in-service training program to the educational personnel;
    - Regulation, construction and maintenance of all educational building, libraries and play grounds and other infra-structural facilities of the govt. schools;
    - Procurement and distribution of teaching aids, visual aids and audio visual materials, science laboratory equipment and necessities, furniture and other needs to the government schools;
    - Production or purchasing and distribution or permitting school text books;
    - Scholarship and educational awards.
  - Examinations:-
    - Conducting of examinations for the Regional General Certificates; and
    - Providing field organisation to conduct the examinations for the National General Certificates;
  - Formulation of curricula in keeping with the guidelines made available by the National Education Commission; and
  - Implementation of adult and non-formal education.
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08. Higher Education inclusive of,
- Universities other than the Universities of the Centre;
  - Degree awarding institutes of professional, education, agriculture, fisheries, technologies, co-operatives, industrial research and training, and so on at Regional level;
  - Existing technical colleges and those of newly established by the Regional Govt.;
  - School for training Auxiliary Medical Personnel.
  - Planning and implementation of Distant Education.
09. Motor Vehicles and Motor Traffic:  
including,
- rules and regulations;
  - Regional registration;
  - License to the vehicles and for driving or riding; and
  - Taxes to be levied on them.
10. Local Governments:-
- Formation and constitution of all forms of Local Govts. within the Region, powers and functions of authorities of such govts. and supervision and control over them.
  - Planning and construction of new towns and villages.
  - Delimitation of cities, towns and villages.
  - Naming and renaming of towns, villages and all kinds of roads excluding "National highways";
  - Election for the Local Govt.
11. Housing and Construction:  
including,
- Planning of regional Housing Programs;
  - Executing, co-ordinating, supervising and monitoring all the housing programs and projects of the Regional Govt. as well as the Central Govt. within the Region;
  - Determining the distribution of the houses constructed by the Govts. including the houses built under the specialised housing program of the Central Govt;
  - Regulation and control of all the housing construction within the Region;
  - Aided self help housing and housing loans;
  - Provision of building materials;
  - Regulation and control of all mines and quarries of building and construction materials;
  - Protection of tenants and determination of rent.
12. Urban Development:-
- Promotion of integrated planning of economic, social and physical development of urban areas;
  - Designing and implementation of expansion and extension, improvement and new plans of cities, towns and other urban agglomerations within the Region;
  - Control and regulation of all constructions within the Region.
13. Public Health and Sanitation:-  
including,
- Drinking water supply;
  - Sewerages;
  - Preventive health activities;
  - Health care regulations and control;
  - Food sanitation and environment health and
  - Promotion of health and hygienic awareness.



