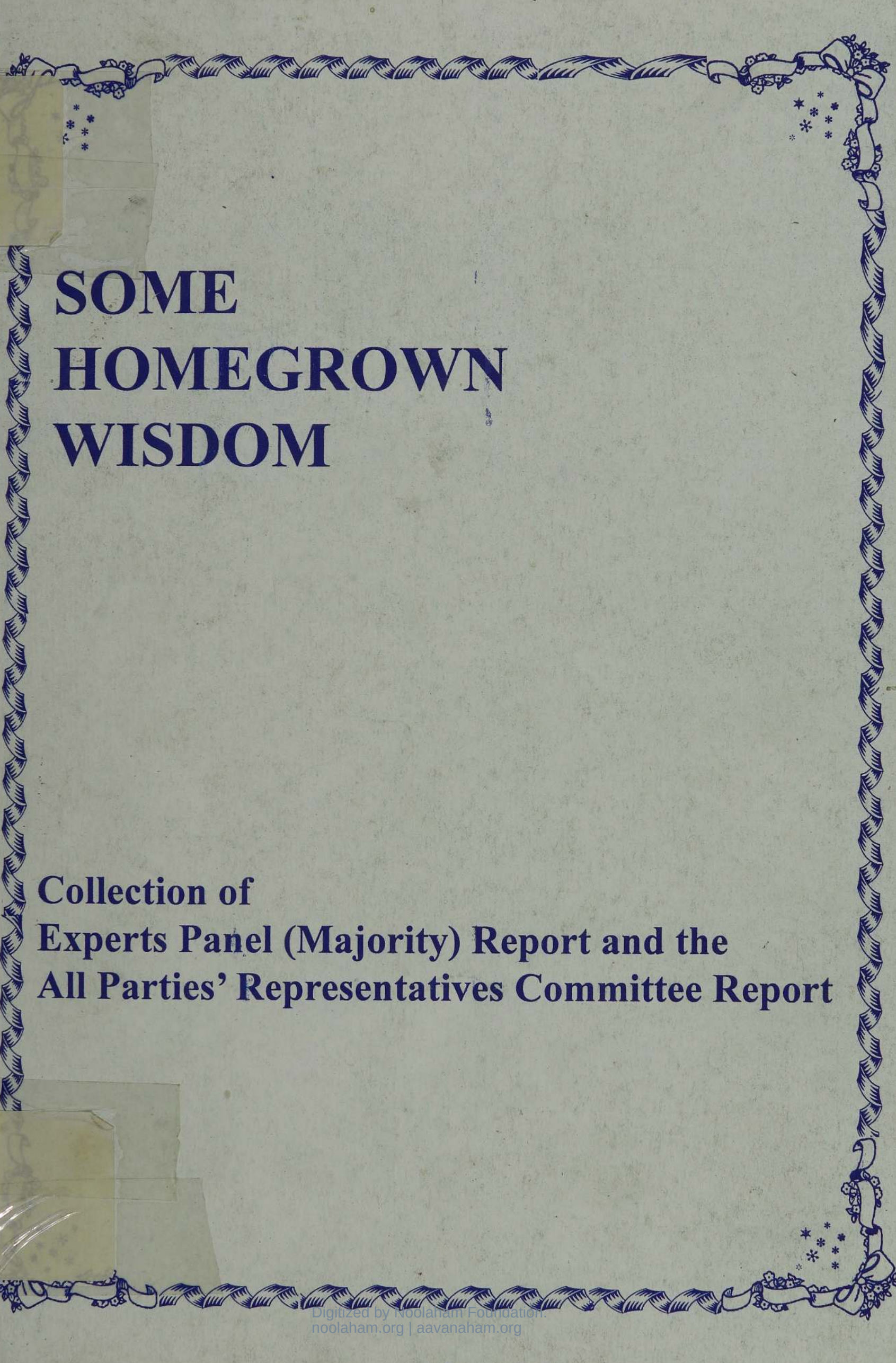




SOME HOMEGROWN WISDOM

**Collection of
Experts Panel (Majority) Report and the
All Parties' Representatives Committee Report**

Prologue

President Mahatma Rajagopal convened an All Parties Conference (APC) of political parties represented in Parliament a few months after his election as President for the first time with the view to arrive at a political solution to the national question. In June 2006, the President decided to appoint an All Parties' Representatives Committee (APRC) and an Experts Panel to advise that APRC. It was a historic moment when a Commission which will provide a comprehensive approach to the resolution of the national question.

SOME HOMEGROWN WISDOM

The names of the political parties and their representatives who participated in the APRC are given in the Annex 1 to the APRC Report. The names of the members of the Experts Panel are given in an Annex 2 to the Experts Panel (Majority) Report.

The Experts Panel began its work in earnest immediately after the task was entrusted to them by the President. After more than 30 meetings, the Experts Panel produced a Majority Report signed by 11 of the 12 members. There was a Minority Report signed by 1 of the Panel members. The contents of the Report were more in accordance with the Majority Report, which Report is chosen to publish. There were also two short dissenting reports by two other members of the Majority Report. These Reports were submitted to the President for his consideration.

**Collection of
Experts Panel (Majority) Report and the
All Parties' Representatives Committee Report**

However, individual members of the Experts Panel and Prof. Encarnan Salazar-Mandayil had tried advice to the Chairman of the APRC, as the advice for the Law Commission was to be prepared by the APRC, as the process of finding them.

The APRC studied the Report of the Experts Panel and began its work thereafter. The APRC held 12 meetings before finalising its Report. The Report was handed over to the President in June 2006. Later, the APRC Report was tabled in Parliament by Mr. R. V. Jayaraman MP, one of the members of the APRC. Thus both the Experts Panel Majority Report and the APRC Report are documents available in the public domain. When these two Reports are published, they will have a lot of wisdom based on them. It is the duty of the Government to ensure that these Reports are published in a timely manner.

Prologue

President Mahinda Rajapaksa convened an All Parties Conference (APC) of political parties represented in Parliament a few months after his election as President for the first time with the view to arrive at a political solution to the national question. In July 2006, the President decided to appoint an All Parties' Representatives Committee (APRC) and an Experts Panel to advise that APRC to evolve a home-grown new Constitution which will provide a comprehensive approach to the resolution of the national question.

The political parties that took part in the initial stages of the APC were 15, in number, including the United National Party (UNP). However, the UNP declined to be participants of the APRC. The Tamil National Alliance (elected to Parliament, as the Ilankai Tamil Arasu Kadchi) was however, not invited by the President to the APC or the APRC. The Tamil Makkal Viduthalai Puligal (TMVP) was invited to join the APRC only towards the last stages of its deliberations after its members were elected to the Eastern Provincial Council at the elections held in May 2008.

The names of the political parties and their representatives who participated in the APRC are given in the Annex 2 to the APRC Report. The names of the members of the Experts Panel are given in an Annex 2 to the Experts Panel (Majority) Report.

The Experts Panel began its work in earnest immediately after the task was entrusted to them by the President. After more than 50 meetings, the Experts Panel produced a Majority Report signed by 11 of the 17 members. There was a Minority Report signed by 4 of the Panel members. The contents of this Report were more in words than the Majority Report, which Report it chose to criticize. There were also two short Notes of dissent by two other members on specific points of the Majority Report. These Reports were submitted to the Chairman of the APRC Prof Tissa Vitarana in December 2006. The Majority Report did not contain Lists of subjects of devolution attached to them. The Panel felt that finalizing the Lists would be time-consuming and as such the work of the APRC would be delayed. However, individual members of the Experts Panel and Prof. Emeritus Lakshman Marasinghe tendered advice to the Chairman of the APRC on the subjects for the Lists when the APRC was in the process of finalizing them.

The APRC studied the Reports of the Experts Panel and began its work thereafter. The APRC held 128 meetings before finalising its Report. The Report was handed over to the President in June 2010. Later, the APRC Report was tabled in Parliament by Mr. R.Yogarajan MP, one of the members of the APRC. Thus both the Experts Panel (Majority) Report and the APRC Report are documents available in the public domain. When these two Reports are taken together, one could find a lot of wisdom buried in them. It is for that

Parliament

The House of Representatives, which is the lower house of the Parliament, was established in 1947. It is a body of 130 members, elected by the people. The House of Representatives is responsible for the day-to-day running of the Government. It is also responsible for the passing of laws. The House of Representatives is divided into 13 constituencies. Each constituency elects one member to the House. The House of Representatives is the main body of the Parliament. It is the body that is responsible for the day-to-day running of the Government. It is also responsible for the passing of laws. The House of Representatives is divided into 13 constituencies. Each constituency elects one member to the House. The House of Representatives is the main body of the Parliament.

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reason that we have decided to publish both Reports in a single document as Parts I and II of such a document.

There is once again a renewed interest in finding a negotiated political settlement to the national problem through a new Constitution. We are of the view that this document will be of immense value to the participants at the negotiating table. We commend this document which contains both the Experts Panel (Majority) Report and the APRC Report to the negotiators.

Dr. K.Vigneswaran
Akhila Ilankai Tamil United Front
871/45A Maradana Road
Colombo 10.

March 2012.

EXPERTS PANEL (MAJORITY) REPORT

December 86, 2006

Colombo

version that we have decided to publish here is based on a single document, a 1972 T-2511
of such a document.

There is one other aspect of interest in finding a recognized political institution in the
national problem through a new Commission. The fact of the matter is that this document will be
of interest only to the few people at the negotiating table. We cannot find the document
which contains both the Report (and the Report) Report and the Report to the
negotiations.

Dr. K. Vignaturo

United States and United States

831/1274, March 1972

Colombia 10

March 1972

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REPORT OF GROUP A

This preliminary report reflects the outcome of the discussions which took place amongst the under mentioned members of the Panel of Experts, who are signatories to the report:-

1. Dr. Nirmala Chandrahasan
2. Dr. Shivaji Felix
3. Mr. R.K.W. Gunsekera
4. Mr. Asoka Gunewardene
5. Mr. Faisz Mustapha PC
6. Dr. A. Rohan Perera PC
7. Mrs. Therese R. Perera PC
8. Mr. N. Selvakkumaran
9. Dr. K. Vigneswaran
10. Dr. Jayampathy Wickramaratne PC
11. Mrs. M.. S Wickramasinghe

1. UNDERSTANDING OF THE NATIONAL PROBLEM

- 1:1 The crisis in the Sri Lankan polity has arisen because, although the country is multi-ethnic and multi-religious, the numerically smaller ethnic groups have not had their due share of State power which in their opinion, would have facilitated greater integration.
- 1:2 This has resulted in the minorities being sidelined and becoming alienated from the Sri Lankan State, as initial efforts to redeem this situation by a power sharing mechanism failed.
- 1:3 In this context, the goal should be to provide a form of governance that accommodates the different ethnic/religious identities within one country,

while maintaining unity in diversity, through constitutional reform and thereby making an attempt to move away from conflict.

- 1:4 The approach of this Group has been to evolve to the maximum extent possible, a form of genuine power-sharing between the different ethnic/religious communities, which is not predicated on any particular model, but which suits our own needs.
- 1:5 This Group has thereby evolved an approach, which is double-pronged. i.e. Provincial institutions and local authorities will be set up as institutions of Government through which all communities can within the respective areas of authority, exercise power and develop their own areas. All communities will also share power at the Centre, thereby integrating them into the body politic and strengthening national integration.

2. STATE, SOVEREIGNTY, PEOPLE

- 2:1 This Group recommends that the name of the State be “The Republic of Sri Lanka”.
- 2:2 Following from the above, the State shall therefore be described in the Constitution as “one, free, sovereign and independent State”. The use of distinctive expressions, such as. unitary, federal, union of regions/provinces among others, should therefore be avoided and instead reference may be made to the State as consisting of “institutions of the Centre and of the Provinces which shall exercise power in the manner provided for in the Constitution”.
- 2:3 The State shall be obliged to safeguard the independence, sovereignty, unity and territorial integrity of the Republic and to preserve and advance a Sri Lankan identity, recognizing the multi-ethnic, multi-lingual, multi-religious and multi-cultural character of the Sri Lankan society.
- 2:4 The People of Sri Lanka shall be described in the Constitution as being composed of “the constituent peoples of Sri Lanka”. The right of every constituent people to develop its own language, to develop and promote its culture and to preserve its history and the right to its due share of State power including the right to due representation in institutions of government shall be recognized without in any way weakening the common Sri Lankan identity.

This shall not in any way be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of the Republic.

3. SUPREMACY OF THE CONSTITUTION, CONSTITUTIONAL COURT

- 3:1 The supremacy of the Constitution shall be recognized. All actions of the Centre and of the Provinces inconsistent with the Constitution shall be void.
- 3:2 This Group recommends that the holder of the office of President should have personal immunity for any executive action taken by him as long as he holds office. However, all executive actions of the President should be subject to judicial review.
- 3:3 The Group recommends the setting up of a Constitutional Court, as a specialized court, to adjudicate on constitutional matters. The Court shall consist of eminent members of the legal community and of others who have specialized knowledge in governance. It is the view of the Group that the Constitutional Court should be outside the hierarchy of courts set out in the Constitution, in that it would not be a Court to which judges of other courts could expect to be appointed by promotion. However, judges of other Courts having specialized knowledge in constitutional law would be eligible for appointment to the Court. Members of the Court shall be appointed by the President on the recommendation of the High Posts Commission (vide 3:6 below). The Court should reflect the pluralistic character of the Sri Lankan people. There shall also be a Panel of Experts to assist the Court on specialized subjects, at the discretion of the Court.
- 3:4 The Group recommends that the Court have the power to strike down Central and Provincial legislation which is violative of the Constitution, notwithstanding the fact that such legislation has been duly certified according to the Constitution.. All existing law (other than the respective personal laws) shall be read subject to the Constitution.
- 3:5 Where a question of the interpretation of the Constitution or inconsistency of a law, provincial statute or an emergency regulation with the provisions of the Constitution, or the constitutionality of an act of the President, arises in any proceedings in any court or tribunal, it is the view of this Group, that such

question be referred by such court or tribunal to the proposed Constitutional Court.

- 3:6 In order that the Constitutional Court is held in high esteem, this Group is of the view that the current Constitutional Council should be re-named as the 'High Posts Commission'.

4. SAFEGUARDS AGAINST SECESSION

- 4:1 There should be in-built mechanisms to discourage secessionist tendencies and to preserve the unity, sovereignty and territorial integrity of the State.
- 4:2 A Provincial Legislature or Provincial Government shall not, by direct or indirect means, promote or otherwise advocate or attempt to promote or otherwise advocate an initiative towards the separation or secession of any Province or part thereof, from the Republic.
- 4:3 Emergency powers of the Centre to intervene in the Provinces in the event of a "clear and present" danger to the unity, territorial integrity and sovereignty of the State and in cases where the Provincial authorities request the intervention of the Centre, shall be clearly spelt out in the Constitution. Accordingly, the Constitution should provide for the following:-
- 4:3:(a) A declaration of an emergency in a Province, where the President is of opinion that the security or public order of the Province is threatened by armed insurrection, grave internal disturbances or by any act or omission of the Provincial Government which presents a clear and present danger to the unity, territorial integrity and sovereignty of the Republic. This would empower the President to deploy armed forces or the National Police to restore public order and to make regulations in respect of subjects in the National List or in respect of law and order.
- 4:3:(b) A declaration of emergency in a Province, would be done by the President upon being advised by the Governor, consequent to advice given to him by the Chief Minister. This would empower the

President to authorize officials of the Centre to exercise powers in respect of subjects in the Provincial List, and, for the President to make regulations with respect to any matter in the Provincial List as may be specified by the Governor acting on the advice of the Chief Minister.

4:3:(c) Where the President is of opinion that a situation has arisen in which a Provincial Legislature/Government is promoting an armed rebellion or insurrection, or is engaging in the intentional violation of specified provisions of the Constitution relating to the unity, sovereignty and territorial integrity of the Republic and that the powers of Provincial authorities presents a clear and present danger to the unity and sovereignty of the Republic, the President would be empowered to assume all or any functions of the Province and in a extreme situation, to dissolve in terms of the Constitution the errant Provincial Legislature. The principles of democracy and equity should be upheld and the Constitution held supreme.

4:4 The Group recommends that the above acts of the President be subject to Judicial control and Parliamentary control as well. [In this connection see also 3:5 above]

4:5 There should also be an obligation on the part of the Centre to protect every Province against external aggression and internal disturbance and to ensure that the Government of every Province is carried on in accordance with the provisions of the Constitution [Vide: Article 355 of the Indian Constitution which provides for such a situation].

5. POWER SHARING

5:1: The Centre

5:1:(a) We recommend two directly or indirectly elected Vice Presidents who shall belong to two different communities distinct to that of the President, the term of office of each of the Vice Presidents being 3 years.

- 5:1:(b) It is recommended that at any given time, one of the Vice Presidents shall be the Chairman (non-voting) of the Second Chamber while the other Vice President shall be the Chairman of the High Posts Commission. The Chairmanship shall be on the basis of rotation between the two bodies. It is proposed that the High Posts Commission shall replace the present Constitutional Council. The Group further recommends periodic review of the composition of this High Posts Commission. Provincial representation in the Commission is strongly recommended.
- 5:1:(c) A Second Chamber comprising representatives from the Provinces would engender in the Provinces a strong feeling that they too have a distinct role to play in the national legislature. This would also act as an in-built mechanism against hasty legislation and legislation that may have an adverse effect on the Provinces. Such a Second Chamber is found in almost every country where there is substantial devolution of power. A Second Chamber of Parliament should be considered a unifying mechanism.
- 5:1:(d) The Second Chamber would also function as a mechanism to rectify possible imbalances of representation in the Lower House. This institution could also facilitate consensus building amongst interest groups.
- 5:1:(e) The members of the Second Chamber shall be elected by the respective provincial legislatures. The election shall be according to the principle of proportional representation with each provincial legislator having one transferable vote. This will facilitate the representation of the different peoples of the Province and small political parties. A similar procedure was used for the election of Senators under the Soulbury Constitution [Vide section 9(2)].
- 5:1:(f) In determining the size of the Second Chamber the Group is mindful of the need to maintain a fair balance between the Upper and Lower Houses. The Group recommends a *ratio* of 1:3 between the membership of the Upper House and that of the Lower House. In view of the proposals for the establishment of a Second Chamber and the proposed extensive devolution, the current number of 225 Members of Parliament is felt to be excessive for the proposed Lower

House of Parliament. The Group recommends that the membership of the Lower House be limited to 180 members.

- 5:1:(g) All legislation, with the exception of Money Bills, may be initiated in the Second Chamber.
- 5:1:(h) The group is of the view that the Cabinet of Ministers should, in principle, reflect the pluralistic character and also be representative of the Provinces of Sri Lanka. The Group intends making further proposals on this matter in a subsequent Report.

5:2 The Provinces

- 5:2:(a) The Group considers that executive power sharing on a proportional basis at the provincial level has its benefits particularly in post-conflict situations. We are however not unmindful that a Provincial executive could become breeding ground for corruption when there is no official opposition. As such, the Group recommends that such an arrangement as to power sharing be in place for a limited period, provided that mechanisms are built in to ensure transparency and political pluralism.

6. UNIT OF DEVOLUTION

- 6:1 The Group held extensive discussions on the various options and the different aspects of the options.
- 6:2 We are of the view that a unit of devolution should, as far as practicable, consist of geographically contiguous territory, be conducive to balanced regional development and be designed to enhance administrative efficiency. Differences in endowments are to be expected among units.
- 6:3 In this context, the Group is of the view that that appropriate unit of devolution would be the Province.
- 6:4 We have however noted that factors such as ethnicity and language could not be excluded in all situations and that there may have to be exceptions in order

to address security and other concerns of communities. We are of the view that ideally such exceptions should be limited in time and that, ultimately, ethnicity should not be the sole criterion for the establishment of units. This should not, however, preclude special arrangements being put in place to address such concerns.

- 6:5 The Group was of the view that any proposed merger of two or three Provinces other than the North and East would not pose any problem if done through referenda in accordance with provisions presently available in the 1978 Constitution and the Provincial Councils Act, No. 42 of 1987.
- 6:6 The Group considered it useful to identify the concerns of communities that may be relevant to the unit/s in the North and East.
- 6:7 In this context the Group identified the following as the main concerns of the Sri Lankan Tamils:-
- 6:7:(a) a feeling of exclusion from political power including issues/matters affecting Tamils;
 - 6:7:(b) access to State land; and
 - 6:7:(c) a general feeling of insecurity.
- 6:8 The Group identified the following as being the main concerns of the Muslims of the North and East:-
- 6:8:(a) fear of ethnic cleansing and the consequent loss of private property in the North and East;
 - 6:8:(b) security; and
 - 6:8:(c) access to State land.
- 6:9 The following were identified by the Group as being the main concerns of the Sinhalese in the North and East:-
- 6:9:(a) security; and
 - 6:9:(b) apprehension of possible loss of livelihood opportunities resulting from devolution.
- 6:10: As regards the North-East, the Supreme Court has in its recently delivered judgement held that pre-conditions for the merger, as given in the 13th Amendment and the Provincial Councils Act, had not been fulfilled. However,

the political issue remains and needs to be addressed. As such, the Group is of the view that options relating to this issue should be included in this Report for consideration by the APRC. The Group has therefore identified the following options:

6:10:(A) A single North-East Province with two internally autonomous Units to address the concerns of the Muslim and Sinhalese populations.

- 6:10:(A)(a) In such an arrangement, the Muslim-majority Unit will comprise Kalmunai, Sammanthurai and the Pottuvil polling divisions as the base together with non-contiguous Muslim-majority Divisional Secretary's Divisions in the North-East.
- 6:10:(A)(b) The Sinhala-majority Unit will comprise Ampara polling division together with non-contiguous Sinhala-majority Divisional Secretary's Divisions in the North-East.
- 6:10:(A)(c) Such units shall exercise legislative and executive powers relating to certain subjects and functions devolved by the Constitution itself. These would include law and order, (see 6:10:(A)(f)) education and culture. The modalities of such a process will be addressed in a future report.
- 6:10:(A)(d) Special arrangements would have to be made in regard to alienation of State land as the bulk of State land available for future expansion lie in Sinhala-majority Divisional Secretary's Divisions.
- 6:10:(A)(e) Constitutional guarantees, such as double majority, may need to be incorporated to safeguard the interests of the Muslim and Sinhalese minorities.
- 6:10:(A)(f) While a base unit by itself would not pose many problems, the attachment of enclaves may give rise to practical issues relating to law and order which need examination in depth.

6:10:(B) A separate unit with a Muslim majority and consequent Tamil and Sinhala-majority units in the North-East

- 6:10:(B)(a) Muslims have been agitating for a fully-fledged unit comprising a base unit (Kalmunai, Sammanthurai and the Pottuvil polling divisions) and non-contiguous Muslim-majority Divisional Secretary's Divisions in the North-East.
- 6:10:(B)(b) If such a unit is to be established, the question of the Sinhala-majority areas then arises. For such areas, the options are -
- 6:10:(b)i to have a non-contiguous Sinhala-majority unit; or
- 6:10:(b)ii attaching Sinhala-majority areas to adjoining Provinces.
- 6:10:(B)(c) While a base unit by itself would not pose much problems, the attachment of enclaves may give rise to issues of administration and security among others.
- 6:10:(B)(d) The remainder would be a non-contiguous Tamil-majority unit. The economic viability of such a unit may arise. Several irrigation schemes which would otherwise have been Provincial schemes would become inter-Provincial schemes. The water supply to the Trincomalee town would be from outside the Province.
- 6:10:(B)(e) If this option is to be accepted, a re-demarcation of boundaries may have to be considered from the point of view of uniformity and economic viability among other.
- 6:10:(B)(f) The Tamil and Muslim units would have very little State land for future expansion.

Dr. K. Vigneswaran has expressed certain reservations in this matter.

6:10:(C) North and East to have a common Provincial Legislature and Government for 10 years with a referendum in the East at the end of such period

6:10:(C)(a) The Northern and Eastern Provinces to be merged for a period of 10 years and the wishes of the people of the Eastern Province on the continuation of the merger to be ascertained through a referendum at the end of ten years. During the interim period, safeguards such as internally autonomous Sinhala and Muslim majority units and double majority may be incorporated in the interests of the Muslim and Sinhalese minorities. Such a ten-year period of working together would offer the different communities a challenging opportunity. A North-East Interim Provincial Legislature and Government could be a model of ethnic harmony and the majority of the people of the East may well want to continue that way.

6:10:(D) The Northern and Eastern Provinces to be separate Provinces with an Apex Council for co-ordination on matters of common interest.

6:10:(D)(a) This proposal was made to the Mangala Moonesinghe Select Committee in 1992. The Apex Assembly would consist of the members of both legislatures to plan common policies and co-ordinate programmes. As the Apex Assembly was to have neither legislative nor executive powers, the proposal was rejected by the Tamil United Liberation Front (TULF) and the Ceylon Workers Congress (CWC). However, it is felt that this would secure greater support in the country for a higher degree of devolution to the two Provinces. Possible improvements to the original proposal could be examined in this regard.

Dr. K. Vigneswaran has expressed certain reservations on this matter.

7. DISTRIBUTION OF POWERS

7:1 For devolution to be meaningful, it is recommended that the majority of the subjects and functions be categorized as belonging to the National sphere or the Provincial sphere with a provision for a Concurrent List consisting of a minimum of subjects and functions.

- 7:2 The Group recommended that the distribution of powers should be explicit and devoid of ambiguity. The Central legislature shall have no legislative power in respect of subjects and functions in the Provincial List while Provincial Legislatures shall not have legislative powers in respect of subjects and functions in the National List. Where a subject or function not found in any List is ancillary to a subject or function already included in the Provincial List, such subject or function shall be deemed to be an item in the Provincial List. All other subjects and functions not explicitly listed in the three Lists shall be deemed to be included in the National List.
- 7:3 The Group also recommends that subjects such as Defence, National Security, Foreign Affairs, Immigration/ Citizenship, Communication, National Transportation, International Commerce/ Trade, Maritime Zones and Shipping and Navigation which are necessary to ensure the sovereignty, territorial integrity and economic unity of Sri Lanka shall be reserved for the Centre..
- 7:4 Where national policy or national standards need to be laid down, it should be done through a participatory process with the involvement of the Provinces, culminating in framework legislation passed by Parliament. Framework legislation in respect of a devolved subject shall not amount to law applicable on the subject within Provinces but Provinces would be required to conform to such framework legislation when passing statutes. The Group has endeavoured to minimize the subjects and functions in respect of which national policy or national standard may be laid down.
- 7:5 The Group recommends that a Province would be required to negotiate with the Centre and seek the authority of Parliament for the transfer of any subjects or functions in the Concurrent List to its own Provincial List.
- 7:6 In view of the historical fact that the Tamil people had been agitating for self-rule over a period of time, and the present conflict have its origins in that agitation, the Group recommends that all subjects and functions in the Concurrent List be deemed to be subjects and functions of the Provincial List of the unit/s of the North-East. This would act as a safeguard against possible intrusions by the Centre into areas of provincial competence.

- 7:7 The above mechanism provides for asymmetry at the beginning but with all Provinces having the opportunity to ultimately take over all subjects and functions in the Concurrent List, resulting in symmetry.
- 7:8 The Group would make detailed recommendations as the subjects and functions to be included in the National, Provincial and Concurrent Lists at a later stage.

8. JUDICIARY

- 8:1 The institutions administering justice shall be the Supreme Court, the Court of Appeal, Provincial High Courts and other courts, tribunals and other institutions established by the Constitution and by law. The Group recommends that the Supreme Court and the Courts of Appeal should reflect the pluralistic character of Sri Lanka. As already recommended, the Constitutional Court shall be a specialized court headed by a President.
- 8:2 The Court of Appeal shall sit in Colombo and the Provinces. The present appellate, revisionary and writ jurisdiction of the Provincial High Courts shall be transferred to the Court of Appeal and shall be exercised by the Court of Appeal sitting in the relevant Province. It will also have a fundamental rights jurisdiction in respect of alleged violations by Provincial authorities. The Court of Appeal will have Divisions, holding sessions in each Provincial capital and such other places as may be decided by the Chief Justice of the Supreme Court.

The Group intends making further recommendations on this matter in a future report, but however wishes to state that Appeals in respect of Civil matters should be permitted preferable with leave from the lower court and the relevant appellate court. It also expresses the view that there ought to be a degree of accountability of Judges in respect of the work done by them.

- 8:3 The following items may be included in the national, provincial and concurrent lists:

National List

Administration of justice; Court procedure.

Provincial List

Administration of justice within a Province, to the extent of the provision and setting up of court buildings in consultation with the National Judicial Service Commission, the maintenance of court buildings and the development of infrastructure of courts; mediation and conciliation.

Concurrent List

Appointment, promotion to grades lower than District Judges, transfers within the Province, disciplinary control and dismissal of judicial officers in grades lower than District Judges and the appointment, promotions up to the grade of Registrar of courts lower than District Courts, transfers within the Province, disciplinary control and dismissal of specified public officer, in accordance with national guidelines as determined by the National Judicial Service Commission. These powers shall be exercised by a Provincial Judicial Service Commission comprising of the two senior most Judges of the Provincial High Court and a retired judicial officer appointed by the Governor. The seniormost among the two Judges shall be the Chairman.

9. FISCAL DEVOLUTION AND CENTRE-PROVINCE FISCAL RELATIONS

- 9:1 The design of fiscal and financial arrangements under the Thirteenth Amendment does not enable realize the full benefits of devolution and contribute towards “balanced regional development”. A total redesign may be necessary taking into account the formulation set out in the Constitution Bill of 2000.
- 9:2 The expenditure responsibilities and revenue powers result in a large provincial fiscal gap making Provinces overly dependent upon the Centre. Though the Provinces are guaranteed the allocation of “adequate” funds to meet their “needs” and establishes a Finance Commission to consult with and recommend to Government what those needs are, the allocation of funds from the Annual Budget leaves the decision entirely in the hands of the Government. Ambiguities in the assignment of subjects have allowed the Centre to spend in areas of provincial competence and restricting the scope of services provided by Provinces. It is imperative that the resulting duality in the provision of public services is resolved through clear Centre-Province mandates. The substantive role of the Finance Commission is to recommend to the President the basis for the apportionment of such funds allocated from

the budget. It is within these limits that any equalization of fiscal capacity to achieve balanced regional development is possible.

- 9:3 The fiscal and financial arrangements for devolution therefore need to be redesigned. These should address the spirit of devolution to enable Provinces perform as efficient providers of public services assigned. Basic principles that should underpin such redesigning are the criteria of Provincial Autonomy, Revenue Adequacy, Equity, Efficiency and Predictability. The design of fiscal and financial arrangements should provide for the following:
- 9:3:(a) Clarity in delineating the expenditure responsibilities of the Provinces vis-à-vis the Centre. This is based upon the clarity in the assignment of subjects and functions between the Centre and Provinces and the basis for the treatment of Concurrent subjects and functions. The listing of subjects and functions in the Constitution Bill of 2000 eliminates much of the ambiguity that is present in the Thirteenth Amendment. Any Centre-Province issues in this regard can be taken up at the Council of Chief Ministers or referred to the Constitutional Court.
- 9:3:(b) Availability of adequate revenues to discharge expenditure responsibilities in a manner that meets with the design criteria is sine qua non for the efficient provision of devolved public services. A combination of own sources of revenue and revenue sharing is necessary to provide untied resources at an adequate level. The Constitution Bill provides for excise duties [Article 207 (3) (a)], Taxes on Wholesale and Retail Sales [Article 207 (4) (a)] and Taxes on Sales and Income not otherwise provided for [Article 207 (5) (a)] as well as items in the Provincial List as revenue sources. Revenue sharing is introduced by Article 207 (5) (b), but need further clarification as to the modalities for determination of the share of the Provinces. Shared revenues should bring Provincial resources up to an adequate level that allows discretion in making service provision choices and decisions.
- 9:3:(c) Equalization grants will be necessary to address variations in fiscal capacity across Provinces and enable Provinces to move towards providing a standard package of services in bringing about balanced regional development. The Constitutional Bill of 2000 introduces the equalization principle in the apportionment of Excise and Wholesale and Retail Sales Taxes. What is required will be equalization grants that will top up Provincial resources to be adequate for capital

expenditure for improving services up to minimum national standards.

- 9:4 Institutional arrangements for the mediation of Centre-Province fiscal relations constitute an integral and critical aspect of the fiscal and financial arrangements. The Finance Commission should be revamped to be able to exercise checks and balances on the Centre and become an effective agent of equity. It is necessary to build on the proposals relating to the same in the draft constitutional Bill of 2000. Specific mention is made of Article 211 (4) (b) providing for the making of recommendations to the President as to

“the principles on which the sharing and assignment or the assignment of revenue between the Central Government and the Regions should take place with a view to ensuring the assured measure of finances necessary for effective devolution.”