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14. Roads (excluding National Highways as specified in the Central List) and Internal Water Ways. Bridges and ferries thereon and Regulation and control of Carriage of Passengers and Goods on all kinds of Roads within the Region.
  15. Transport Services excluding those of Railway and Aviation.
  16. Relief, Rehabilitation and Reconstruction and Social Services:-
    - a) Restoration, reconstruction, and rehabilitation of towns, villages, public institutions and their properties, industries, business places, places of worship and other properties destroyed or damaged;
    - b) Granting of compensation or relief to persons or institutions who have sustained loss or damage;
    - c) Relief, rehabilitation and resettlement of displaced and disabled persons;
    - d) Relief of distress due to war, cyclone, epidemics or other exceptional causes and of those affected;
    - e) Probation and child care services;
    - f) Rehabilitation of destitute families;
    - g) Welfare of physically, mentally and socially handicapped persons;
    - h) Social Insurance and other Basic Social Securities;
    - i) Care of unemployed.
  17. Co-operatives and all the matters related with, including Co-operative Banks and Co-operative societies and Elections to them.
  18. Maintenance, Supply, Distribution, Procurement and Rationing of Food and Food Stock within the Region.
  19. Markets and Fairs in the Region.
  20. Land and Land Development, Acquisition, Requisition, Alienation and Settlement:- Land, that is to say, rights in over land, land tenure, land contracts, alienation of land, acquisition and requisition of land, land use, land settlement and land improvement and development, including such as:
    - a) Registrations, records and administration of all land within the Region.
    - b) All state land within the Region shall be vested with the Regional Govt.
    - c) The Regional Govt. shall administer, control and utilise state land within the Region for its purposes.
    - d) Land may be disposed of by the Regional authorities in accordance with the relevant laws and statutes made available by the Regional Legislative Council.
    - e) State land within the Region required by the Govt. of the Centre in respect of the reserved subjects shall be utilised by the Centre with the concurrence of the Regional Govt.. However, for the purposes of National Defense and Security, if there is no compromise between the Centre and the Regional Governments, then that may immediately be resolved by a special decree/order by the President after hearing both the parties and the President within fourteen days of his order shall establish a Tribunal to finalise all the details related with the disputes.
    - f) Where ethnic demographic imbalances have been created through schemes of Land settlement since 1965, priority in future land allocations in those areas shall be given to correcting such imbalances and restoring the status quo ante with regard to the ethnic demographic proportions of the Districts in the North-East Region.
    - h) Any State-Aided Land settlement scheme pertaining to settlement of Sinhalese in the North-East implemented after 1981, shall be dismantled.
  21. Irrigation, Irrigation Canals and Distributaries within the Region:-
    - a) Planning, designing, implementation, supervision and maintenance of irrigation schemes and project works within the Region, other than planning, designing and construction of dam projects on inter-Regional rivers.
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- b) Regulation and Control of irrigation and Construction and Administration of all Irrigation Canals and Distributaries within the Region;
  - c) Water storage and management, drainage and embankment and flood protection and planning and implementation of increasing and improvement of water resources.
22. Agriculture and Agrarian Services:-
- a) Agriculture, including agricultural extension, promotion and education for Regional purposes and agricultural services;
  - b) Promotion, planning and implementation of the agricultural development plan of the tanks and ponds within the Region;
  - c) Establishment and promotion of agro - linked industries;
  - d) Agricultural research and training institutions within the Region;
  - e) Agricultural farms and nurseries;
  - f) Soil conservation;
  - g) Promotion and development of new and improved agricultural engineering and technology;
  - h) Plant pests. and
  - i) Regulation and control on use of pesticides and insecticides within the Region.
23. Forests, Forestry and Environmental Protection within the Region in conformity with the National policy of the Central Govt. on Maintenance of Ecological and Environmental Balance.
24. Estates and Plantations excluding those of Tea.
25. Animal Husbandry, Veterinary Services and Veterinary Hospitals and Dispensaries and Prevention of Cruelty to the Animals.
26. Fisheries within the Territorial Waters including regulation and control on Migratory Fishing.
27. Internal Harbours and Ports.
28. Maintenance and Control of Weights and Measures according to the National Standard.
29. Regulation and control on Wholesale and Retail business places, Warehouses and Godowns.
30. Surveys relating to the matters enumerated in this List.
31. Incorporation, Regulation and Judicial Winding up of Corporations, Companies whether Trading or Non-Trading, with objects to have Establishments and Business within the Region.
32. All the matters related with Electricity and other Energy excluding those mentioned in the Central List.
33. Administration of Health:-
- a) The establishment, administration and maintenance of all public hospitals, rural hospitals, maternity homes, dispensaries ( other than the hospitals attached with the Universities of the Central Govt. and the existing special purpose hospitals);
  - b) Public health services, health education, nutrition, family health, maternity and child health;
  - c) Formulation and execution of Health Development Plan for the Region;
  - d) Medicines including indigenous medicines;
  - e) Medical services and medical institutions, including supervision of private medical care and control of nursing homes and of diagnostic facilities, within the Region.
  - f) Establishment and promotion and regulation and control of Ayurvedic and other Oriental Medical dispensaries and Hospitals;
  - g) Awarding of Scholarships for in - service education including Post – Graduate education, for the personnel of the Regional Medical Service;
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- h) Maintenance and procurement of medicines and medical stock;
  - i) Establishment and maintenance of Herbaria.
34. Industries and Industrial Development of the Region:-  
such as:
- a) Promotion of industrial development of the Region;
  - b) Formulating and implementing industrial development plan of the Region;
  - c) Promotion and Regulation of Industrial Foreign Investment in the Region with the concurrence of the Central Government;
  - d) Regulating, controlling, supervising and monitoring all the industries in the Region other than the industries and the public sector units of the Central Govt.; and
  - e) Regional Institute for industrial education, research and training.
35. Mines and Minerals excluding those specifically declared by the Parliament.
36. Rural Development, including Rural Development Programs aided by the International Organisations.
37. Employment:-
- a) Employment planning and implementation at Regional level;
  - b) Special Employment Programs related to the Region;
  - c) Promotion of Youth employment activities relating to the Region; and
  - d) Technical manpower development program in relation to the Region.
38. Women and Youth Affairs in accordance with the National Policy made by the Parliament
39. Trade Union Activities, Welfare of the Laborers and Labour Disputes within the Region, excluding the Labourers of the factories and other Institutions administered by the Central Government.
40. Broadcasting and Media, including Television in compliance with the Regulation made by the Parliament.
41. Promotion, Development and Regulation of Tourism in the Region in accordance with the National policy made available by the Parliament.
42. Lagoons, bays and Beaches within the Region.
43. Hotels, Motels, Inns, and all Circuit Bungalows and Rest houses.
44. Promotion and Development of Arts, Literature and Cultural Activities within the Region.
45. Religions and Religious Places within the Region:-
- a) Maintenance of historical places and their sacred environment;
  - b) Upholding equal rights on different worships and beliefs;
  - c) Preserving peace and tranquility between different religious life.
46. Recreations:-  
including,
- a) Regulation and control on cinema halls and theatres of entertainments and other amusements;
  - b) Encouragement and development of holiday retreats and resorts;
  - c) Establishment and development of recreational parks and grounds;
  - d) Promotion and regulation of festivals and exhibitions.
47. Sports and sports' infrastructure within the Region.
48. Production, Possession, Transport, Purchase and Sale of Intoxicating Liquors and all the other matters related with.
49. Betting, Gambblings and Lotteries at Regional level.
50. Cemeteries:-  
Burial, and Burial Grounds and Cremation and Cremation Grounds other than those specified by the Parliament to be National Memorial or War Memorial Cemeteries.
51. Archaeology:-  
Archaeological activities including survey and excavations of archaeological sites



- within the Region, in cooperation with the National Archaeological Society and maintaining and preserving archaeological sites and remains, other than those declared by Parliament to be preserved by the Central Govt..
52. Promotion and development of Libraries and Establishment and Administration of Public Libraries and the Regional Library Service.
  53. Regional Archives, Museums and Monuments within the Region, excluding the National Museum and National War Memorials.
  54. Development and Regulation of Printing and Publications excluding Daily and Weekly Newspapers and printings and publications of the Central Govt.
  55. Regulation of unincorporated Non-Trading Literary, Scientific, Philosophical and Spiritual Societies and Associations and Trustees, Charities and Charitable Organisations within the Region.
  56. Domestic and International Borrowings by the Regional Government within the Conditions specified by the Central Govt.
  57. The Regulation and Promotion of Foreign Aid and Foreign Direct Investment to the Region.
  58. Regional Financial and Credit Institutions in accordance with the Regulations of the Centre.
  59. Regional Budget.
  60. Public Grants and Debts of the Regional Govt..
  61. Regional Census and Statistics.
  62. Price Control and Regulations on Goods other than those specified by the Parliament for the Central Govt. to control.
  63. Direct Investments and Economic Activities:-including,
    - a) Regional public sector undertakings,
    - b) Export and import activities under the regulations of the Parliament,
    - c) Establishing business undertakings of banking, insurance, shipping and so on in accordance with the rules and regulations of the Centre.
  64. Regulation and Control on Pawn Brokers and Informal Money Lending and Money Lenders.
  65. Determination and Collection of Taxes, Duties and Fees and other Revenue of the Regional Govt., such as listed followingly,
    - a) Turnover taxes on wholesale and retail sales within the Region;
    - b) Betting taxes and taxes on prize competitions and lotteries other than the national lotteries;
    - c) Fees and taxes on possession, transport, purchase and sale of intoxicating liquors, including excise taxes on production, toddy tapping license fees and liquor bar or tavern license fees;
    - d) Motor vehicle registration and license fees;
    - e) Dealership license fees and taxes on drugs and other chemicals;
    - f) Duties on transfer of movable and immovable properties within the Region;
    - g) Toll collections;
    - h) Fines imposed by Courts;
    - i) Fees and fines charged under the acts and ordinances related with the matters, excluding those fees, including stamp fees on documents produced in court;
    - k) Regulatory charges under the Weights and Measures Ordinance;
    - l) All kinds of Land Revenues;
    - m) Taxes on Land and Buildings;
    - n) Taxes on Mineral rights within the Region;
    - o) Estate duty other than that of tea estates;
    - p) Taxes on goods brought into or taken out of the Region;
    - q) Roads and internal water ways Taxes on goods and passengers carried by vehicles;
    - r) Taxes on Domestic Animals;



- s) Taxes on entertainments and amusements;
  - t) Other Taxes and fees on items other than those specified in the Central List.
66. Pensions payable by the Govt. of the Region out of the Consolidated Fund of the Region.
  67. Salaries and Allowances of the Members, and the Speaker and Deputy Speaker of the Regional Legislative Council.
  68. Powers, Privileges and immunities of the Regional Legislative Council, and of the Members and the Committees of the Council; Enforcement of Attendance of Persons for giving evidences or producing documents before Committees of the Council or Commissions appointed by the Council.
  69. Emoluments, Allowances, Privileges and Rights of the Chief Minister and other Ministers of the Govt. of the Region; and the Emoluments, Allowances and Rights in respect of leave of absence and other Conditions of Service of the Public Servants who are recruited and Appointed by the Govt. of the Region.
  70. Internal Audit of the Accounts of the Regional Government.
  71. Solicitor General of the Region.
  72. Marriage or Divorce; Infants and Minors; Adoption; Wills; Intestacy and Succession; and Personal Law in accordance with the Laws made by the Parliament.
  73. Transfer of Property; Registration of Deeds and Documents within the Region.
  74. Contracts, including Partnership, agency, Contracts of Carriage and other forms of Contracts in conformity with the Law of the Parliament
  75. Registration of Births, Marriages and Deaths.
  76. Offences against the Statutes with respect to any of the matters specified in this List.

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## **19. Formation of the Regional Government**

### **19A. Formation of Board of Ministers**

Forming the Board of Ministers comprising all the Parties represented in the Regional Legislative Council, according to their proportionate representation in the Council is incorrect for many reasons some of which are following,

- a) The Tamils demand cannot be simplified to a demand for an administrative reform, but indeed for a sharing of political power.,
- b) Democratic aspirations of the people of the Region have to be allowed to evolve on its own.,
- c) Even if there is a peculiar need for an interim arrangement for a particular prevailing situation, then that should not be made a permanent arrangement that may impair long term purposes and be a hindrance to all positive political developments.,
- d) The main purpose of the entire exercise should be to bring about political accommodation with to the Tamils, without dividing the country. They have been struggling and have been through much suffering. The purpose should be to meet their aspirations and to heal their alienation through a process of confidence building and constructive democratic political development.,
- e) Where a Govt. is formed by a collection of members made Ministers from all Parties who are unable to identify with a united political program, the head of the particular Govt. and other ministers cannot be bound by the conventional democratic norms or the Constitutional duty and obligation of collective responsibility, answerability and accountability to the house of the representatives of the people of the Region. And further, this form of a Govt. would pave the way for inefficiency and ineffectiveness in its functions and commitments that would, in turn, make the people become isolated and frustrated.

Formation of the Board of Ministers must, therefore, be continuously allowed to be the prerogative power and authority and responsibility of the Chief Minister, who belongs to a particular Party or to an alliance that commands majority of the House.

A very serious concern arising from the provisions of the proposed Constitution, is that the posts of Chief ministers of the Regions are made merely nominal. The Chief minister has no prerogative power in appointing Ministers or assigning Ministries. So, the Chief Minister is simply a convenor and chairman of the Board of Ministers.

If suppose, by or for any reason, the Central Govt. feels that this collective form of Govt. formation is good or essential for the country, then why can't that be applied and practiced in the formation of the Govt. at the Centre?. When the Central Govt. avoids such formation at the Centre, it is better to avoid at the Region too, since that is uncalled for, considering the needs and necessities in resolving ethnic conflict in Sri Lanka. It appears that by the establishment of Board of Ministers at the Regions according to this novel scheme without applying it similarly at the Centre, it may turn out to be a crude mechanism to make sure that the Regional Govt. is amenable to manipulation at any time according to the whims and fancies of the Party ruling at the Centre.



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### **19B. Formation of Ministerial Executive Committees:-**

The provisions for the formation of Executive Committees of the Ministries at the Regions also should be removed from the Proposal and allow those matters to be decided by the Regional Legislatures themselves. Let the Regions follow and learn from the Parliament in the formation of their Committees and in establishing customs and conventions in their own functions and procedures and codes of conduct for conducting their business.

The Executive Committee System denies the right of a political party that has less representation in the House, to have representation in all the affairs, since the members are divided equally and no member is nominated to more than one committee. In the old system, notwithstanding the arithmetical strength of a political party, it has got opportunity to have representation in all standing committees and advisory committees. Election to membership of committees does not seem appropriate and properly thought out. The former consultative method, presided over by the Speaker of the House, is now changed into an elective method whose outcome is determined by the party or the alliance of majority in the Council. It is a self-contradictory approach in principle.