- 9:5 In addition, the Finance Commission should be required to report on areas of Centre-Province overlap in expenditures as this is a serious issue. Central expenditure in areas of Provincial competence negates the objective of redistribution to Provinces for bringing about balanced regional development.
- 9:6 Institutional arrangements for Centre-Province consultation on fiscal and financial matters constitute an important input in the mediation of Centre-Province fiscal relations. Such consultation is to be provided for through a statutorily constituted Finance Ministers Forum.
- 9:7 Financial transfers to Local Authorities are provided for in Grants to Provincial Governments. The Finance Commission will assess “needs” of Local Authorities separately and such funds to be earmarked for transfer through the Provincial Governments.
- 9:8 Where the President is satisfied that a situation has arisen whereby the financial stability or credit of Sri Lanka or of any part of the territory thereof is threatened, he may direct the Finance Commission to issue such directives to a Provincial Council as are deemed necessary to observe such cannons of fiscal and financial propriety and such other directives as may be deemed necessary or adequate for the purpose.
- 9:9 The composition of the Finance Commission in the view of the Group should be similar to that set out in Article 211 of the Constitution Bill of 2000. i.e. the Commission should comprise five members who have distinguished themselves or held high office in fields such as finance, law, administration

among other appropriate fields. The Commission should be appointed by the President on the recommendation of the High Posts Commission

10 DEFENCE, NATIONAL SECURITY AND LAW AND ORDER

- 10:1 Defence, national security, the raising, establishment and maintenance, as provided for by law, of regular, special and para-military forces and coast guard service shall be subjects reserved exclusively for the Central Government.
- 10:2 National security issues relating to devolved subjects, if any, could be dealt with by the Centre in the exercise of its powers under national security.
- 10:3 Law and order including public order and the exercise of police powers shall be devolved on the Provinces but be reserved exclusively for the Central Government in the Capital Territory (the Colombo City and its environs) and in cases expressly provided for in the Constitution. Further, in this context, consideration may be given to the specific identification of carefully demarcated strategic institutions/installations to be within the control of the Central Government for the purposes of Defence/National Security. Further recommendations with regard to this matter will be made in a future report.
- 10:4 Further, in respect of any Province, where the Central Government is of opinion that the Provincial Police Service is unable to provide adequate security to specified institutions of the Centre such as a port, harbour or airport, it may deploy the National Police Service to provide security.
- 10:5 There shall be a National Police Service and Provincial Police Services. The Constitution shall provide for co-operation between such Services.
- 10:6 The National Police Service shall have exclusive competence to investigate offences laid down in the Constitution. These would include offences against the Republic, offences relating to the National Police, Army, Navy and Air Force, any offence committed against specified persons such as the President, Prime Minister, Ministers, Members of Parliament, Judges of the Supreme Court or the Court of Appeal, any offence prejudicial to national security or the maintenance of essential services, any offence in respect of which courts in more than one Province have jurisdiction, any international crime and any offence committed within the Capital Territory.

- 10:7 Where the Chief Minister of a Province seeks the assistance of the National Police Service to preserve public order within the Province, the National Police Commissioner shall deploy such personnel as are necessary for the purpose.
- 10:8 The National Police Commission and the respective Provincial Police Commissions will be responsible for the appointment, promotion, transfer, disciplinary control and dismissal of officers coming under their purview. They shall also determine the cadres for the National Police Service and the respective Provincial Police Services.
- 10:9 There shall be a single Sri Lanka Police Officers Service (SLPOS) consisting of officers in the grades of ASP and above. The National Service shall consist of grades of the SLPOS and ranks below recruited or promoted at the national level.
- 10:11 The Head of a Provincial Police Service will be the Provincial Inspector General of Police who shall be appointed by the Board of Ministers of the Province. A Provincial Service shall consist of officers seconded from the Sri Lanka Police Officers Service, and ranks below the grade of ASP recruited or promoted at the provincial level or seconded from the National Police Service.
- 10:12 The National Police Commission shall be responsible for the recruitment of ASPs to the Sri Lanka Police Officers Service (SLPOS) and each Provincial Police Commission shall be responsible for the recruitment to each Provincial Police Service in keeping with the approved cadre.

11. CENTRE- PROVINCIAL RELATIONS

- 11:1 The Group recognises the need for mechanisms to encourage and enhance cooperation between the Centre and the Provinces. The concept of the Provinces sharing power at the Centre was viewed as a possible mechanism that would generate a sense of participation by the Provinces in legislative and executive decision making at the Centre, and would in turn weaken the tendency towards separation.
- 11:2 A Council of Chief Ministers chaired by the President would be an effective coordinating mechanism. Such a Council should meet quarterly or more

frequently if the need arises. The Cabinet Secretariat should service this Council.

11:3 In addition to the Council of Chief Ministers, the Group recommends a quarterly Conference of the Chief Secretaries, chaired by the Secretary to the President. This Conference should also be serviced by the Cabinet Secretariat.

12. AUTONOMOUS ZONAL COUNCIL AND INDIAN TAMIL CULTURAL COUNCIL
TO MEET THE ASPIRATIONS OF TAMILS OF INDIAN ORIGIN

- 12:1 Representatives of Tamils of Indian Origin have requested that the community be empowered through the establishment of an Autonomous Zonal Council (AZC) within the Nuwara Eliya District as the territorial focus and of a non-territorial Indian Tamil Cultural Council (ITCC) to effectively contribute to the economic, social and cultural advancement of that community.
- 12:2 Tamils of Indian Origin live in substantial numbers in the Central, Uva and Sabaragamuwa Provinces, and even in the Western Province. Yet, only four administrative divisions have absolute majority of Indian Origin Tamils. They are Ambagamuwa and Nuwara Eliya in Nuwara Eliya District, Lunugala in Badulla District and Panwila in Kandy District.
- 12:3 The contiguous territory comprising the Ambagamuwa and Nuwara Eliya divisions contains a population of 275,000 out of a total population of 409,000. The Tamil-linguistic population is 320,000. About 30% of Sri Lanka's Tamils of Indian Origin are resident in these two divisions.
- 12:4 An Autonomous Zone Council (AZC) may be established, to address the concerns of the Tamils of Indian origin, to cover the areas of authority of the Pradeshiya Sabhas of Nuwara Eliya and Ambagamuwa, the Urban Councils of Hatton- Dickoya and Talawakelle- Lindula, and the Municipal Council of Nuwara Eliya.
- 12:5 While specific modalities need to be worked out in a future report, the Group is of the view that consideration may be given to the following:-
- The AZC may be empowered to exercise all powers of the Pradeshiya Sabhas in addition to powers in respect of subjects such as Tamil medium schools, vocational education,

agricultural development, animal husbandry and cultural affairs. The Council may be given the power to make by-laws while the power to make Statutes will be with the Legislature of the Central Province.

- All Members of Parliament and Provincial Councillors from the different Provinces belonging to the Indian Origin Tamil community to be members of the ITCC. In addition, there to be provision for about five nominated members. All members of the ITCC shall be appointed by the President of Sri Lanka.
- The ITCC shall act as a consultative body to the AZC
- The AZC should have its own budget, which shall include grants from the Central Budget directly channelled, but with intimation to the Government of the Central Province. The Central Government should also provide an annual block grant for ITCC projects.

13. LOCAL GOVERNMENT

- 13:1 The Group proposes that local authorities be recognized by the Constitution as a tier of Government and given much more powers than at present. The implementation of Provincial Statutes relating to subjects listed in a Schedule to the Constitution would be a matter for local authorities. Local authorities would not have legislative power. They would, however, have power to make by-laws. Such by-laws should be laid before the Provincial Legislature but, in view of local authorities being a tier of Government, would not need Legislature approval.
- 13:2 The Group is of the view that such an arrangement would be an empowerment of the people in their own localities. Further, this would also afford localized ethnic communities to be in control of their living environment.
- 13:3 The Group has no objection to the introduction of a system similar to the *Panchayat* system in India, with suitable modifications.
- 13:5 The Group recommends that elections to local authorities be based on wards.

(Mr. R.K.W. Goonesekera has reservations on local authorities being recognized as a tier of Government with enhanced powers.)

14 THE PUBLIC SERVICE

14:1 The Group recommended that public service in a devolved system of governance must be organized at the national, provincial and local levels. Under current arrangements, the Provincial Councils Act 42 of 1987 provides for a Provincial Public Service. However the implementation of these provisions was provided for administratively through “National Policy” and effected within the structure of the centralized public service. As a result provincial staffing was determined by the Centre seriously undermining the role and functions of the provincial and local tiers. To remedy this situation, it would be necessary to provide for:-

14:1(a) Providing for the staffing of public positions required at each tier of government according to the service delivery needs in relation to the functions assigned.

14:1(b) Staffing levels of the provincial and local tiers to be agreed upon over the medium term (i.e. a period of three years) as a tri-partite arrangement between the National Public Service Commission, the Finance Commission and the respective Provincial Public Service Commissions.

14:1(c) Re-defining the role and functions of the Public Service Commission(s) to focus more on public employment and less on public personnel functions with the latter being delegated to Ministries and Departments.

14:1(d) Re-defining the role and scope of the All-Island Services.

14:1(e) Resolving the inefficient duality in the public service at the sub-national levels.

14:2 The Group is of the opinion that devolution of powers to the Provinces would not result in an unhealthy duplication of positions and offices in the public service. However we are of the view that giving emphasis to the All Island Services would immensely contribute not only towards emergence of economical and effective services but also services built on national unity and integration.

- 14:3 Devolution of powers has not only to be effective but also devoid of duality. For this purpose, we propose that the district administration has to be restructured so as to form part of the provincial administration. Thus the Government Agent/ District Secretary and the Divisional Secretary should also belong to an All Island Service and hold the rank of a Head and Deputy Head of Department respectively, in the provincial administration. All Grama Niladharis in a Province should also be absorbed into the Provincial Public Service of that Province.
- 14:4 To eliminate duality of services at the divisional level, we propose that the Divisional Secretary also assumes the role of Secretary to the Pradeshiya Sabha of his Division.
- 14:5 In order that the Centre continues to be present at the provincial level, an office called the Provincial Commissioner-General (at the rank of an Additional Secretary) will be established as the focal point for the performance of national subjects and functions. Constitutional provision will also be made to enable the Centre to entrust through this officer, or otherwise, central functions (such as. customs, elections, census and gun licensing) to the Government Agent, Divisional Secretary, Grama Niladhari, and other officers, as agency functions. [Vide Article 258 of the Indian Constitution].
- 14:6 The Group recommends that there should be public services categorised as All Island Services, National Public Service, and Provincial Public Services. Parliament may declare by law any national public service to be an All Island Service. This shall not preclude a Province in establishing provincial services for all or any of the disciplines. The All Island Services shall include services such as the Sri Lanka Administrative Service, Sri Lanka Engineering Service, Government Medical Officers Service, Sri Lanka Police Officers Service (ASP upwards) and the Sri Lanka Teachers Service.
- 14:7 Officers of the All Island services shall be recruited nationally and provincially (on a delegated basis) and be deployed in the national and provincial public services on release by the National Public Service Commission. The release of All Island Service officers to the provincial public services shall be as agreed to with the respective Provincial Public Service Commission. Every officer of an All Island Service recruited to the cadre of a Province shall at the outset serve a minimum of 3 years in that Province and a total of not less than 10 years in that Province however aggregated.
- 14:8 The Group recommended that there should be a National Public Service Commission consisting of not less than 7 members and not more than 9

members. [Article 194 (1) modified] and a Provincial Public Service Commission for each of the Provinces consisting of not less than 3 members and not more than 5 members [similar to Article 200(1)] whose membership shall reflect the ethnic composition at the national and provincial levels respectively. Nearly as may be, one-half of the membership of any of the public service commissions shall be persons who shall have had a minimum of 10 years experience as an officer under Government.

- 14:9 The National Public Service Commission and the Provincial Public Service Commissions are empowered to determine the cadres to their respective services, including the All Island Services. It shall be the responsibility of the Provincial Public Service to provide the necessary administrative staff to the Pradeshiya Sabhas, and to other local authorities.
- 14:10 All appointments, transfers, promotions, dismissal and disciplinary control of national public officers should vest in the National Public Service Commission.[Article 191 of the Constitution Bill of 2000] and may delegate all or any of its functions in respect of specific categories to a Committee of the NPSC or to any public officer and where appropriate to the provincial public service to the Provincial Public Service Commission. An officer of an all island service released to a provincial public service shall have the right of appeal to the National Public Service Commission.[Article 202(1)(c) of the Constitution Bill of 2000] . All appointments, transfers, promotions, dismissal and disciplinary control of provincial public officers shall vest in the respective Provincial Public Service Commission. [Article 202(1)(a) of the Constitution Bill of 2000] A Provincial Public Service Commission may delegate all or any of its functions in respect of any category of public officers to any public officer.[Article 202(1)(b) of the Constitution Bill of 2000]
- 14:11 Committees of the NPSC shall be independent and shall function under the direct supervision of the NPSC. There shall be a minimum of 3 members in each such Committee, one of whom shall be a member of the NPSC, who shall also be the Chairman of the Committee. The other two members shall not be serving public officers or judicial officers.
- 14:12 There shall be equitable representation of the different ethnic communities of Sri Lanka in the public services. Recruitment to a public office shall be on merit. Promotion of public officers shall be based on seniority and on merit.
- 14:13 The President shall appoint all Secretaries to national Ministries and other public officers required by the Constitution. [part Article 190(1)]. The appointment, promotion, transfer, dismissal and disciplinary control of all Additional Secretaries to Ministries and Heads of National Departments

including the National Inspector General of Police vest in the Cabinet of Ministers

- 14:14 The Governor of a Province shall appoint the Chief Secretary, the Principal Secretary to the Chief Minister, the Secretary to the Governor and other Secretaries to Provincial Ministries on the advice of the Chief Minister of the Province. [Article 201(1) of the Constitution Bill of 2000, to be modified]. The appointment, promotion, transfer, dismissal and disciplinary control of all Heads of Provincial Departments of a Province including the Provincial Inspector General of Police and the Government Agents (District Secretary) would vest in the Board of Ministers. [Article 201(2)(a) of the Constitution Bill to be modified]
- 14:15 The appointment, dismissal and disciplinary control of Advisors and Consultants is vested in Cabinet of Ministers and the Board of Ministers of the respective Province.
- 14:16 The Group recommends a Public Services Appeals Tribunal [Article 203 Constitution Bill of 2000].
- 14:17 The Group recommends a Forum of Chairpersons of Public Service Commissions as contained in the Constitution Bill of 2000.

15. INDIVIDUAL AND GROUP RIGHTS

- 15:1 The Constitution shall have a comprehensive Bill of Rights that guarantees not only civil and political rights but also group, social, economic, cultural and children's rights. The South African Constitution and Chapter III of the 2000 Draft Constitution are commended in this regard. The Panel recommends the inclusion of a provision similar to section 29 (2) of the Soulbury Constitution, as a group right.
- 15:2 There shall be adequate machinery for enforcement at national and provincial level. In addition to the Supreme Court, the Court of Appeal sitting in the Provinces shall have a fundamental rights jurisdiction for enforcement of fundamental rights. The National Human Rights Commission shall be recognized by the Constitution. In addition, and without prejudice to the powers of the National Human Rights Commission, Provinces may have their own human rights mechanisms.

15:3 In respect of disadvantaged communities, clearly defined affirmative action could be considered. Such affirmative action should be time-bound and should be subject to periodical review to ensure that they do not go out of hand.

15:4 Where a public officer is found by Supreme Court or the Court of Appeal to have violated a fundamental right of a person, such finding shall trigger off disciplinary action against such officer.

16 LANGUAGE

16:1 Provisions of Chapter IV of the present Constitution provides for the use of Sinhala and Tamil as the official languages of Sri Lanka. They also provide for the rights of ordinary persons in any part of the country with regard to the use of Sinhala, Tamil or English in communicating with officials of the Government and receiving responses thereto, and, for the rights of persons to give information with regard to the commission of an offence to a police or peace officer in any of the three languages.

16:2 The Group feels that lack of staff capable of working in the Tamil language had been the main cause of non-implementation of the provisions of the Constitution with respect to Language, and consequently, Tamil speaking persons (i.e. Tamils and Tamil-speaking Muslims) have been encountering difficulties in their interaction with the Government.

16:3 Further, such a situation has also arisen partly from the fact that the format of Chapter IV, and the words used therein leave much to be desired with regard to clarity, giving rise to uncertainty with respect to the application of the provisions.

16:4 The Group is of the view that although the provisions of Chapter IV of the 2000 Constitution Bill in respect of Language is an improvement on Chapter IV of the current Constitution, they also suffer from similar lack of clarity in some of the Articles. In view of this complexity, the Panel proposes that the new Constitution should meet the following requirements with respect to Language, in addition to incorporating other specified provisions in the 2000 Constitution Bill:

- Sinhala and Tamil shall be official languages and languages of administration, while Sinhala, Tamil and English shall be the national languages, of Sri Lanka. [Articles 32, 33, 35(1) of the Constitution Bill of 2000].
- Sinhala shall be the language used for the maintenance of public records by national and provincial institutions and by local authorities in the Capital Territory and in all the Provinces other than the North and East, where Tamil shall be so used.[Article 35(2) modified].
- Sinhala shall also be used as the language of public records in administrative divisions of the North and East wherein the Sinhala-speaking population exceeds one-eighth of the population of the respective division, and, Tamil shall also be a language of record in administrative divisions outside the North-East wherein the Tamil-speaking population exceeds one-eighth of the population of the respective division.[Article 35(3) modified].
- Sinhala and Tamil, and where expedient, English, shall be used for the maintenance of public records by national Ministries and the Head Offices of all national public institutions, irrespective of their locations.
- A person in any part of Sri Lanka shall be entitled to communicate and transact business with any institution of the State in any of the national languages and to receive response to such communication in the same language. [Article 36(1)(a) modified].
- A person in any part of Sri Lanka shall be entitled to give information regarding the commission of an offence to a police or peace officer in any of the national languages. [Article 36(1) (e) modified].
- A person shall be entitled to give information as regards any birth, death or marriage in any of the national languages, and to receive the original certificate of such birth, death or marriage in the language of record of the area together with a translation thereof in any national language, or, in the official language of the person's choice if both official languages are languages of

record of the area, together with a translation thereof in any national language.[Article 36(1)(d) modified].