### **19C. Number of Ministers:-**

The number of Ministers on the Board of Ministers is fixed by specific designations in the Constitution. To limit the number of Ministerial Posts in the government of a country can be provided for through guidelines in the Constitution by providing principles, governing minimum and maximum limits. The number of Ministers at the Centre, should also, in the same spirit, be limited by the Constitution.

The number in the Board of Ministers for the Regions in the First Schedule of the Proposed Constitution should be removed. Instead, the matter should be written as a part of the para. (1) of article 134 as 'limit of number of other Minister shall not be less than four(4) and not more than fifteen percent (15%) of the total membership of the concerned Regional Legislative Council'.



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## **20. Administrartion and Services**

### **20A. Public and Police Service Commissions**

In the government Proposal, these commissions have been virtually made parallel executive institutions to their respective regional governments, in the name of Public Service Commission, Police Service Commission and Judicial Service Commission, by the provisions giving the power of Appointments, Transfers and disciplinary controls. This arrangement separates responsibility from authority.

These commissions may function as a neutral and independent body in relation to all the matters of Recruitment, in finalising the Promotion or Demotion of any Govt. service personnel and in making a final decision on disciplinary action in effect or of dismissal of such personnel. And, they may function as an independent Judicial body or Tribunal wherever any dispute arises between a Govt. servant and either the Govt. or any part of the administration.

Powers of Appointment, Posting, Transfer and immediate disciplinary action are undoubtedly executive matters. These powers, therefore, should be vested with the executive bodies or persons in order to discharge their duties and responsibilities fully and effectively. These Commissions are, however, in addition to their functions as advisory and consultative bodies to respective Governments, meant for preventing arbitrary and discriminatory action and irregularities in the above said matters. The Constitution should have provision of principles stated clearly to serve such objectives, but not in any way to make the Central or Regional Govt. powerless and ineffective in relation to its own administrators and servants.

These Commissions are, basically, indeed, advisory and consultative and subsidiary bodies to their respective governments. These advises and consultations too are deemed to be not mandatory but only voluntary.

Secretaries to the Commissions have to be appointed by the President or the Governor on the advice of the Chairman of the Commission as the case may be, but not appointed by the Commissions themselves.

Regional Public or Police service commissions are not subordinate bodies to the Central Service Commissions. The term 'National' creates confusion here too. They were, in fact, not the National Services Commission covering all the services in the country, but only Central Services Commission that covers the works of the national services too. Any attempt to make such so called national formulation shall undermine the very purposes of the Devolution of powers.

The Central Service Commissions shall look after the works related with the National Services also. So, therefore, there may be no need of so called 'National Service Commission'.

The Central and the Regional Governments shall provide powers and functions and make policies, principles and guidelines related to the commissions, in accordance with the law of the Parliament or Regional legislative council as the case may be, subject to the provisions of the constitution.



**20B. Relationship between the Central and Regional Civil and Police Administrations and Services**

Annexure-03

The Proposed Constitutional Reform packages proposes not only separate Civil and Police Administrative set up to the Central and The Regional Govts., but also non-interlinked and vertically divided Administrative and the Police Services. The first one, separate systems of administration, is rightly made along with the devolution of powers. But the second one, non-interlinkage between the Central and the Regional Administrative and Police services may be exploited by narrow minded extremists of both sides.

It is good for Sri Lanka as a whole mainly from the view of building up of a real United Sri Lanka with long run and short run objectives, to apply the systems and methods as of National Administrative and Police Services in India. In maintenance of unity and integrity of India that contains vast and various diversities, the Indian Administrative Service (I.A.S.) and Indian Police Service (I.P.S.) play a very significant role and are in general said to be the back bone uniting all parts of the governance of India.

Superficial application of Public and Police Services system of some developed countries may possibly create uncalled-for complications and duplications and in addition, superior and inferior complexities and unhealthy relations between the Central and the Regional administrations.

The method of linkage shall solve administrative dilemmas. Without any inhibition, the Centre shall be able to utilise the Regional administrative machinery for the execution of its many functions.

In consideration of all these matters, therefore, the civil and police administrative services system, as proposed here in **annexure- 03**, can be formulated and adopted suitably.



## **Public Services**

There shall be three kinds of services in Sri Lanka:

They are:-

- a) National Services;
- b) Central Services;
- c) Regional Services.

### **National Services**

**Central Public Service Commission ( C.P.S.C.) &**

**Central Police Commission (C.P.C.)**

a) ***National services*** are:

- 1) Sri Lankan Administrative Service (S.L.A.S) and***
- 2) Sri Lankan Police Service (S.L.P.S.).***

- b) The S.L.A.S.S. and the S.L.P.S.S. shall be appointed only by the President.
- c) The President shall appoint the Chairmen and the members of the C.P.S.C and C.P.C. each consisting five members, for a period of three years, and of the C.P.S.C. one member shall be appointed on the advice of the C.M. of the North - East Region and the Secretaries to the Commissions on the advice of the concerned Chairman
- d) S.L.A.S. and S.L.P.S. personnel shall be recruited by the C.P.S.C. and C.P.C. respectively through special examinations and training programs.
- e) The President shall appoint S.L.A.S.S and S.L.P.S.S on the basis of the final list of the nominations made by the C.P.S.C. and C.P.C. as the case may be, in compliance with all the provisions in the Constitution and the relevant laws, including maintenance of minimum ethnic proportion of the National minority communities.
- f) Numbers of new recruits and appointments to the S.L.A.S. and S.L.P.S. for each year shall be determined by the C.P.S.C. and C.P.C. respectively after finding the requirements of the Central Govt.(C.G.) and the Regional Govt.(R.G.) and consultations with the concerned Ministers of the Centre as well of the Regions.
- g) Necessary statutes and regulations for recruitment, appointment and basic conditions of these Services shall be made available by the Parliament.
- h) There shall be no national administration as such, but either Central Civil Administration and Central Police or Regional Civil Administration and Regional Police. Therefore, every person appointed to the S.L.A.S. or the S.L.P.S. shall immediately be allocated to a Region and become a cadre of that particular Regional Service.
- i) No person appointed to any of these Services shall be allocated or placed directly to serve under the Central Government.
- j) Any S.L.A.S. or S.L.P.S. may be deputed or seconded to the Centre after serving a particular period, not less than ten years in his/her parental Region under the Regional Administration, for which his/her cadre is allotted.