- Where a document is executed by an official for the purpose of being issued to a person, that person shall be entitled to obtain such document in the language of record of the area, or the official language of the person's choice if both official languages are languages of record of the area, together with a translation thereof in any national language. [Article 36(1) (c) modified].
- A person shall be entitled, if the law recognises the person's right to inspect or to obtain copies of or extracts of any register, record, publication or other document, to obtain a copy of, or an extract from, such register, record, publication or other document, together with a translation thereof in another national language. [Article 36(1) (b) modified].
- Any institution of the State which maintains its records in Sinhala shall be entitled to communicate and to receive communication from and to communicate and transact business with any other institution of the State in Sinhala, if the latter maintains its records in Sinhala or both in Sinhala and Tamil. The same shall apply, *mutatis mutandis*, to an institution of the State which maintains its records in Tamil. [Article 37(1) modified].
- Any institution of the State which maintains its records only in Sinhala shall communicate and receive communication from and to communicate and transact business in English with an institution of the State which maintains its records only in Tamil, and vice versa.[Article 37(2) modified].
- A person shall be entitled to be examined through the medium of any of the national languages at any examination for the admission of persons to any national or provincial service or any public institution, subject to the condition that the person may be required to acquire a sufficient knowledge of either or both of the other two national languages within a reasonable period after admission to such service or public institution where such knowledge is reasonable necessary for the discharge of duties of the person. [Article 38(1) modified].

- A school imparting primary or secondary education shall ensure that a person educated through the English medium shall also have an adequate knowledge of Sinhala or Tamil, or both. [to be included as a proviso to Article 46].
- (In order to facilitate better communication among the communities and to promote national integration,) Sinhala, Tamil and English languages shall be made compulsory subjects at the GCE (O/L) examination. This could be done in a staggered manner in view of resource constraints.
- Sinhala shall be the language of record and proceedings of all courts other than those in the North and East, where Tamil shall be so used. [Article 42(1) modified].
- The Minister of the Cabinet of Ministers to whom the subject of Justice is assigned, may, with the concurrence of the Cabinet of Ministers, and, with the concurrence of the Chief Minister of a Province where applicable, direct that the language of record and proceedings of any court shall also be in a national language other than the language of the court. [Article 42(3) of the Constitution Bill of 2000 to be appropriately modified].
- All three national languages shall be languages of record and proceedings of the Supreme Court and the Court of Appeal.

The Group recommends that the provisions of Articles 34, 38(2), 39, 40, 41, 42(2), 43, 44, 45, 47 and 48 of the Constitution Bill of 2000 also to be incorporated without any material change.

17. LAND

- 17:1 The Centre shall succeed to State land controlled or used by the Central Government and its institutions in relation to subjects and functions in the National List at the commencement of the Constitution.
- 17:2 Every Province shall succeed to all other State land within the Province, subject to the rights of persons in lawful possession or occupation of such land. A Provincial Government shall be entitled to exercise rights in or over such land, including land tenure, transfer and alienation of land, land use, land settlement and land improvement.

- 17:3 The Provincial Government may, after due consultation with the Central Government, require the Central Government to make available to the Provincial Government, such State land as may be reasonably required for the purpose of a subject or function in the Provincial List, and the Central Government shall comply with such requirement.
- 17:4 The Central Government may, after due consultation with a Provincial Government, require the Provincial Government to make available to the Central Government, such State land as may be reasonably required for the purpose of a subject or function in the National List, and the Provincial Government shall comply with such requirement.
- 17:5 There shall be a National Land Commission with equal representation of the Central Government on the one hand and the Provinces on the other and the equitable representation of all the major communities. Members of the Commission shall be persons with technical qualifications and experience in the relevant fields and shall not be serving public officers.
- 17:6 The Commission shall formulate national land use policy and make recommendations to the Central and Provincial Governments with regard to the protection of watersheds, the appropriate amount of forest cover in each Province, conservation of fauna and flora and the protection of the environment. The Commission shall monitor land use and compliance with policy and recommendations so formulated.
- 17:7 Priority in land settlement schemes shall be accorded first to needy persons of the District and then to needy persons of the Province.
- 17:8 The alienation of State land under inter-provincial irrigation schemes shall be on the basis of the national ethnic ratio (1981 census). (Dr. Rohan Perera is of the view that the applicable national ethnic ratio requires further discussion) Priority shall be given to persons who are displaced by the scheme, needy persons of the district or districts in which the scheme is situated, thereafter to other needy persons of the relevant Provinces and finally to other needy persons in the country.
- 17:9 The National Land Commission shall determine and intimate to the Provinces the number of allotments available for alienation to residents of the relevant districts and Provinces. The selection of the allottees shall be the responsibility of the Province.
- 17:10 Where the members of any ethnic community do not, or are unable to take their entitlement of allotments from any such scheme in a particular district,

they shall be eligible to receive an equivalent number of allotments in the same scheme in another district, or, in another inter-provincial irrigation scheme.

- 17:11 The distribution of allotments in inter-provincial irrigation schemes on the basis of the aforesaid principles shall be done as far as possible so as not to disturb very significantly the demographic pattern of the Province concerned and in accordance with the principles of ensuring community cohesiveness in the Province.

18 RESOLUTION OF CENTRE- PROVINCIAL AND INTER-PROVINCIAL ISSUES

- 18:1 The Group considered the need for a mechanism for the resolution of disputes that may arise between the Centre and the Provinces or among the Provinces. As a matter of approach, the Group is of the view that in the first instance attempts must be made to resolve the disputes through informal discussions. If these discussions do not lead to satisfactory solutions, the following mechanisms could be utilised for resolution of the disputes:

- Mediation/ Conciliation undertaken by the Council of Chief Ministers chaired by the President.
- Arbitration by a Tribunal appointed by the Second Chamber of Parliament.
- Reference to the Constitutional Court.

19. SAFEGUARDS FOR POWERS OF THE PROVINCES

- 19:1 Constitutional provisions relating to the powers of the Provinces shall be entitled to special safeguards. Amendments to such provisions shall apply in a Province after passage in Parliament and upon approval by the relevant Provincial Legislature.

20. OTHER

The Group recommends that the number of Ministers at the Centre as well as the Provinces be restricted to one-eighth the total number of members of the relevant legislature.

Annex 1: Confidence Building Measures and Signatures of the Group

The Group recommends that the government take administrative action, within specified time frames, in respect of the following matter, to alleviate the grievances/concerns of the minority communities:-

1. Implementation of the Language Provisions

- 1:1 The report of Group A has a section on Language and recommends implementation on the lines set out in the Report.
- 1:2 The Constitution provides that in areas where Sinhala is the language of administration and records are kept in Sinhala, every person has certain entitlements so as to enable him/her to transact their business with the State in either Tamil or English. [Vide Article 22(2) Chapter IV.
- 1:3 However after the passage of so many years these provisions are not being implemented and Tamil speaking persons are being disadvantaged in conducting their transactions with State agencies.
- 1:4 Hence at an operational level immediate steps should be taken to provide for Tamil literate staff, translators and office equipment, in the different government offices. Adequate funding and resources should be provided for the recruitment of staff and other requirements.
- 1:5 It may be noted that Colombo city is 56.7%, Tamil speaking but less than 1% of the staff is Tamil literate. Kandy city is 25.7%, but none of the 60 staff working in the Registrars
- 1:6 In keeping with the proviso to Article 22(1) of the Constitution, 29 Divisional Secretariat areas have been declared as bilingual, ie areas in which records can be kept in both Sinhala and Tamil. These have still to become operational.

- 1:7 Divisional Secretariat areas have been identified as having the necessary population composition to be made bilingual. These areas should be officially declared as such
- 1:8 In all these Divisional Secretariat areas resources and staff to be provided to make them operational

2 Security Concerns

- 2:1 Measures should be taken to restore the confidence of all communities and the minorities in particular, in the Law and order situation in the Country.
- 2:2 A matter of deep concern to the Tamil Community in particular is the large number of abductions, disappearances, and extra judicial killings which have been going on this year, 2006. According to the Sri Lanka Human Rights Commission as reported recently, the SLHRC has received 400 complaints of disappearances from the Jaffna District alone. This is apart from other complaints which would have been received by the Police Stations in the District.
- 2:3 Despite assurances by the Government, ordinary citizens of this country are disheartened by the fact that investigations into these crimes are not being pursued with ordinary diligence by the police, that there are no prosecutions being initiated by the State thus far, and that the criminals are carrying on with their killings with impunity and no fear of punishment.
- 2:4 The Government must take all necessary steps to protect the human rights of all the people of the country. Directions should be given to the law enforcement officers that they should enforce the law without fear or favour with impunity to none so that the rule of law is upheld and the confidence of the people is restored.
- 2:5 In the light of previous communal clashes and ethnic violence it is recommended that in areas which are constituted predominantly of a particular community, the police stationed therein should be predominantly of that community, while still retaining a multi-ethnic character. This will make all minority communities living among majority groups more assured of their security.

- 2:6 In view of the ethnic imbalance in the police and armed forces in favour of the majority community, persons belonging to the minority communities will have to be recruited in sufficient numbers so as to rectify the situation. This may have to be over a period of time.
- 2:7 However for a start a firm commitment could be made to recruit a target number of police officers from the minority communities. Time frames could be drawn up and the international community could be invited to support and assist with the training programmes.
- 2:8 It may be noted that in a similar situation of ethnic imbalance in the police and armed forces the new Constitution of Macedonia also provides for such measures for the minority Albanian population as part of the peace process.

On paragraphs 2:2 and 2:3 Dr. Rohan Perera, whilst agreeing with the position that the Government must take all necessary steps to protect the human rights of all the people of the country, has certain reservations on the reference to “investigations into these crimes are not being pursued with ordinary diligence by the police, that there are no prosecutions being initiated by the State thus far”.

3. Relief and Rehabilitation

- 3:1 Priority should be given to the re-settlement of IDPs who have suffered displacement due to war and ethnic violence. Their personal safety and security should be guaranteed and compensation paid for the dislocation caused
- 3:2 In respect of the displacements that have taken place during the recent armed conflict in the Trincomalee and Batticaloa districts of the Eastern province, the Group is of the view that all persons displaced within these areas should be speedily resettled in their homes and adequate compensation paid all of them.

4. High Security Zones

- 4:1 A matter of deep resentment among the Tamil people is the fact that their lands and homes have been taken over by the Armed forces for security zones. One such zone is the Valikamam High Security zone in the Jaffna Peninsular. The area taken over for the security zone comprises of 36 Grama Niladhari Divisions in extent 58.5 sq. kilometers of fertile red soil. The number of persons displaced was computed in 2003, as being Sixty five thousand seven hundred and fifty six.(65,756).

4:2 This is a humanitarian problem which has to be addressed. Compensation should be paid to the persons dispossessed. The Government should also work out a scheme for releasing those lands which can be immediately released, to the owners, so as to show its good faith, while giving serious thought to a gradual dismantling of these zones in tandem with a genuine peace process and decommissioning of arms by the LTTE. Armed forces to be stationed only in areas deemed expedient and essential, where ever possible primarily in State land.

With regard too paragraphs 4:1 and 4:2 Dr. Rohan Perera is of the view that the issue of dismantling of High security Zones should only be addressed after a discussion of substantive issues within the Peace Process and a de-commissioning of arms is guaranteed. He also is of the view that the stationing of armed forces must of necessity be subject to the overriding security and operational requirements.

.....
Dr. Nirmala Chandrahassan

(Not available for signature but has signified his consent.)

.....
Dr. Shivaji Felix

.....
Mr. R.K.W. Gunesekera

(Not available for signature but has signified his consent.)

.....
Mr. Asoka Gunewardene

.....
Mr. Faiz Mustapha PC

.....
Dr. A. Rohan Perera PC

.....
Mrs. Therese R. Perera PC

.....
Mr. N. Selvakkumaran

.....
Dr. K. Vigneswaran

(Not available for signature but has signified his consent.)
.....

Dr. Jayampathy Wickramaratne PC

.....
Mrs. M. Wickramasinghe

Annex 2: Members of the Experts Panel (in alphabetical order):

1. Dr. Nirmala Chandrahasan
2. Mr. Gomin Dayasiri
3. Mr. H.L. de Silva PC
4. Mr. Manohara de Silva
5. Dr. Shivaji Felix
6. Deshamanya R.K.W. Gunsekera
7. Mr. Asoka Gunewardene
8. Mr. Faisz Mustapha PC
9. Prof. G.H. Peiris
10. Dr. A. Rohan Perera PC
11. Mrs. Therese R. Perera PC
12. Mr. M.D.D. Pieris
13. Mr. N. Selvakumaran
14. Dr. K. Vigneswaran
15. Dr. Jayampathy Wickramaratne PC
16. Mrs. M.. S Wickramasinghe
17. Mr. K.H.J. Wijayadasa

Annex 3: Letter of Appreciation

Letter to the eleven Members of the Experts Panel on Constitutional Reform and sent on
19 January 2007:

Deshamanya R. K. W Gunasekera
Mr. Faiz Mustapha PC
Dr. Nirmala Chandrahasan
Mr. Asoka Gunawardena
Dr. Sivaji Felix
Dr. Rohan Perera PC
Ms. Therese Perera PC
Mr. N. Selvakumaran
Dr. K. Vigneswaran
Dr. Jayampathy Wickramaratne PC
Ms. Malkanthi Wickremasinghe

At this critical juncture in our country's history, you have responded magnificently to the task of formulating a Constitutional Framework for the Political Resolution of Sri Lanka's National Problem.

It is the first time that a representative group of Experts, comprising academics, civil servants, lawyers and professionals, has been asked at the highest political and executive level to collegially deliberate on all aspects of our National Problem and reach a reasonable consensus towards a political solution.

The document that you have produced is of immense importance for Sri Lanka's political and constitutional future and your collective effort in producing it will go down in history as an act of rare courage, bold vision and great integrity.

While reflecting the rich diversity of the "constituent peoples of Sri Lanka", you have risen above our ethnic differences and brought into political relief our common humanity.

You have proposed the foundation upon which we can build a new Lanka inclusive of the Sinhalese, the Sri Lankan Tamils, the Muslims and the Upcountry Tamils.

Most of all, your proposals resonate with the views and opinions of the political moderates among all communities and reinforce the genuine interests of all the people of Sri Lanka.

For all of this we congratulate you and we offer our fullest support to the process that you have set in motion.

Although four Panel members have expressed concerns on specific details in the Majority Report, and two other members have put forward their individual viewpoints, it is fair to say that the Majority Report provides a reasonably compromised and remarkably consensual road map for effecting the necessary constitutional changes towards a political resolution.

As well, the Majority Report synthesizes and builds on all the compacts, pacts, agreements and understandings of the past that mark our long and tortuous search for a political solution to our national problem.

After the informal understanding between D.S. Senanayake and G.G. Ponnambalam, in 1949, within the compact that was the Soulbury Constitution, came the more formal pacts and proposals of later years. The long list of them includes the celebrated Bandaranaike-Chelvanayakam Pact (1957), the Dudley Senanayake-Chelvanayakam Pact (1965), the Development Councils Act (1980), the Parthasarathy Proposals and Annexure "C" (1984), the Indo-Sri Lanka Agreement and the Thirteenth Amendment (1987), the Interim Report of the Mangala Moonesinghe Parliamentary Select Committee (1992), the Devolution Proposals (August 1995 and January 1996), and the Constitution of the Republic of Sri Lanka Bill (2000).

Every one of these earlier attempts foundered at the altar of political expediency, victims of feudal and narrow political interests overriding the interests of the Country and its People. All Sri Lankans have paid dearly for these failures and the country that should have become an economic and cultural paradise in the Indian Ocean has become the land of death and destruction.

In setting up the All Party Consultations and the Experts Panel, President Rajapakse created yet another opportunity for all Sri Lankans to find a lasting political solution to our national problem.

These steps were also his and his government's considered response to the pleas of the international community to pursue the certainty of a political solution instead of plunging the country into the uncertainties of war.

We note that Dr. Tissa Vitarana, the Chairman of the All Party Representatives Committee, has produced his own report incorporating most of the recommendations of the Majority Report for consideration by the Political Parties.

The onus is now on President Rajapakse and the leaders of the SLFP and the UNP to take the lead and act on these recommendations. The JVP and the JHU have predictably come out against the two reports. They are entitled to disagree with the recommendations of

these reports for agreeing to disagree is a part of democracy, but it should not prevent the movement towards a political solution.

The Majority Report offers suggestions for rebuilding trust between the Government and the LTTE, and provides a reasonable basis for engaging the LTTE in political negotiations. We do not underestimate the difficulties inherent in either of these tasks, but it is the responsibility of the State to take the initiative towards a political solution.

Failure to take the political initiative will only enable the LTTE to define the terms of engagement. The LTTE will find it impossible to ignore, or reject, a political solution that has broad support among the Sinhalese, the Sri Lankan Tamils, the Muslims and the Upcountry Tamils, and carries the endorsement of the international community.

We are not suggesting that the all the recommendations in the Majority Report and Tissa Vitarana's Report are unexceptionable, and some of them will need to be reassessed and modified during the finalization and implementation of the political solution.

But the time is now for the President other political leaders to commit themselves to work towards a political solution based on the two reports.

It is also the time for religious leaders, professional and trade union organizations, civil society groups, the Sri Lankan media and representatives of the international community to plead with and persuade Sri Lanka's political leaders NOT to miss this opportunity.

Lastly, we once again salute you, the eleven Panel Members, and ask of you to continue to show the same courage and persistence, in the coming weeks and months, to facilitate the acceptance of your proposals by our political leaders.

Yours sincerely,

Rev. Paul Caspersz, Kandy
Marshal Fernando, Colombo
Nimalka Fernando, Colombo
Prof. Kumari Jayawardena, Colombo
Silan Kadirgamar, Colombo
Prof. Vijaya Kumar, Kandy
Jayaratna Malliyagoda, Kandy
Dr. Devanesan Nesiah, Colombo
Bernadeen Silva, Colombo
Prof. H. Sriyananda, Colombo

Lionel Bopage, Australia
Asela Jayanath, Australia
Ajith Lakshman, Australia
Ajith Rajapakse, Australia
Dr. Michael Roberts, Australia
Dr. Willie Senanayake, Australia
Prof. S.T. Ariaratnam, Canada
Dr. Amali Philips, Canada
Rajan Philips, Canada
Prof. Kumar David, Hong Kong

Prof. Jayadeva Uyangoda, Colombo
Lal, Wijenayake, Kandy
Rajanayagam, UK
Prof. Shanta de Alwis, USA

Sylvester Jayakody, Italy
Prof. N. Shanmugaratnam, Norway P.
Dr. S.P. Wickremasinghe, UK
Dr. A.R.M. Imtiyaz, USA

Copies to

:

Hon. Dr. Tissa Vitarana, Chairman All Party Representatives Committee
Hon. D.E.W. Gunasekera, Minister of Constitutional Affairs

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PART II

PROPOSALS MADE BY THE

ALL PARTY REPRESENTATIVES COMMITTEE

TO FORM THE BASIS OF A NEW CONSTITUTION

2010

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MAIN PROPOSALS TO FORM THE BASIS OF A FUTURE CONSTITUTION

1. THE PEOPLE, THE STATE AND SOVEREIGNTY

The following shall be contained in the Constitution:

1:1 Sri Lanka is a Free, Sovereign and Independent State and shall be known as the Republic of Sri Lanka.

1.2 The Republic of Sri Lanka is a **unitary** State in the sense in which it shall be deemed to be an undivided and integrated state structure where the state power shall be shared between the Centre and the Provinces (agreed compromise).

[1:2 Original positions of political parties:

(a) The Republic of Sri Lanka is a **unitary** State (supported by SLFP)

or

(b) The Republic of Sri Lanka shall be one, free, sovereign and independent State in which the institutions of the Centre and of the Provinces shall exercise power in the manner provided for in the Constitution (supported by UNP(D), CWC, UPF, DPF, SLMC, APMC, NUA, NC, EPDP, TMVP, LSSP, CP).]

1.3 The State shall be obliged to safeguard the independence, sovereignty, unity and territorial integrity of the Republic and to preserve and advance a Sri Lankan identity, recognizing the multi-lingual, multi-religious and multi-cultural character of Sri Lankan society.

1.4 The People of Sri Lanka is composed of the Sinhala, Sri Lankan Tamil, Muslim, Indian Tamil, Malay, Burgher and other constituent peoples of Sri Lanka. The right of every constituent people to develop its own language, to develop and promote its culture and to preserve its history and the right to its due share of state power including the right to due representation in institutions of government shall be recognized while strengthening the common Sri Lankan identity. This shall not in any way be construed as authorising or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of the Republic.

1.5 In the Republic, Sovereignty is in the People and is inalienable.

1.6 Sovereignty includes the power of government, fundamental rights and the franchise and shall be exercised in the following manner:

(a) The legislative power of the People shall be exercised, directly by the People at a Referendum, by Parliament and by Provincial Legislatures to the extent and in the manner provided in the Constitution.

(b) The executive power of the People shall be exercised by the President of the Republic acting on the advice of the Prime Minister and the Cabinet of Ministers, and by the Governors of the Provinces acting on the advice of the respective Chief Ministers and the Provincial Boards of Ministers.

(c) The franchise shall be exercised at the election of Members of Parliament and of Members of Provincial Legislatures and members of Local Authorities and at every Referendum by every citizen who has attained the age of eighteen years, and who, being qualified to be an elector, has the citizen's name entered in the register of electors.

2. FORM OF GOVERNMENT

2.1 It is recommended that Sri Lanka should adopt a Parliamentary form of government at the Centre.

2.2 The executive powers of the Centre shall be exercised by the President who shall act on the advice of the Prime Minister and the Cabinet of Ministers. The President shall appoint as Prime Minister, the Member of Parliament who, in his opinion is best able to command the support of the majority of the members of Parliament:

Provided that where more than one-half of the members of Parliament are members of a single political party or alliance, the President shall appoint the leader of that party or alliance in Parliament as the Prime Minister.

2.3 The transfer of executive powers to Parliament shall take place at the end of the current term of office of the President. In the interim period the President shall be deemed to be a Member of Parliament and shall be responsible and answerable to Parliament in regard to the exercise of executive power. Necessary transitional provisions to this effect shall be provided.

2.4 In this document references to the President, denote the President during the interim period and thereafter the President acting on the advice of the Prime Minister and the Cabinet of Ministers.

2.5 At the end of the next term of the President, the new President shall be elected by both Houses of Parliament.

2.6 There shall be one Vice President, who shall not be a Member of Parliament and shall belong to a community distinct to that of the President, elected by both Houses of Parliament, and shall hold office for a term of two years.

2.7 The office of the Vice President shall be rotated among all communities other than the community to which the President belongs at the time of electing the Vice President.

3. INDIVIDUAL AND GROUP RIGHTS

3.1 The Constitution shall have a comprehensive Bill of Rights that guarantees not only civil and political rights but also group, social, economic, cultural, women's and children's rights. The following provisions should be included in the Bill of Rights:

- (a) Every person has an inherent right to life and a person shall not be arbitrarily deprived of life.
- (b) A person shall not be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
- (c) A person shall not be arrested, imprisoned or otherwise physically restrained except in accordance with procedure prescribed by law.
- (d) All persons are equal before the law and are entitled to the equal protection of the law.
- (e) No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds:

Provided that it shall be lawful to require a person to acquire within a reasonable time sufficient knowledge of any language as a qualification for any employment or office in the Public, Judicial or Local Government Service or in the service of any public corporation, where such knowledge is reasonably necessary for the discharge of the duties of such employment or office;

Provided further that it shall be lawful to require a person to have a sufficient knowledge of any language as a qualification for any such employment or office where no function of the employment or office can be discharged otherwise than with a knowledge of that language.

- (f) Every person lawfully resident within the Republic is entitled to freedom of movement within the Republic and of choosing such person's residence within the Republic; every citizen shall be entitled to leave and to return to the Republic.
- (g) Every person has the right to respect for such person's private and family life, home, correspondence and communications and shall not be subjected to unlawful attacks on such person's honour and reputation.
- (h) Every person is entitled to freedom of thought, conscience and religion including the freedom to hold opinions and to have or to adopt a religion or belief of the person's choice.
- (i) Every person is entitled to the freedom of speech and expression including publication and this right shall include the freedom to express opinions and to seek, receive and

impart information and ideas either orally, in writing, in print, in the form of art, or through any other medium.

- (j) Every person is entitled to the freedom of peaceful assembly.
- (k) Every person is entitled to the freedom of association.
- (l) Every citizen is entitled alone or in association with others to enjoy and promote such citizen's own culture and to use such citizen's own language.
- (m) Every citizen is entitled to the freedom to engage alone or in association with others in any lawful occupation, profession, trade, business or enterprise.
- (n) Every citizen is entitled to own property alone or in association with others subject to the preservation and protection of the environment and the rights of the community.
- (o) Pregnant and lactating women shall be provided special care by the society.
- (p) Every child has the right to be protected from maltreatment, neglect, abuse or degradation; to family care or parental care or to appropriate alternative care when removed from the family environment; and, to basic nutrition, shelter, basic health care services and social services.
- (q) Every child between the ages of five and fourteen years shall have access to free education provided by the State.
- (r) A child shall not be employed in any hazardous activity.
- (s) A person shall not be required to perform forced labour.
- (t) Every person has the right to safe conditions of work.
- (u) Every citizen has the right to have access to health-care services including emergency medical treatment; sufficient food and water; and appropriate social assistance.
- (v) A person shall not be evicted from the person's home or have the home demolished, except as permitted by law.
- (w) Where a Proclamation has been duly made under the Public Security Ordinance derogation from the exercise and operation of these fundamental rights to the extent strictly required by the exigencies of the situation and necessary in a democratic society, provided that such measures do not involve discrimination solely on the grounds of ethnicity, class, religion, gender, sex, language, caste, national or social origin, is permitted.

3.2 There shall be adequate machinery for enforcement of these rights at national and provincial level. In addition to the Supreme Court, the Court of Appeal sitting in the Provinces shall have a fundamental rights jurisdiction for enforcement of fundamental rights.

3.2a The Human Rights Commission shall be recognized by the Constitution.

3.3 In respect of disadvantaged communities, clearly defined affirmative action should be considered. Such affirmative action should be time-bound and should be subject to periodical review to ensure that they do not go out of hand.

3.4 Where a public officer is found by the Supreme Court or the Court of Appeal to have violated a fundamental right of a person, such finding shall trigger off disciplinary action against such officer.

4. BUDDHISM

The Republic of Sri Lanka shall give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster the Buddha Sasana, while according to all religions the rights guaranteed by Articles 10 and 14(1)(e) of the 1978 Constitution.

5. LANGUAGE

5.1 Official Languages and National Languages

Sinhala and Tamil the National Languages, shall be the Official Languages of Sri Lanka.

5.2 Use of the English Language

English may be used for official purposes.

5.3 Languages of Representative Democratic Institutions

Members of Representative Democratic Institutions (to wit: the Parliament, the Provincial Councils and Local Authorities) should be entitled to conduct business in their institutions in either Official Language, by providing the necessary facilities for their use, and in English where facilities for the same exist.

5.4 Mediums of Instruction in Education.

- (a) Any person should be entitled to be educated in the medium of either national language or in English where facilities are available,
- (b) A person shall be entitled to be instructed in any course, department or faculty of any higher educational institution in any official language of the persons choice or in English if instruction in such language at such institution is reasonably practical.

However if one official language is used as the medium of instruction for a particular course in a university or higher educational institution a similar course should be made available in such university or higher educational institution in the other official language as well, or in the alternative be made available in another university / or higher educational institution.

5.5 Use of Languages in the Administration

Both Sinhala and Tamil should be Administrative Languages of Sri Lanka. In the provinces outside the Northern and the Eastern provinces the language of administration and that of record should be Sinhala.

In the Northern and Eastern Provinces the language of administration and that of record should be Tamil.

Where one Official Language is the administrative language in a province citizens who are not proficient in that language should have the right to communicate with the government and semi government institutions as well as to obtain documents or translations of documents to which they are entitled to as the case may be in either of the other Official Languages or in English wherever facilities are provided.

5.6 Setting up of a Bilingual Administration

The fullest implementation of the State Policy on Language requires the establishment of an administration which uses both Official Languages for the purpose. A time frame may be established by law for the purpose.

5.7 Bilingual Administrative Divisions

As a transitional first step the government and semi government institutions in divisions where the language of the minority community comprise 1/8 or more of the total population of the division should be required to provide services in both official languages.

5.8 Provision of Service in both the Official Languages and English

The ultimate objective should be to develop the administration into one which can provide services in both the official languages as well as in English.

5.9 Mediums of Admission to Public Services and Language Proficiency of Public Servants.

A person shall be entitled to be examined through the medium of either Sinhala or Tamil or a language of his choice at any examination for the admission of persons to the Public Service, Judicial Service, Provincial Public Service, Local Government Service or any

public institution, subject to the condition that he may be required to acquire a sufficient knowledge of Tamil or Sinhala, as the case may be, within a reasonable time after admission to such service or public institution where such knowledge of Tamil or Sinhala, as the case may be, within a reasonable time after admission to such service or public institution where such knowledge is reasonably necessary for the discharge of his duties. Proficiency in English may be made compulsory for admission to any public service which requires such proficiency. Those who join the public service may be required to attain a requisite level of proficiency in the English language within a reasonable period of time to enable them to enhance the quality of their service.

5.10 Languages in the Administration of Justice

Language of the Courts should be both Sinhala and Tamil. Both Sinhala and Tamil together with English shall be the language of records and proceedings of the Supreme Courts and the Court of Appeal. The Courts in the provinces should maintain their records in the language of the province. When a Court functions in one official language the judges of the court, jurors if any and parties to court actions who are not proficient in that language should be provided with interpretations of the proceedings and translating of documents in the other official language wherever necessary.

The Minister in charge of the subject of Justice should be empowered to direct, with the concurrence of the Cabinet of Ministers, that a language other than an official language be used in relation to the records and proceedings of any Court.

5.11 Use of Languages in Notifications etc. under the Law

All orders, proclamations, rules, by-laws, regulations and notifications made or issued under any written law (including statutes of the provincial councils) by any Provincial Council or local authority and documents, including circulars and forms issued or used by any such body or any public institution, should be published in both Official Languages with a translation in English.

5.12 Languages for use in Enacting Laws

All laws and subordinate legislation should be enacted and published in both Official Languages with a translation in English. In the event of any inconsistency between any two such texts of any Act, Statute or provision of subordinate legislation, each such text shall be regarded as equally authoritative unless the authority enacting or making such written law shall otherwise provide.

5.13 Maintenance of Public Records by National Public Institutions

The Official Languages, and where expedient English, should be used for the maintenance of public records by national ministries and the head offices of all national public institutions irrespective of their locations.

A person in any part of Sri Lanka should be able to communicate and transact business with any public institution in any of the Official Languages or in English and to receive response to such communication in the same language.

5.14 Statements to the Police

A person in any part of Sri Lanka should be able to give information to a police or peace officer in regard to the commission of an offence and make statements when required by a police officer in either of the Official Languages, or English.

5.15 Languages used in Birth, Death and Marriage Certificates

A person should be entitled to give information as regards any birth, death or marriage in either of the official languages and to receive the original certificate of such birth, death or marriage in the language in which it was given or in the language of record in the area together with a translation in the official language of his choice, or English.

5.16 Teaching of Languages

Both national languages and English should be subjects in the curricula of all schools in the Republic.

5.17 Promotion of the Learning of Official Languages and English

State should promote the citizens to gain proficiency in the Official Languages and English.

5.18 Use of other Languages

- (a) State should provide facilities for learning other languages used by Sri Lankan citizens such as Veddah, Malay, Malayalam, Hindi, Urdu, Sindhi, Gujarati, Telugu, Chinese, Portuguese, language and the sign language.
- (b) State should promote Pali, Sanskrit, Arabic and Latin which are used for religious purposes in Sri Lanka.

5.19 Implementation

The Parliament by law should provide for the implementation of the proposed State Policy on the use of Languages as set out in this document.

6. SUPREMACY OF THE CONSTITUTION

- 6.1 The supremacy of the Constitution shall be recognized, and protected by a Constitutional Court, which could be part of the existing Court structure but separate from the Supreme

Court. All acts of commission or omission of the Centre and of the Provinces inconsistent with the Constitution shall be void.

- 6.2 The holder of the office of President should have personal immunity for any executive action taken by him as long as he holds office. However, all executive actions of the President should be subject to judicial review.
- 6.3 Legislation, whether national or provincial, shall be subject to post-enactment judicial review by the Supreme Court which shall have power to declare such legislation void to the extent of inconsistency with the Constitution. To mitigate hardships that may be caused by legal provisions being struck down sometime after enactment, the Supreme Court shall have the power to limit the retrospective effect of a declaration of invalidity in appropriate cases.