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- k) An S.L.A.S. or an S.L.P.S. shall be seconded or deputed from the Region to Centre or transferred back from Centre to Region only with the concurrence of or the agreement between both the Governments on each case basis.
- l) No S.L.A.S. or S.L.P.S. cadre of a region shall be seconded or deputed to work under any other Regional Administration, unless there is a requirement under a special circumstance or for a specific purpose, for a specified period and with the concurrence of the both Chief Ministers of the concerned Regions and the President / the Prime Minister / Home Minister of the Centre.
- m) Whether at the Centre or in a Region, an office, ranking par or above the post G.A, anywhere in the ministries, in the departments or in the districts shall be filled with S.L.A.S. or S.L.P.S. except administrations of like defense, foreign affairs, revenue and accounts, medical, engineering, and technical sectors, etc, at the Centre and in the Regions, the sectors like revenue and accounts, education, engineering, medical, forestry, and technical departments, etc.,
- n) Rank of Superintendent of Police (S.P.) and the officers above in the Central or in the Regional Police Forces shall be filled with S.L.P.S.
- o) Once an S.L.A.S. allocated to a particular Region, the person shall be appointed at the rank of A.G.A. with minimum period of apprenticeship, under a district administration at the beginning, whereas an S.L.P.S. officer shall, at first posting, be appointed as an A.S.P.(Assistant Superintendent of Police) with minimum period of apprenticeship under another A.S.P..
- p) when an S.L.A.S. or S.L.P.S. is working under a Regional Govt., his/her designation, of office, authorities, duties, transfers and disciplinary control including suspension on allegations, shall be determined by the Board of Ministers. Similarly, so as the Central Govt. would be the high authority to decide these matters on officer serving under the Center.
- q) The promotion of an S.L.A.S. officer shall be finalised by the C.P.S.C. based on the recommendations of the Board of Ministers and the confidential reports from R.P.S.C. while the promotion of an S.L.P.S shall be made by the C.P.C. on the recommendation report of the C.M. and the confidential report from the Regional Police Commission (R.P.C.). of the concerned Region, if s/he works at the moment under a Regional Govt.. And, for an S.L.A.S /S.L.P.S. serving under the Central Govt., the promotion shall be finalised by the C.P.S.C. or C.P.C. based on the recommendation report of the Cabinet of the Centre and the confidential reports. Other needs and necessities for promoting such officers are determined by the Parliament.
- r) Promotion from C.A.S /C.P.S and R.A.S/ R.P.S respectively to S.L.A.S. /S.L.P.S. also shall be made with the same procedures mentioned above in para (q) and on the basis of maintaining atleast one promotee to every two (1:2) of the direct recruits of the National Service, in total, from Central or Regional administrative and Police services as the case may be related with. These promoted S.L.A.S./ S.L.P.S. from the Regional Service shall continue to work within his/her Region only, while all such promoted cadre of the Centre shall continue to work under the Centre only. Necessary rules and regulations for such promotion shall be made available by the Parliament.
- s) On the basis of an allegation any S.L.A.S./ S.L.P.S. may be suspended by the Chief Minister or Board of Ministers or concerned authority under whom the person serves for a specific period set out on the guideline principles issued by the President. If the relevant Govt. itself does not revoke the suspension order then the President shall make the necessary arrangements, according to the law of the
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Parliament, to decide final position of the officer to get cancellation of suspension order or to be punished within the service itself or dismissed from the service. President's final decision cannot be questioned in any Court.

- t) C.P.C. shall make guideline principles for maintaining the basic standard of the police service, anywhere in Sri Lanka whereas C.P.S.C. make guidelines for maintaining minimum standard in other services of the Centre or the Regions.
- u) Fire arms and Ammunitions to the Central police as well as to the police of the Regions shall be determined by the Central Govt. in consultation with Police commissioners of the Centre and the Regions as related with.
- v) the National Institute of Public Administration and Management and the National Police Academy, both established and administered by the Central Govt. shall be managed by the C.P.S.C. and C.P.C. respectively and conduct the relevant educational, training and apprenticeship programmes. The facilities available in these institutions may be extended for assisting the Regional Governments to conduct their related programs of the Regional Services.
- w) The President may appoint Service Tribunals as and when required, on the advice of the C.P.S.C or of the C.P.C. to hear the cases of service disputes or disciplinary matters of the national services for him/ her to take final decision on the matters.
- x) Programs for awards, rewards, and any other form of best - service incentives and Scholarship programs within the country or abroad to the S.L.A.S. and the S.L.P.S. officers may be organised by the C.P.S.C. and the C.P.C. respectively on country wide basis.
- y) Any S.L.A.S. or S.L.P.S. shall be dismissed from the title or the service or from both only by the President on the basis of the recommendation of the C.P.S.C. or the C.P.C. respectively, or of the Tribunal constituted by him, as per the National Service rules and regulations made by the Parliament.

#### **The Central and The Regional Services:**

- a) There are the Sri Lankan Administrative Service and the Sri Lankan Police Service personnel serving under the Central Govt. as well as the Regional Governments as detailed above.
- b) There are purely Central Services and Regional Services for which recruitments and appointments are done by and to serve, respectively, under the Central Govt. and each Regional Govt itself. Such as:
  - (i) The Defense Service;
  - (ii) The Foreign Service  
(there shall not be any defense service or foreign service at Regional level);
  - (iii) The Central Administrative Service (C.A.S.) and the Regional Administrative Service (R.A.S.);
  - (iv) The Central Police Service (C.P.S.) and the Regional Police Service (R.P.S.);
  - (v) The Central Engineering Service (C.E.S.) and the Regional Engineering Service (R.E.S.);
  - (vi) The Central Education Service (C.Ed.S.) and the Regional Education Service (R. Ed.S.)
  - (vii) The Central Teachers Service (C.T.S) and the Regional Teachers Service (R.T.S.);
  - (viii) The Central Medical Service (C.M.S.) and the Regional Medical Service (R.M.S.);



- (ix) The Central Revenue and Accounting Service (C.R.& A.S.) and the Regional Revenue and Accounting Service (R.R.&A.S.);
  - (x) Forest Service (there is no forest service of the Centre);
  - (xi) The Central Technical Services and the Regional Technical Services;
  - (xii) The Central Subordinate services and the Regional Subordinate Services;
  - (xiii) The Central Clerical Services and the Regional Clerical Services and so on.
- c) The Statutes and Service rules in relation to the all matters of all the Regional Services shall be made by the concerned Regional Legislative Council (R.L.C.) and those of the Central Services shall be made by the Parliament.

**The Central and The Regional Public Services and**  
**The Central and The Regional Public Service Commissions:**

- a) Recruitments and appointments, transfers, disciplinary control, and implementation of any other matters, related with these services of persons appointed, shall be the authority and responsibility of the Central Govt.(C.G.) and of the Regional Governments (R.GG.) respectively on their services.
- b) There shall be a Central Public Service Commission at the Centre and a Regional Public Service Commission (R.P.S.C.) in each Region, constituted and directed by the C.G. as per the law of the Parliament and by the R.GG. subject to the law made by the R.L.CC. respectively.
- c) The C.P.S.C. and R.P.S.C. shall involve in the matters of public servants working under the C.G. and the R.G. respectively, excluding the matters of the officers and rank and files of the Central Police forces and the Regional Police forces, as following:
  - (i) conduct the examinations and training program for the recruitment and appointment of personnel to any of the Public Services related to them;
  - (ii) function as an advisory and subordinate body to the Council of Minister of the Centre and the Board of Ministers of the Regions, as under whom they are constituted, on the matters related with their concerned services;
  - (iii) properly regularise and maintain the necessary records of all matters of the personnel of the services, whom they are meant for respectively; and
  - (iv) perform any special duty, respectively, as and when that is required by the Council of Ministers of the Centre and the Board of Ministers of the Regions in relation to the matters of their public services on which they are relevant.
- d) The Cabinet of the centre or the board of ministers of the Regions may appoint Tribunals on the advice of the C.P.S.C. or the R.P.S.C. respectively to hear the statements and get the recommendations on the cases of service disputes or disciplinary matters of the services relevant with them.
- e) Scholarship program and programs for giving awards, rewards and any other type of service motivating incentives to the officers, including S.L.A.S.S. serving under the Centre or a Region may be established and organised by the Centre or by that Region respectively.
- f) Promotion to any person of any Central Service and Regional Service shall be determined by the C.P.S.C and the R.P.S.C. based on the recommendation of the Council of Ministers of the Centre and the Board of Ministers of the relevant Region respectively, having taken the confidential reports recommendations of the senior officers of the concerned Ministry/ Department where such person has been serving, into consideration in addition to the aspects seniority, service records, further educational qualifications gained in-service period, etc.,



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**The Central and The Regional Police,  
The Police Services and The Police Commissions:**

- a) The Central police force and every Regional police force of each Region shall separately be headed by a Police Commissioner and below him, Deputy Police Commissioners, Senior Superintendents, Superintendents, Assistant Superintendents, Inspectors and the rank and file.
- b) Appointing the Police Commissioners of the Centre and of the Region and posting of Deputy Police Commissioners, Senior/ Junior Superintendents of Police and Additional/Assistant Superintendents of Police in the Centre and in each Region shall respectively be made by the President and the Governor on the advice of the Prime minister/ concerned Central Minister and the Chief minister as the case may be.
- c) All Superintendents of Police and the police officers above, in the Centre as well as in the Regions shall be the officers belonging to the Sri Lanka Police Service (S.L.P.S.). Any S.L.P.S. officer's first posting shall be an A.S.P. of a police area in the Region for which the officer has been allotted.
- d) R.G. shall recruit and appoint at the ranks of police constable and sub-inspector and directly recruit and appoint personnel to the rank of A.S.P. of the Regional Police Service (R.P.S.) too to the Regional police forces, while the C.G. shall make the similar arrangement in the establishment of the Central police force.
- e) The number of cadres for the Central police force and the police forces of the Regions shall be fixed by the Central Govt. (C.G.) and the relevant Regional Govt. (R.G.) respectively, in accordance with the principles set out by the President in consultation with the Police commissioners. In general, the ratio between the non-officer cadres of the police forces of all the Regions in total and that of the Central police forces shall be maintained as not less than four is to one (4:1), where as the ratio between the number of all non-officer cadres of all the police forces in the country and all that of all three security forces of National defense shall be maintained at not less than one is to two (1 :2).
- f) There shall be a Regional Police Commission (R.P.C.) appointed by the concerned Governor on the advice of the relevant C.M. of the Region.
- g) Either the C.P.C. or the R.P.C. of every Region shall
  - (i) function as an advisory and subordinate body to the C.G. or R.G. respectively on the matters related with the relevant police forces,
  - (ii) conduct the examinations and training program for the recruitments and appointments to the concerned police service and to conduct in-service training programs to any of the personnel of the central police or the Regional police, as it is meant for.
  - (iii) submit recommendations to the C.G. or R.G. respectively, for action on the matters like service disputes, indisciplines and administrative irregularities, and
  - (iv) regularize and maintain the records of all the officers and rank and files of the Central police or the relevant Regional police respectively.
- h) Service rules and regulations of the Central Police and the Regional Police shall be made available by the Parliament and the Regional Legislative Council respectively.