7. SAFEGUARDS AGAINST SECESSION

- 7.1 There should be in-built mechanisms to discourage secessionist tendencies and to preserve the unity, sovereignty and territorial integrity of the State. The Provinces and local authorities shall be constitutionally mandated to preserve national unity and the indivisibility of the Republic.
- 7.2 A Provincial Legislature or Provincial Government shall not, by direct or indirect means, promote or otherwise advocate or attempt to promote or otherwise advocate an initiative towards the separation or secession of any Province or part thereof, from the Republic.
- 7.3 Emergency power for the Centre to intervene in the Provinces in the event of a "clear and present" danger to the unity, territorial integrity and sovereignty of the State and in cases where the Provincial authorities request the intervention of the Centre, shall be clearly spelt out in the Constitution. Accordingly, the Constitution should provide for the following:-
- (a) A declaration of an emergency in a Province, where the President is of opinion that the security or public order of the Province is threatened by armed insurrection, grave internal disturbances or by any act or omission of the Provincial Government which presents a clear and present danger to the unity, territorial integrity and sovereignty of the Republic. This would empower the President to deploy the National Police or the armed forces to restore public order and to make regulations in respect of any matter in the National List or in respect of defence, national security or law and order.
 - (b) There may be instances where the Provincial authorities feel the need to obtain the assistance of the Centre to deal with a situation of emergency in that Province. In such circumstances a declaration of emergency in a Province would be done by the President upon being advised by the Governor, consequent to advice given to him by the Chief Minister. This would empower the President to authorise officials of the Centre to exercise powers in respect of subjects in the Provincial List, and, for the President to make regulations with respect to any matter in the Provincial List as may be specified by the Governor acting on the advice of the Chief Minister.

(c) Where the President is of opinion that a situation has arisen in which a Provincial Legislature / Government is promoting an armed rebellion or insurrection, or is engaging in the intentional violation of specified provisions of the Constitution relating to the unity, sovereignty and territorial integrity of the Republic and that the exercise of powers by the Provincial authorities presents a clear and present danger to the unity and sovereignty of the Republic, the President would be empowered to assume all or any of the functions of the Province and in an extreme situation, to dissolve in terms of the Constitution the errant Provincial Legislature.

7.4 The above acts of the President under paragraph 7.3(a), (b) and (c) shall be subject to Judicial control and Parliamentary control as well. The principles of democracy and equity should be upheld and the Constitution held supreme.

7.5 The Centre shall protect every Province against external aggression and internal disturbance and ensure that the Government of every Province is carried on in accordance with the provisions of the Constitution.

8. THE ELECTORAL SYSTEM

The APRC is of the view that an electoral system evolved on the principles enunciated below is acceptable for a future Constitution.

8.1 The APRC accepts that there should be a mixed electoral system which combines the first past the post (FPP) on an electorate basis and proportional representation (PR) on a party basis, in which preferably the system of proportional representation prevails.

8.2 There shall be two ballot papers per elector, one to choose the electorate representative and the other to choose the party of his choice, on a district (or national) proportional representation basis.

8.3 Territorial constituencies shall be demarcated so to enable the minority communities to have their equitable share in the House of Representatives. Multi-member constituencies shall be established in areas of mixed populations, where appropriate. A Delimitation Commission with minority representation should be established for the purpose as soon as possible.

8.4 Political alliances shall be recognised if formed and registered with the Elections Commission prior to handing over of nominations for the election.

8.5 All citizens who are otherwise eligible to be electors shall be entitled to be registered as voters, even if displaced internally or externally, or, are resident abroad, and should be provided with facilities to exercise the franchise. Sufficient safeguards should be instituted by the Elections Commission to prevent abuses.

9. POWER SHARING

The key to fulfilling the mandate given to the APRC by the President, Mahinda Rajapakse to prepare a set of proposals that would form the basis for working out a solution to the ethnic problem is the **empowerment of all citizens equally**. He states that "he proposes to achieve a peaceful political solution to the ethnic problem by **strengthening maximally the powers conferred on every citizen**".

Earlier attempts to solve the ethnic problem sought to achieve a solution by devolving powers to the provinces, under the terms of the 13th Amendment to the present Constitution. The failure to adequately devolve power prevented the achievement of the adequate and equal empowerment of all citizens, that is required to solve the ethnic problem. Therefore, working on the principle of subsidiarity that gives maximal power to the citizen at the level of the village and of local government, and gives the residual powers appropriately to the higher levels of governance, the APRC has prepared a system of government that strengthens the powers conferred on every citizen maximally.

Accordingly, there are three tiers of government; Central Government, Provincial Government and Local Government, each tier having a separate list of powers provided through the Constitution. The Local Government tier is based on the Grama Sabha and the Ward Sabha respectively at the village and town levels, and they can make the relevant bylaws. This would enable every citizen to exercise power maximally. By devolving powers to the Provincial Government with the right to frame the necessary legislation, power is brought closer to the people. This is further strengthened by giving maximal administrative powers to the District and Divisions without retaining all of them at the Provincial level. (See Annex 1 for Lists of Powers of the Centre, the Provinces and the Local Government institutions).

The Centre

9.1 Parliament

- (a) There shall be a Parliament at the Centre comprising of the House of Representatives elected by the People and the Senate elected by the provincial legislatures. Parliamentary control shall be construed to mean control by both Houses of Parliament.
- (b) The House of Representatives shall, unless sooner dissolved, continue for a period of six years from the date appointed for its first meeting and the expiration of the said period of six years shall operate as a dissolution of the House.
- (c) There shall be 225 members in the House of Representatives of whom a proportion will be elected from territorial constituencies on a first past the post (FPP) basis. The balance will be chosen by a separate ballot to determine support for individual parties.
- (d) The Consultative Committees of Parliament shall be replaced by Steering Committees. A return to an Executive Committee systems is risk possible, but the opportunity should be

given to members of Parliament including the opposition to play a more constructive role in framing and implementing Legislation.

- (e) The Speaker of the House of Representatives shall be the Chairman of the Higher Appointments Committee (currently, the Constitutional Council).
- (f) The Senate would enable the Provinces to play a role in the national legislature. It would also act as an in-built mechanism against hasty legislation that may have an adverse effect on the Provinces. Such a Senate is found in almost every country where there is substantial devolution of power. A Senate should be considered a unifying mechanism. It would also function as a mechanism to rectify possible imbalances of representation in the House of Representatives. The Senate could also facilitate consensus building amongst interest groups.
- (g) In determining the size of the Senate there is the need to maintain a fair balance between the Senate and the House of Representatives. A ratio of 1:3 between the membership of the Senate and that of the House of Representatives is desirable. It is proposed that each of the Provinces is represented by seven Senators, making up a total of 63, elected on the basis of a single transferable vote system by the members of the respective provincial legislatures. In addition, there shall be 10 Senators selected by the Community Councils (one for the Muslims, and the other for the Tamils living outside the North and the East). The President of the Republic can nominate two people to represent unrepresented community groups.
- (h) The election of members of the Senate shall be done in a manner that will facilitate the representation of the different communities and smaller political parties. In electing representatives to the Senate, it must be ensured that every district in a Province is represented.
- (i) One-third of the total number of Senators shall vacate office every two years. The Senators of the first Senate who shall be required to vacate at the end of two years, and, at the end of four years, shall be decided by drawing lots.
- (j) The Senate shall be presided over by the Vice-President of the Republic who shall not have a right to vote but would nonetheless be entitled to a casting vote.
- (k) The Chief Ministers who constitute the Chief Ministers Conference, shall be *ex-officio* Senators, and, like the Vice President who is the Chairman of the Senate, will not have voting rights.
- (l) The Senate shall not have the power to initiate Bills.
- (m) The Senate shall have the power to pass all Bills referred to it from the House of Representatives, with the power, if the members of the Senate so decide, to refer the Bill back to the House within a period of 90 days, with a request for it to be reconsidered or amended.

- (n) The Senate shall sit in a joint session with the House of Representatives to debate, whenever that House proposes an amendment to the Constitution. However the voting will be done separately and 2/3 of the total number in each chamber should support an amendment before it can be accepted.
- (o) The Senate, jointly with the House of Representatives, shall have the authority to appoint Tribunals to arbitrate any dispute that may arise between the Centre and the Provinces and the Provinces *inter se*.

9.2 National Executive

- (a) There shall only be Cabinet Ministers and Deputy Ministers. The number of Cabinet Ministers including the Prime Minister shall not exceed 30, and, the number of Deputy Ministers shall not exceed 30.
- (b) After the interim period, the President shall appoint all Ministers and Deputy Ministers on the advice of the Prime Minister.
- (c) The Ministers and Deputy Ministers at the Centre shall consist of members of both Houses of Parliament, namely the House of Representatives and the Senate, but excluding its Chairman.
- (d) The Cabinet of Ministers should, in principle, reflect the pluralistic character of Sri Lanka and also be representative of the Provinces of Sri Lanka.

The Provinces

9.3 Provincial Legislature

- (a) Each of the provincial legislatures shall consist of the number of members as determined by or under law. The elections to provincial legislatures shall be on the basis of a mixed system of First Past the Post and Proportional Representation.
- (b) A Provincial Legislature shall, unless sooner dissolved, continue for a period of five years from the date appointed for its first meeting and the expiration of the said period of five years shall operate as a dissolution of the Legislature.
- (c) The Governor of a Province may from time to time prorogue or dissolve the Legislature:

Provided that he shall exercise these powers in accordance with the advice of the Chief Minister, so long as the Board of Ministers commands, the support of the majority of the Legislature, except as a result of direction from the President acting under paragraph 7.3(c).

- (d) There shall be Steering Committees in every Provincial Legislature.

- (e) A Province may decide on the design of its own flag and emblem. The design shall be subject to approval by two-thirds majority in the respective provincial legislature.

9.4 Provincial Executive

- (a) The President, acting on the advice of the Prime Minister, shall appoint a suitable person as the Governor of a Province, provided that the Prime Minister shall have obtained the concurrence of the incumbent Chief Minister of the Province prior to tendering his advice.
- (b) The normal term of office of the Governor shall be five years, but however, he shall hold office at the pleasure of the President.
- (c) The Governor shall appoint as Chief Minister, the member of the Provincial Legislature who in his opinion is best able to command the support of the majority of the members of that Legislature:

Provided that where more than one-half of the members elected to a Provincial Legislature are members of a single political party or political alliance, the Governor shall appoint the leader of that party or alliance in the Legislature, as the Chief Minister.

- (d) The Governor shall appoint the other Ministers of the Board of Ministers on the advice of the Chief Minister. The number of Ministers inclusive of the Chief Minister of the Province shall not exceed 20 per centum of the total number of members of the legislature of that Province. There shall be no Deputy Ministers in a Province. The Board of Ministers shall reflect the ethnic character of the Province.
- (e) There shall always be a Board of Ministers for a Province even after the dissolution of the Provincial Legislature, and hence, the existing Board of Ministers shall continue in office during dissolution of the Legislature and until its successor assumes charge of office except when the Legislature is dissolved under the provisions of section 7.3(c).
- (f) If in terms of paragraph 7.3(c), the President assumes all powers of a Province, he shall forthwith appoint a Council of Advisors, consisting of not less than five and not more than seven members to aid and advise the Governor of that Province in the exercise of the executive powers of the Province.
- (g) There shall be an Advocate General for every Province appointed by the Governor on the advice of the Chief Minister. It shall be the duty of the Advocate-General to give advice to the Governor, the Chief Minister and the other Ministers of the Province upon such legal matters and perform such other duties in relation thereto, as may be from time to time referred or assigned to him by the Governor or the Chief Minister.

9.5 District Council.

- (a) There shall be a District Council for every administrative district of Sri Lanka. The Council shall be constituted by the members of the Provincial Legislature elected from that District

and the Chairman or a representative from each local body. The members of a District Council shall elect one amongst them as its Chairman. The Government Agent (to be redesignated as the District Commissioner) of the District shall, *ex officio*, be the Secretary of the Council. Members of Parliament of that District may attend meetings, but they will have voting rights only in relation to approval of Central government projects.

- (b) The Chairman of the District Council shall be the Chief Executive Officer of the District while the District Commissioner shall be the Chief Administrative Officer of the District.
- (c) The District Council will form the link between the Provincial Government (and Legislature) and the District including the divisional secretariats and local authorities within that District. The District Council will also perform a Co-ordinating function with the institutions of the Centre.
- (d) A District Council will provide services to the people, and exercise powers as follows:
 - (i) To initiate action in the formulation of any development project relevant to the district in respect of any subject in the Provincial List.
 - (ii) To approve the annual development plan for the district.
 - (iii) To oversee the implementation of approved development projects in the district.

10. UNIT OF DEVOLUTION

- 10.1 The unit of devolution should, as far as practicable, consist of a geographically contiguous territory, be conducive to balanced regional development and be designed to enhance administrative efficiency. Differences in endowments are to be expected among units. Taking into consideration the existing circumstances the appropriate unit of devolution would be the Province.
- 10.2 Factors such as ethnicity and language cannot be excluded in all situations and there may have to be exceptions in order to address security and other concerns of communities. Ideally such exceptions should be limited in time and ultimately, ethnicity should not be the main criterion for the establishment of units. This should not, however, preclude special arrangements being put in place to address such concerns.
- 10.3 The feasibility/desirability of reducing the number of provinces outside the North and East may also be considered at the commencement of the new Constitution.
- 10.4 Questions of merger of provinces can be considered in accordance with the provisions presently available in the 1978 Constitution and the Provincial Councils Act, No. 42 of 1987.

10.5 The cities of Colombo and Sri Jayewardenepura Kotte and their environs shall form the Capital Territory which shall otherwise be a part of the Western Province. However, law and order in the Capital Territory shall be a matter for the Central Government.

11. MEETING THE ASPIRATIONS OF MUSLIMS AND INDIAN TAMILS

11.1 Meeting the Aspirations of the Muslims

The main concerns and preferred solutions of the four (4) parties representing Muslim interests in the APRC (the SLMC, NUA, National Congress and APMC) are the following:

11.1.1 The safety of the Muslims living in the North and the East.

11.1.2 Though the East is now a separate province the merger of the North and East in the future cannot be ruled out.

11.1.3 A genuine power sharing mechanism should be established to achieve the political aspirations of the Muslims.

11.1.4 There is the need to ensure that there is at least one Muslim majority Devolved Unit in the country.

11.1.5 Such unit could be achieved by bringing the 3 adjoining Muslim majority electorates in the East - Kalmunai, Pottuvil and Sammanthurai - along with Muslim majority local bodies of the North and East to be included in one territory with all the powers of a provincial council-legislative, executive and administrative. This would enable the Muslim political leaders to address the needs of a majority of the Muslims in the North and the East.

11.1.6 To ensure the safety of the minorities within the devolved unit there should be a Rapid Deployment Force (RDF) of the Centre.

11.1.7 In the rest of the country, arrangements similar to that proposed for the Indian Tamils (establishment of a non-territorial Community Development Council) may be suitable for the welfare of the Muslim communities living outside the North and East.

11.2 Meeting the Aspirations of the Indian Tamils

The main concerns and preferred solutions of the CWC, the UPF and the DPF are the following:

11.2.1 There should be a genuine power sharing mechanism with a constitutional executive structure which would ensure that the political aspirations of the Indian Tamils as a community is achieved.

11.2.2 There is a desire to have one contiguous territory in which the Indian Tamils could have the powers given to a Provincial Council-legislative, executive and administrative-and a Chief Minister. This Indian Tamil Territorial Council should be based in the areas with a high density of Indian Tamils in the Nuwara Eliya district (Nuwara Eliya, Maskeliya and Kotmale electorates) and adjoining areas of the Kandy, Badulla and Ratnapura districts.

11.2.3 There should either be a separate non-territorial **Indian Tamil Community Development Council**, made up of the provincial council members of 6 identified provinces (Central, Uva, Sabaragamuwa, Southern, Western and North Western), to directly address education, culture, infrastructure development and personal development needs of members of the Indian Tamil community in the country; or these powers could be exercised through the **Indian Tamil Territorial Council**.

11.3 Response of the other Parties of the APRC to the above Aspirations.

11.3.1 The APRC appreciates the concerns and desires of the parties representing the Muslim and Indian Tamil communities in the APRC to have for each of them a territorially defined power base where the two communities can exercise all the powers given to an existing province to address by themselves their own identity and developmental needs, have an assured Chief Minister of their own and also feel safe.

11.3.2 With regard to the issue of the North-East merger, the EPDP had expressed the view that it supports merger while accepting right of the Muslims to have an autonomous arrangement in the merged provinces. This position was supported by CWC, UPF and DPP (formerly WPP). The TMVP had stated that it accepts the verdict of the Supreme Court and it wishes that the people of the East be able to decide whether they should be merged with the North at a Referendum. The TMVP had also stated that such referendum should be held after two years of working within the demerged Eastern Province. Such arrangement to decide the issue of merger by a Referendum is acceptable to all the parties in the APRC. The Muslim Parties, however, insist that irrespective of the way in which a merger is achieved, a separate council with a Muslim majority as stated in paragraph 5 of their "aspirations" has to be accepted.

The APRC accepts that the demand of the Muslim parties for a separate council has to be considered in the event of a merger.

11.3.3 In defining the boundaries of local government bodies, without a doubt, there has been neglect of the interests of the minorities, in particular the Indian Tamils. These need to be rectified. In establishing the plantation based village committees, and other village committees, and the electorates for the provincial councils and national government due weightage should be given to the minorities. Before elections are held on the basis of any new Constitution there should be a fresh delimitation process with a Delimitation Commission with minority representation, including the Muslims and Indian Tamils.

11.3.4 To ensure the safety and security of each community which is a minority in a province, there should be stationed in that province a unit of the Rapid Deployment Force (RDF) of

the Centre, headed by an officer drawn from one of the communities that is a minority in that province. In every Police station in each province there should be at least one officer from each community, and more officers to ensure that the staff at the Police station represents each ethnic community in proportion to its population ratio in the province and the police area.

11.3.5 The SLFP and other parties namely JHU, UNP (D), LSSP, CP and MEP however feel that it is best that the creation of two new community based territories ("provinces") in the country is best avoided, as it would tend to increase existing differences among communities, strengthen the tendency to develop each community in isolation from the others, and reduce the move towards the integration of communities. In the circumstance the following alternative arrangements are suggested by these parties:-

- (a) A mechanism should be put in place for the parties which represent the minorities to join the administration following a provincial council election and be entitled to ministries as a matter of right based on their electoral strength.
- (b) In determining the number of ministries to be allocated to a minority community one of the following two criteria be used -the proportion of votes received by the candidates belonging to the parties representing that minority or the proportion of candidates elected from that community, taken as a whole.
- (c) The parties of the minority community can make a request to the Governor/Chief Minister of the province to have a separate ministry to serve the cultural and development needs of that community.
- (d) When minority parties join the Government the process of allocation of ministries should not be left to the discretion of the Chief Minister but be based on the application of an objective method like the d'Hondt formula with a predetermined list of ministries.
- (e) Steering Committees should be established modeled on the Executives Committee as stated in Article 135 of the 2000 Constitution Bill, one for each ministry. There should be additional provision to ensure that as far as possible there is at least one representative from each minority group in each Steering committee, and mandatorily in the committee dealing with finance. Where the number of representatives of a minority is inadequate provision can be made for a minority representative to be in more than one committee, up to a specified limit.
- (f) There must be a representative each of the Muslims and the Indian Tamils in the Finance Commission.

11.3.6 Most of the minority parties in the APRC, specially those who represent the Tamils, however, feel that such alternative arrangements as stated in para 11.3.5 will only succeed in watering down the executive power resulting from the devolution process in the North and East and will not be beneficial to the Tamils living in those Provinces, whose expectation and demand is for executive authority in their majority area.

11.4 Community Councils

11.4.1 There is a recognition of the need for an institutional mechanism to address directly the development needs of the Indian Tamil community and the Muslims living outside the North and East since they have no prospects of independently administering at the Centre or in any of the Provinces. The people of Indian Origin and Muslims outside the North and East aspire for a mechanism to directly intervene to address development issues particular to the communities.

11.4.2 There shall be two Community Councils, one for Indian Tamils and one for Muslims, outside the North and East without territorial focus to serve the development needs of the members of the communities wherever they may be living in Sri Lanka outside the North and the East.

11.4.3 The functions of the Community Councils shall be:

- (a) Implementation of policies, plans and programmes in respect of the communities, proposed by the Community Councils using the existing administrative machinery of the Centre, the Provinces and of the local authorities, for implementation of projects coming within the subjects under each of the levels.
- (b) Development of the socio economic infrastructure directly in relation to the communities.
- (c) Formulation of proposals and strategies for the provision of infrastructure facilities in areas inhabited by the said communities in subjects such as education, health, housing, water supply, roads and power for the improvement of the living conditions of the people; and in particular in areas of-
 - > Education
 - > Arts, culture and religion
 - > Vocational training
 - > Socio economic development
 - > Health, relief, rehabilitation and social service
 - > Housing
 - > Personal development and grants (land, Samurdhi, scholarships etc)
 - > Infrastructure development in the areas inhabited by the ethnic group.
- (d) Act as the co-ordinating and monitoring authority to ensure the implementation of the above development proposals by the relevant implementation agencies.

11.4.4 The Community Councils shall be constituted from the elected Provincial Council Members of the said communities. In whatever Province in which a substantial number of a community live but are unable to elect a member to the Provincial Council, the Governor shall nominate one person who is most representative of that community from among those who contested at the Provincial Council election to serve as a member of the Community Council.

11.4.5 The Community Councils shall have a Chairman who shall preside at meetings of the Council.

11.4.6 The Chairman shall be elected by the Council by a simple majority.

11.4.7 The Chairman of the Community Council shall be an observer at the Chief Minister's Council for coordinated decision making at the National level upon a consultative basis.

11.4.8 The Community Councils shall function directly in association with the Minister of Finance.

11.4.9 The period of office of a member of a Community Council shall be the same as his period of membership of a Provincial Council.

11.4.10 Notwithstanding any vacancies that might for whatever reason may occur, the Community Council shall continue to function during that interim period.

11.4.11 The Finance Commission shall make recommendations for funding the activities of the Community Councils and for implementation of programmes and projects formulated by the Community Councils taking into consideration the needs and extent of finances required to service the subject for which powers have been granted to the Community Councils also considering the population, the present development and the need for the future with the idea of bringing the communities on par with the National levels.

12. DISTRIBUTION OF POWERS

12.1 For devolution to be meaningful, it is proposed that the subjects and functions be categorized as belonging either to the National sphere or to the Provincial sphere.

12.2 The distribution of powers should be explicit and devoid of ambiguity. The Parliament should have no legislative power in respect of subjects and functions in the Provincial List while Provincial Legislatures should not have legislative powers in respect of subjects and functions in the National List. Where a subject or function not found in any List is ancillary to a subject or function already included in the Provincial List, such subject or function shall be deemed to be an item in the Provincial List. All other subjects and functions not explicitly listed in the two Lists shall be deemed to be included in the National List.

12.3 Subjects such as Defence, National Security, Foreign Affairs, Citizenship, Immigration, Communication, National Transportation, International Commerce/Trade, Airports, Maritime Zones, Harbours and Ports (other than harbours without international transportation) and Shipping and Navigation which are necessary to ensure the sovereignty, territorial integrity and economic unity of Sri Lanka shall be reserved for the Centre.

12.4 Where national policy, national standards and national plans need to be formulated, it should be done through a participatory process with the involvement of the Provinces, culminating in framework legislation passed by Parliament. Framework legislation in respect of a devolved subject shall not amount to law applicable on the subject within Provinces, but a Province would be required to conform to such framework legislation when passing statutes. Where a Provincial statute or a provision thereof is inconsistent with the framework legislation, such statute or provision may be struck down by the Supreme Court.

12.5 There shall be two Lists which shall contain the subject matters regarding which the Centre and the Provinces may exercise their respective Legislative powers and Executive functions. These are:

- (a) List I- National List
- (b) List II- Provincial List.

12.6 Parliament shall have exclusive powers to legislate and exercise all executive functions in respect of List I, while the Provincial Legislatures shall have exclusive powers to legislate and exercise all executive functions in respect of List II.

12.7 There shall also be another list of subjects, List III, whose implementation shall be a matter for the local government institutions, the Pradeshiya Sabhas and Grama Sabhas and the Municipal/ Urban Councils and the Urban Ward Sabhas. Municipal/ Urban Councils and Pradeshiya Sabhas shall have the power to make by-laws on subjects in this List consistent with the statutes of the Province.

12.8 A Pradeshiya Sabha or an Urban Council or a Municipal Council may delegate any of its functions for implementation to all Grama Sabhas or Urban Ward Sabhas in the area of its authority, as the case may be, transferring the appropriate financial provision along with that delegation.

13. LAND AND WATER

13.1 The Centre shall succeed to State land used by or assigned to the Central Government and its institutions in respect of subjects and functions in the National List at the commencement of the Constitution.

13.2 Every Province shall succeed to all other State land within the Province, subject to the rights of persons in lawful possession or occupation of such land. A Provincial Government shall be entitled to exercise rights in or over such land, including land tenure, transfer and alienation of land, land use, land settlement and land improvement.

13.3 A Provincial Government may, after due consultation with the Central Government, require the Central Government to make available to the Provincial Government, such State land held by the Centre at that time as may be reasonably required for the purpose of a

subject or function in the Provincial List, and the Central Government shall comply with such requirement.

- 13.4 The Central Government may, after due consultation with a Provincial Government, require the Provincial Government to make available to the Central Government, such State land held by the Province at that time as may be reasonably required for the purpose of a subject or function in the National List, and the Provincial Government shall comply with such requirement.
- 13.5 There shall be a Land and Water Commission (LWC) with equal representation of the Central Government on the one hand and the Provinces on the other and with equitable representation of all the major communities. Members of the Commission shall be persons with technical qualifications and experience in the relevant fields such as irrigation engineering, waterworks engineering, hydropower engineering, geology, soil chemistry, botany, zoology, environmental science and surveying, and shall not be serving public or judicial officers.
- 13.6 The LWC shall formulate national land use policy and make recommendations to the Central and Provincial Governments with regard to the protection of watersheds, the appropriate amount of forest cover in each Province. The Commission shall monitor land use and ensure compliance with policy and recommendations so formulated.
- 13.7 The LWC shall also formulate national plans relating to inter-provincial irrigation, water supply and hydropower projects, in consultation with the relevant Provinces, and make recommendations to the Central and Provincial Governments with regard to their design, implementation and operation.
- 13.8 Priority in a land settlement scheme in a province shall be accorded first to needy persons of the District, then of the adjoining Districts within the Province, and then to needy persons of the Province, paying attention to the needs of all the communities, particularly the minorities of the District and of the Province and lastly to needy persons outside the Province. The selection of the allottees shall be the responsibility of the Province.
- 13.9 The alienation of State land under inter-provincial irrigation schemes, like the Mahaweli scheme, shall be on the basis of the national ethnic ratios (1981 census). Priority shall be given to persons who are displaced by the scheme, needy persons of the district or districts in which the scheme is situated, thereafter to other needy persons of the relevant Provinces and finally to other needy persons in the country.
- 13.10 The LWC shall determine and intimate to the provinces the number of allotments available for alienation to residents of the relevant districts and Provinces covered by an inter-provincial irrigation scheme. The selection of the allottees shall be the responsibility of the Province.
- 13.11 Where the members of any ethnic community did not, or were unable to take their entitlement of allotments from any such inter-provincial irrigation scheme in a particular

district, they shall be eligible to receive an equivalent number of allotments in the same scheme in another district, or in another inter-provincial irrigation scheme.

13.12 The distribution of allotments in schemes on the basis of the aforesaid principles shall be done as far as possible so as not to disturb very significantly the demographic pattern of the Province concerned and in accordance with the principles of ensuring community cohesiveness in the Province.

14. JUDICIARY

14.1 The institutions administering justice shall be the Constitutional Court, Supreme Court, the Court of Appeal, Provincial High Courts and other courts, tribunals and other institutions established by the Constitution or by law.

14.2 There shall be established a Constitutional Court.

14.2 A The Jurisdiction of the Constitutional Court shall be:

- (a) To hear and determine appeals arising out of decisions rendered by the Supreme Court on questions that raise matters pertaining to Constitutional Law.
- (b) If at any time it appears to the President of the Republic or to the Speaker of the Parliament or to the President of the Senate that a question of law or fact has arisen or is likely to arise which is of such nature and of such public importance that it is expedient to obtain the opinion of the Constitutional Court upon it, they may, at their discretion refer that question to the Court for consideration and the Court may, after such hearing as it thinks fit, within the period specified in such reference or within such time as may be extended by the President of the Republic, Speaker or the President of the Senate report to the President its opinion, thereon.
- (c) Notwithstanding paragraph (b), the Court shall not have original jurisdiction in any matter whatsoever.

14.2B (a) Appeals to the Constitutional Court shall be made with leave from both the Supreme Court and from the Constitutional Court,

Or

- (b) With leave only from the Constitutional Court where the Supreme Court had declined an application for leave to appeal to that court.

14.2C The Court shall be constituted with the appointment of not more than 12 judges, of whom one of them shall be appointed as the President of the Court.

14.2D When the Court has a full complement of 12 judges, the Court shall sit in three separate chambers, at all times, where each will be presided by three judges; so that there will be a

group of three judges always not sitting and always making themselves available to write judgments required to be delivered by them:

Provided that where the Court for some reason had not been constituted with its full complement of 12 members, the President of the Court has a power to decide upon the number of chambers of the court that would sit at any one time, so as to provide the litigants with the most effective and timely manner in which the matters on appeal may be heard and disposed of.

14.2E Depending on the availability of suitable persons for appointment, the Constitutional Court may be constituted whenever it becomes necessary with a lesser number of judges.

14.2F The President of the Court shall be a person who could administer the effective functioning of the Court and provide intellectual leadership to the rest of the Court.

14.2G Whenever it is found that there had arisen conflicting judgments in the Court, the President may on his own, or at the request of Counsel or parties to the appeal or for any other reason constitute a Bench of five, seven or nine judges of the court to resolve such conflicts.

14.2H (a) The Constitutionality of the Pre-legislative Bills may be subjected to judicial scrutiny under the provisions of Article 121 of the Constitution. The matter shall be heard and determined by the Supreme Court as a court having both original and final jurisdiction from which there shall be no appeal any further to the Constitutional Court.

(b) The Constitutionality of the post-legislative Statutes may be subject to judicial scrutiny at any time after its enactment whether or not it had previously been determined under paragraph (a) of this Article, and notwithstanding the fact that it had at that hearing being found to be *intra vires* the Constitution and therefore valid.

(c) Where the Supreme Court determines under paragraph (a) of this Article that the pre-legislative Bill was *ultra vires* the Constitution, that determination remains final and conclusive with regard to that Bill, and may not be reconsidered thereafter by any other court, including the Constitutional Court.

14.2I The group of persons from whom appointments to the Constitutional Court may be made are from the following:

(a) Academics who have a specialised knowledge in Constitutional Theory.

(b) Members of the legal profession who are currently practicing in the Sri Lanka Courts, predominantly in Constitutional Theory and Human Rights.

(c) Retired judges who have excelled themselves in Constitutional theory as determined by their judgments.

14.2J There shall be a selection Committee of Experts comprising of :

- (a) the most senior academic of the faculty of Law of University of Colombo and of the Department of Law of the Universities of Jaffna, Peradeniya and of the open University, one of whom to be chosen by the Higher Appointments.
- (b) one member from the Committee of Vice-Chancellors, chosen also by the Higher Appointments Council provided that such a person so chosen is not a person who may be considered as one who is learned in the law.
- (c) The Legal Draftsman, *ex officio*.

14.2K The Selection Committee mentioned in Article 14.2 J, shall be established by the Higher Appointments Council and that committee shall be chaired by a person chosen from among its members and by its members who shall report the Committee's findings to the said Council.

14.2L The Higher Appointments Council shall convey through a person designated for that purpose, its decision to the President of the Republic who may appoint the person or persons chosen by that Council by administering the oath, and by warrant under his hand.

14.2M The proceedings of the Selection Committee shall be conducted in accordance with the Roberts Rules of Procedure.

14.2N The Selection Committee to which Article 14.2 J and K refers will be responsible to provide the Higher Appointments Council to consider for appointment as judges of the Constitutional Court, including the person who is deemed to be most suitable to be appointed as the President of the Court from among those listed.

14.2O The same procedure as set out in Articles 14.2J to 14.2 N and any other necessary Article shall apply for filling vacancies that may from time to time occur in the Court.

14.2P The Higher Appointments Council shall make the final decision for appointment as judges or as a judge, of the Constitutional Court, as the case may be.

14.2Q The President shall have no discretion in the appointment of judges to the Constitutional Court upon receiving the recommendation of the Higher Appointments Council.

14.2R The provisions of Article 107, 110 (2); 110 (3) shall apply to the judges of the Constitutional Court in the same manner as they would apply to the Judges of the Supreme Court; and the Court of Appeal as if they had been expressly there mentioned and included in the contents of those three Articles.

14.2S Articles 118, 119 and 120 in particular and any other relevant Article of the 1978 Constitution shall apply with suitable amendments so as to accommodate the Constitutional

Court as the Apex Court in all matters, raising points of Constitutional law of "exceptional importance", which is to be determined ultimately by the Constitutional Court itself.