- i) The R.G. shall have the authority over any officer or rank and file, who whether belong to S.L.P.S. or R.P.S., of the Regional police forces, for the postings, designations of offices, in providing duties and responsibilities, transfers and inquiries on allegations, disciplinary controls including suspensions, whereas the C.G. shall have the similar authorities over those of the Central police forces.
- j) Training programs for the personnel of the C.P.S. or R.P.S., in-service training program and the programs to provide scholarships within the country or abroad or any program of giving awards, rewards and any other service incentive prize for any officers, including the S.L.P.S.S, of the Central police forces or the Regional police forces shall be organised by the C.P.C. or the concerned R.P.C. as the case may be related with.
- k) The C.G. shall be the authority over any officer of C.P.S. for the dismissal, in accordance with the law made by the Parliament, so as R.G. shall have the similar authority over the personnel of the R.P.S. as per the law made by the R.L.C..

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## **21. Ethnic Proportion in the Establishments of the Government**

The Constitution should establish the Principle that, at least a minimum of the ethnic proportion of the minority communities in the country shall be maintained in the

- (1) National Defense and Central Security Forces,
- (2) Central Police Forces,
- (3) the Central government Services, and
- (4) the Semi Government Services.

Correspondingly every Regional Government should also establish the maintenance of ethnic proportion in employment and other opportunities in their respective Regions according to the ethnic proportion of the Region.

Due to the Pan Sinhala orientation of former Governments in the above sectors, the National Minority Communities have been placed at very minimal percentages. The present Government too that made so many promises in resolving ethnic conflict, has not done anything concretely on this aspect. However, the Govt. has, for rectifying the prevailing imbalances, 1) To make necessary provisions in the Constitutional Proposal, and 2) To take steps immediately to formulate and implement an urgent program of limited duration to fill the existing ethnic gap in the services.

### **21A. Induction of Tamil Youths into the Armed Forces**

This is very essential not only to deal with LTTE, but also to convince and gain confidence of the Tamil people so that they can feel that their future is safe and secure. Sinhala leaders including those who talk about the fear psyche of the Sinhala people, must understand the real fears of the Tamil people who have enough bitter experiences of the Pan- Sinhala armed forces.

Unless the Sri Lankan armed forces are transformed away from the image of being Sinhala armed forces to real national forces, then, building of real united Sri Lanka shall be impossible by mere Constitutional reforms or some concessions. Though Constitutional arrangements are very essential, unless the youths of all communities in Sri Lanka are not inducted in substantial proportion and interacted each other cohesively and effectively into the Government's armed forces, then that forces cannot become real national forces who would function equally and impartially to the interests of all the people in the country.

It may appear that achieving the said goal is not possible in the short run. However, Government should accept that first in principle and then it can be put into practice with different tactics and methods compatible to the prevailing situations and conditions. It may take time, but it can and has to be achieved, step by step, if definite steps are taken from now onwards.

It may be accepted that allowing the Tamil parties who accept electoral politics to have arms and armed cadres, is inevitable, due to the existing terror situation, for their self- defence and protection mainly from LTTE threats. Generals of armed forces in the North- East are consistently requesting and indicating that the Tamil parties should provide Tamil youths to the Volunteer establishments of the armed forces. These moves, are in no way convincing enough that the Govt. attempts to transform the Government machinery's to represent the interests and expectations of all communities equally.

These are only motivated by attempts to use the Tamil youths to serve the immediate needs arising from difficulties at present in recruiting sinhalese. Thus these can again be seen as a further continuation of Pan- Sinhala oriented attitudes and tendencies of the State.



There is no doubt that dealing with the LTTE militarily is an immediate matter. But the building up of Sri Lankan Armed forces reflecting and representing the nations diversity is a basic need for this country and that alone shall make the armed forces be able to deal effectively and easily not only with the LTTE but also any extreme anti - people and anti- social forces.

There is , in some quarters, an apprehension that the LTTE may infiltrate and implant its informants and cadres into the establishment of the armed forces. By using that apprehension and preventing the recruitment of Tamil Youths into the Armed forces is not correct. Instead, checks and balances have to be formulated and implemented effectively. Tamil youths should not be discriminated communally. The checks and balances, it is essential, should be applied in common, since the past experiences show that among the recruits from Sinhala youths too, there were infiltrators and deserters. And in addition, keeping Tamil youths away from the armed forces shall further alienate the tamils and be immensely helpful to the LTTE and the Sinhala extremists. It will further keep the Tamil masses away from any attempt at integrating the different communities in the country. The large scale induction of Tamil youths into the Sri Lankan Armed forces is, therefore, very essential by all considerations.

## **21B. Ethnic Proportion in the Civil and other Services**

Civil administrative and other services also have such heavy imbalances, mainly at higher level, primarily due to the war situation of more than 15 years, in addition to the systematic and discreet manipulations of former Governments and the bureaucracy even to this day. This defect in the ethnic combination in the Services should be identified clearly and fully and measures of rectification must be taken genuinely and decisively.

Normal procedures and processes, in an extra- ordinary situation and condition, do not allow the Govt. to achieve these goals. So the Govt. should apply special attention and implement programs in order to reach the targets.



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## **22. Redemarcation of Regional Units for Devolution**

The Government Proposal suggests very lengthy and complicated Referenda to decide the Regions by bifurcating the existing North-East Province. The present Govt. may inadvertently create more explosive situations rather than attempting to diffuse the 'bombshell' that was placed by the former President J.R.Jayewardane.

There is a general and informal agreement among the various political circles that the Redemarcation of Provincial boundaries becomes inevitable with a view to reconciling the basic democratic aspirations and interests of national minority communities and in order to remove the fears for their future and provide a definite politically guaranteed solution to their anxieties and apprehensions.

Basically, in principle, attempts to bifurcate the North-East Province is wrong. How can those who advocate the National Minorities - 26% of the population of Sri Lanka- living with Sinhala majority population without fear, while at the same time maintaining that the minority communities - representing 30% of the population in the North-East Province according to 1981 census - cannot live with the Tamil Majority population in the Province, which is, after all , a part of the Republic of Sri Lanka ruled and controlled by the Sinhala dominated Parliament, Armed forces and the Government. And those who speak of the so called ' fear of minorities in the North-East Province', are not prepare to measure the feelings of the Tamil minority in the Central, Uva, and the Sabaragamuwa Provinces and the Tamil and Muslim minorities in the Western and North Western Provinces with the same yardstick. So, the articulation of fears of Sinhala and Muslim Communities in the North-East Province is obviously neither logical nor rational but is only a politically intended ploy against a 'fair and legitimate Political Solution'.

While the country and civilisation are decomposed and destroyed day by day through the terror of a bloody war, the popular- populist - political rulers- political 'leaders' stick to their vote-bank concerns. The responsible citizens of this country are forced to compromise inevitably, since there is no alternative choice for the moment given the prevailing rules of the political arena so as to safeguard the people and their basic interests. The choice is as though one between the given choices of eye or head, amidst unbounded suffering and destitutions and destructions being made by the anti-human psychopaths and warmongers.

Referenda, mentioned in the Proposed Constitution in relation to creating Regions in the North-East Province, will undoubtedly further deepen and widen divisions and hostilities among the different communities irreconcilably. That shall, in turn, facilitate further grounds for the extreme communal forces.

The simple solution, therefore, by which day to day life of the people is not disturbed, is to separate Amparai Polling Division from North-East Province and join it with the Uva Province that already looks after police and judiciary matters of the said division. It is inevitable and all for the best, though it may be felt painfully by some genuine sections and opposed by some vested interests and groups. Another truth underlying this suggestion is that the majority population of Amparai Polling Division do not have any meaningful social or political relationship with the people of the other parts of Amparai District, but they are used, from time to time, only to threaten the very basic political existence of the Tamil population.

The prevailing public opinion is, in general, very conducive for Redemarcation of the Provinces into new Regions. There are very responsive changes of mind set among various democratic, liberal and peace-loving forces, unlike what they were in the past before eight



or nine years ago. These favourable political conditions and situations should be handled carefully and responsibly without entering or getting trapped into the irresponsible populist and narrow- oriented tendencies.

The Govt. can, therefore, re- assign the Amparai Polling Division from North-East Province to Uva Province without calling for a referendum or creating other complications. This itself shall solve major problems raised in relation to the cries of merger and demerger of the North-East Province.

If either the Muslim leaders or the Government wants to make what remains of Amparai District a Muslim - dominated Region, then that matter can be discussed by all three parties- the government, the Tamil leaders and the Muslim leaders- sitting together at one table and a solution can be identified without much difficulty. If the Govt. finds any specific serious difference between the Tamil leaders and the Muslim leaders, then it has to facilitate both parties to come to a common understanding amicably, rather than using the differences, as former Govts. did, for postponing its duty and responsibility in finding a political solution to the ethnic conflict in Sri Lanka.

In contrast, if North- East province is simply and insistently bifurcated into two, the Northern and Eastern Provinces, then that shall only be the defeat of democrats and democracy. Further, it will create a very favourable socio-political environment for the extremists and chauvinists.

The Sinhala leaders must understand and accept one truth -that this painful situation was created by systematically planned, politically motivated and successively implemented State- Aided Sinhala Colonisation Schemes for last more than 60 years. Even in 1956, the present Sinhala area of Amparai was a Tamil area. But today, this situation of inevitable acceptance of separation of Amparai is, in fact, being forced on the Tamil people. Had Bandaranayake - Chelvenayagam Pact of 1957 been implemented, then this situation wouldn't have developed. Had the Dudley - Chelva gentlemen's agreement of 1965 been implemented, then again this situation would have been avoided. But, successive Sinhala dominated Governments imposed their Sinhala hegemonistic programs over the Tamil population who do not have any share in determination of political power at the Centre.

The present Sinhala leaders must understand the past and present and provide a fair political solution with prudence, courage and determination in the interests of all the people in Sri Lanka. The present Sinhala leaders, therefore, must ensure that the life supports of the Tamil people shall not be despoiled in future by any Govt..

Tamil leaders also need to understand the existing realities of the socio-political development in Sri Lanka and the conditions of the Tamil people. No sensible and responsible person should help the blood-thirsty war mongers. To achieve peace and democracy, a policy of give and take with recognising mutual aspirations and fears are essential and inevitable.



## POSTFACE

This report of Amendments and Comments is prepared in order to correct some important serious lapses, obviate unnecessary commissions and to fill necessary omissions in the Government's Proposals for Constitutional Reform published in October 1997, especially on the issues related to the Constitutional arrangements for Devolution of Powers.

This report does not, yet, discuss all the matters in relation to the Devolution. It does, therefore, not intend any overall conclusion. The limited intention of this report is to provide comments and suggestions to make the proposals proper and clear as far as possible. The Govt's proposal, when it is passed in Parliament and put into practice on the ground, should not lead to the fate that befell the 13th Amendment to the 1978 Constitution. If so, the entire exercise would become futile; all the efforts taken shall become a waste and the hopes and expectations, the people still have in the peace process, shall be lost.

When the country is on the verge of complete collapse of democratic establishments and civilised political norms and values, attention should be focused on resolution based on the reason and an assessments of the consequences.

Everyone will, definitely agree that the Govt's Proposals, with necessary corrections, is an improved Constitutional package in resolving ethnic questions and conflicts, in comparison to the arrangements under the 13th Amendment to the 1978 Constitution. The latter does not provide substantial political leverage to resolve the conflicts and, indeed, created further doubts and suspicions about the political motivations of the Sinhala leaders.

Any political package, therefore, with a semi or partial approach in preparation of the Constitutional and the Institutional arrangements shall not serve the attempt, despite all good intentions, to reach the targetted goals.

This report has to be read and considered along with the Government's Proposals of October, 1997. This report itself is not a full proposal. Only the issues and matters to be corrected are focused on.

I hope that everyone, who wishes for peace and democracy, will accept the points here made as amendments and comments and strive, with added vigour, to advance its purposes.

With Thanks

A. Varatharajaperumal,  
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Sri Lanka.  
March 1999.