- 14.2 T A judge of the Constitutional Court or the Court itself may be required by the President of the Republic to perform or discharge any other duties or functions suitable and appropriate to the role of a judge of that Court, or appropriate to the standing of the Court, which role the Court and its judges are deemed to play under the Constitution.
- 14.2 U Judges of the Constitutional Court shall be appointed initially for seven years and shall be eligible for re-appointment for the full period of seven years or for a portion of that period as is deemed fit and suitable by the Higher Appointments Council.
- 14.2V There shall be no age limit for appointment or for holding office as a judge of the Constitutional Court other than the appointees' mental and physical ability to perform the tasks required of him in his capacity as a member of that Court.
- 14.2W Every judge of the Constitutional Court shall hold office for a period of seven years from the date of his appointment, unless he earlier vacates office by death, resignation made in writing to His Excellency the President or is removed under the procedure laid down in Article 107 of the Constitution.
- 14.3 Appointments to the Supreme Courts and the Court of Appeal shall be from among Judges, unofficial and official bars and from academia. Appointments shall be upon merit, based on a demonstrable knowledge of the law and known ability to contribute to the laws and legal development of Sri Lanka. The Supreme Court and the Court of Appeal should reflect the pluralistic character of Sri Lanka.
- 14.4 The Supreme Court shall consist of the Chief Justice and not less than ten and not more than sixteen other judges appointed in accordance with the Constitution.
- 14.5 The Court of Appeal shall consist of its President and not less than thirty and not more than thirty five judges who shall be appointed in accordance with the Constitution.
- 14.6 There shall be a single Court of Appeal sitting in each of the nine provinces with an all Island Jurisdiction.
- 14.7 The Court of Appeal shall rank immediately below the Supreme Court.
- 14.8 All judges of the Court of Appeal shall rank with equal status and shall be chosen by the President of the Court of Appeal to sit in different Provinces for different periods of time.
- 14.9 The Court of Appeal shall sit in benches comprising of at least two judges, and shall replace the **Provincial Civil Appellate High Court**.
- 14.10 The Court of Appeal shall hear and determine appeals and matters in Revision arising out of decisions made by the High Courts and the District Courts of the Provinces, while

Appeals and Revisions from Magistrates' courts and other tribunals shall continue to be heard by the Provincial High Courts.

14.11 The Court of Appeal shall be possessed of original Jurisdiction over violations of fundamental rights arising out of an infringement, or an imminent infringement, by provincial executive or administrative action.

14.12 The Judicial Service Commission (JSC) shall consist of the Chief Justice (who shall be the Chairman), and two senior Judges of the Supreme Court nominated by the Higher Appointments Committee (HAC) and appointed by the President.

14.13 Notwithstanding the above mentioned provisions, all provisions of the 1978 Constitution which are applicable to the Jurisdiction of the Supreme Court and to the Court of Appeal which do not conflict with the provisions contained in this part of the document shall continue.

15. PUBLIC SERVICE

15.1 The public service in a devolved system of governance must be organized at the national, provincial and local levels. Under current arrangements, the Provincial Councils Act 42 of 1987 provides for provincial public services. However the implementation of these provisions was provided for administratively through "National Policy" and effected within the structure of the centralized public service. As a result provincial staffing was determined by the Centre, seriously undermining the role and functions of the provincial and local tiers. To remedy this situation, it would be necessary to provide for:-

- (a) Staffing of public positions required at each tier of government according to the service delivery needs in relation to the functions assigned.
- (b) Staffing levels of the provincial and local tiers to be agreed upon over the medium term (a period of three years) as a tri-partite arrangement between the National Public Service Commission, the National Finance Commission and the respective Provincial Public Service Commissions.
- (c) Re-defining the role and functions of the Public Service Commission(s) to focus more on public employment and less on public personnel functions with the latter being delegated to Ministries and Departments of both the Centre and the Provinces.
- (d) Re-defining the role of the All Island Services.
- (e) Resolving the inefficient duality in the public service at the sub-national levels.

15.2 Devolution of powers to the Provinces should not result in an unhealthy duplication of positions and officers in the public service. Giving emphasis to the All Island Services

would immensely contribute not only towards emergence of economical and effective services but also services built on national unity and integration.

- 15.3 There should be public services categorized as All Island Services, National Public Services and Provincial Public Services. Parliament may declare by law any public service to be an All Island Service. This shall not preclude a Province in establishing provincial services for all or any of the disciplines. The All Island Services shall include services such as the Sri Lanka Administrative Service, Sri Lanka Engineering Service, Government Medical Officers Service, Sri Lanka Police Officers Service (ASP upwards) and the Sri Lanka Teachers Service.
- 15.4 Officers of the All Island Services shall be recruited nationally and provincially (on a delegated basis) and be deployed in the national and provincial public services on release by the National Public Service Commission. The release of any All Island Service officers to the provincial public services shall be agreed to with the respective Provincial Public Service Commission. Every officer of an All Island Service recruited to the cadre of a province shall at the outset serve a minimum of 3 years in that Province and a total of not less than 10 years in that Province, however aggregated.
- 15.5 There should be a National Public Service Commission (NPSC) consisting of not less than 7 members and not more than 9 members and a Provincial Public Service Commission for each of the Provinces consisting of not less than 3 members and not more than 7 members whose memberships shall reflect the ethnic composition at the national and provincial levels respectively. Nearly as may be, one-half of the membership of any of the public service commissions shall be persons who shall have had a minimum of 10 years experience as an officer under Government.
- 15.6 The National Public Service Commission and the Provincial Public Service Commissions shall determine the cadres to their respective services, including the All Island Services. It shall be the responsibility of the Provincial Public Service Commission to provide the necessary administrative staff to all local authorities.
- 15.7 All appointments, transfers, promotions, dismissal and disciplinary control of national public officers shall vest in the National Public Service Commission. It may delegate all or any of its functions in respect of specific categories to a Committee of the NPSC or to any public officer and where appropriate to the Provincial Public Service Commissions. An officer of an all island service released to a provincial public service shall have the right of appeal to the National Public Service Commission. A Provincial Public Service Commission may delegate all or any of its functions in respect of any category of public officers to any public officer.
- 15.8 Committees of the NPSC shall be independent and shall function under the direct supervision of the NPSC. There shall be a minimum of 3 members in each such Committee, one of whom shall be a member of the NPSC, who shall also be the Chairman of the Committee. The other two members shall not be serving public or judicial officers.

- 15.9 Devolution of powers has not only to be effective but also devoid of duality. For this purpose, we propose that the district administration has to be restructured so as to form part of the provincial administration. Thus the Government Agent and the Divisional Secretary should belong to an All Island Service and hold the rank of a head and deputy head of department respectively, in the provincial administration. All Grama Niladharis in a Province should also be absorbed into the Provincial Public Service of that Province.
- 15.10 In view of the importance attached to the districts and divisions in the implementation of provincial plans, the Government Agent of a District shall be redesignated as the District Commissioner (DC) while the Divisional Secretary shall be redesignated as the Divisional Commissioner (Div C). The DC who has to report to the Provincial Secretary in charge of Home Affairs shall have the rank of an Additional Provincial Secretary.
- 15.11 Constitutional provisions should be made to enable the Centre to entrust central functions such as, customs, elections, census, national identity cards, gun licensing etc to the District Commissioner, Divisional Commissioner, Grama Niladhari and other provincial officers as agency functions. A sub-secretariat in each of the District Secretariats (Kachcheris)/ Divisional Secretariats will have to be set up under a senior officer to provide services to the public in respect of central functions entrusted to the District Commissioners/ Divisional Commissioners.
- 15.12 There shall be equitable representation of the different ethnic communities of Sri Lanka in the public services. Since Sri Lankan Tamils, Moors and Indian Tamils are under-represented in the public service, suitable affirmative action should be taken to remedy the situation. An affirmative action shall be for an interim period to restore the ethnic balance in the public services, and, will be reviewed every five years.
- 15.13 The principle for recruitment to the public service shall be merit. However, in view of the ethnic imbalance in the public service, recruitment to public office may be based on provincial or national ethnic ratios, as the case may be, and on merit within a particular community, taking into consideration the actual needs based on linguistic criteria.
- 15.14 Promotion of public officers shall be based on seniority and on merit based on objective criteria among serving officers within a particular service.
- 15.15 The President shall appoint the Secretary to the President, the Cabinet Secretary, the Principal Secretary to the Prime Minister, all Secretaries to National Ministries and other public officers required by the Constitution, on the advice of the Prime Minister or on the recommendation of the Higher Appointments Commission, as the case may be. The appointment, promotion, transfer, dismissal and disciplinary control of all Additional Secretaries to Ministries and the Heads of National Departments shall vest in the Cabinet of Ministers.
- 15.16 The Governor of a Province shall appoint the Chief Secretary, the Principal Secretary to the Chief Minister, the Secretary to the Governor and other Secretaries to Provincial Ministries on the advice of the Chief Minister of the Province. The appointment,

promotion, transfer, dismissal and disciplinary control of all Heads of Departments of a Province including the District Commissioners (Government Agent) shall vest in the Board of Ministers.

15.17 There shall be a Public Services Appeals Tribunal.

15.18 There shall be a Forum of Chairpersons of Public Service Commissions consisting of the Chairpersons of the National Public Service Commission, the Police Service Commissions and the Provincial Public Service Commissions.

15.19 The Forum will recommend criteria for the appointment, promotion, transfer, dismissal and disciplinary control of public officers and police officers with the view to ensuring uniformity of practice and adherence to minimum standards, and, to make recommendations for improving the quality and efficiency of the services.

15.20 The appointment, dismissal and disciplinary control of Advisors and Consultants shall vest in the Cabinet of Ministers and the Board of Ministers of the respective Province, as the case may be.

16. FINANCE.

16.1 A tax shall not be levied or collected except by or under law or Statute.

16.2 Central and Regional Finances.

- (1) (a) Subject to the provisions of this Chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to the provinces, all funds of the Central Government not allocated for specific purposes shall form one consolidated fund to be called the Consolidated Fund of Sri Lanka into which shall be paid the produce of all taxes, imposts, rates and duties and all other revenues of the Central Government.
 - (b) All revenues received by a Provincial Administration and all loans raised by such Administration, and all monies received by such Administration in repayment of loans shall form one consolidated fund to be called the Consolidated Fund of the Province.
 - (c) All other public monies received by or on behalf of the Central Government or a Provincial Administration shall be credited to the Consolidated Fund of Sri Lanka or the Consolidated Fund of the Province as the case may be.
 - (d) Money out of the Consolidated Fund of Sri Lanka or the Consolidated Fund of the Province shall not be appropriated except in accordance with law or Statute and for the purposes and in the manner provided in the Constitution.
- (2) (a) Notwithstanding any of the provisions of this Chapter, Parliament may by law create a Contingencies Fund for the purpose of providing for urgent and unforeseen expenditure.

(b) The Minister of the Cabinet of Ministers in charge of the subject Finance, if satisfied –

- (i) that there is need for any such expenditure; and
- (ii) that any provision does not exist for such expenditure;

may, pending subsequent approval by Parliament authorize provision to be made therefor by an advance from the Contingencies Fund.

(c) After each such advance, a supplementary estimate shall, within a period of three months, be presented to Parliament for the purpose of replacing the amounts so advanced.

(d) A Provincial Council may be Statute establish a Contingency Fund in the nature of an imprest, to be entitled the Contingency Fund of the Province into which shall be paid from time to time such sums as may be determined by such Statute, and such Fund shall be placed at the disposal of the Chief Minister the of Province to enable advances to be made by him out of such Fund for the purpose of meeting unforeseen expenditure and after each such advance, a supplementary estimate shall, within a period of one month, be presented to the Provincial Council for the purpose of replacing the amounts so advanced.

(3) (a) Excise duties as may be prescribed by Parliament on the recommendation of the Finance Commission shall be levied by the Central Government but shall be collected –

(i) in the case where such duties are leviable within the Capital Territory, by the Central Government; and

(ii) in other cases, by the Provincial Administrations of the Province within which such duties are respectively leviable.

(b) The proceeds in any financial year of any such duty leviable within any Province shall not form part of the Consolidated Fund of Sri Lanka and shall be assigned to that Province.

(4) (a) Taxes on wholesale and retail sales (other than sales by manufacturers) shall be levied and collected by the Central Government but shall be apportioned to the Province in the manner provided in sub-paragraph (b) of this paragraph.

(b) The net proceeds in any financial year of any such tax shall not form part of the Consolidated Fund of Sri Lanka but shall be assigned to the Province within which such tax is leviable in that year in accordance with such principles of apportionment as may be prescribed by Parliament on the recommendation of the Finance Commission.

(c) The Finance Commission shall also formulate principles for determining where a sale or purchase or consignment of goods takes place in the course of inter-provincial trade or commerce for the purpose of sub-paragraph (b) of this paragraph.

(5) (a) Taxes on sales or income not otherwise provided for shall be levied and collected by the Central Government and shall be distributed in the manner provided in sub-paragraph (b) of this paragraph.

(b) A percentage as may be prescribed by Parliament of the net proceeds in any financial year of any such tax shall be assigned to the Province within which such tax is leviable in that year and shall be disbursed to the respective province in such manner, and from such time, as may be prescribed by the Finance Commission.

(6) Such sums as Parliament may by law provide shall be charged to the Consolidated Fund of Sri Lanka in each year as grants in aid of the revenue of such Provinces as Parliament may determine to be in need of assistance, and different sums may be fixed for different Provinces.

16.3 Withdrawals of Sums from Consolidated Fund

(1) Save as otherwise expressly provided in paragraphs (3) and (4) below, money shall not be withdrawn from the Consolidated Fund of Sri Lanka except under the authority of a warrant under the hand of the Minister of the Cabinet of Ministers in charge of the subject of Finance.

(2) Any warrant under paragraph (1) above shall not be issued unless money has by resolution of Parliament or by any law been granted for specified public services for the financial year during which the withdrawal is to take place or is otherwise lawfully charged on the Consolidated Fund of Sri Lanka.

(3) Where the President dissolves Parliament before the Appropriation Bill for the financial year has passed into law, the President may, unless Parliament shall have already made provision, authorize the issue from the Consolidated Fund of Sri Lanka and the expenditure of such monies as the President may consider necessary for public services until the expiration of a period of three months from the date on which the new Parliament is summoned to meet.

(4) Where the President dissolves Parliament and fixes a date or dates for a General Election, the President may, unless Parliament has already made provision in that behalf, authorize the issue from the Consolidated Fund of Sri Lanka and the expenditure, of such monies as the President may, after consultation with the Election Commission, consider necessary for such elections.

(5) Money shall not be withdrawn from the Consolidated Fund of a Province except under a warrant under the hand of the Chief Minister of the Province.

(6) A warrant under paragraph (5) above shall not be issued unless the money has by Statute of the Provincial Legislature established for the Province, been granted for services for the financial year during which the withdrawal is to take place or is otherwise lawfully charged on the Consolidated Fund of the Province.

16.4 Special Provisions as to Bills affecting Public Revenue of Sri Lanka.

A Bill or motion, authorizing the disposal of any monies of, on the imposition of charges upon, the Consolidated Fund of Sri Lanka or other funds of the central Government, or the imposition of any tax or the repeal, augmentation or reduction of any tax for the time being in force shall not be introduced in Parliament except by a Minister of the Cabinet of Ministers, and unless such Bill or motion has been approved either by the Cabinet of Ministers or in such manner as the Cabinet of Ministers may authorize.

16.5 Provincial borrowing and investment in the Province

- (1) (a) the executive power of the Province extends to domestic and international borrowing upon the security of the Consolidated Fund of the Province.
- (b) International borrowings by a Provincial Administration shall be subject to such criteria and limitations as may be specified by Parliament and shall require the concurrence of the Finance Commission.
- (2) (a) The limits as regards domestic borrowing and the limitations and criteria as regards international borrowing by each Provincial Administration for each financial year shall, subject to the provisions of sub-paragraph (b) of this paragraph, be laid down by the Minister of the Cabinet of Ministers in charge of the subject of Finance before the thirtieth day of September of the preceding financial year.
- (b) In laying down these limits and criteria, the Minister shall take into consideration the requirements of fiscal policy and the demands of monetary stability as well as the repayment capacity of each Provincial Administration.
- (3) Any agreements negotiated and entered into by Provincial Administrations regarding international grants and foreign development assistance shall be in accordance with the national policies on international aid as laid down, from time to time, by the Cabinet of Ministers and approved by Parliament.

16.6 Finance Commission

- (1) (a) There shall be a Finance Commission consisting of five members who have distinguished themselves or held high office, in the fields of finance, law, administration, business or learning, and who shall be appointed by the President on the recommendation of the Higher Appointments Council.
- (c) In making a recommendation under sub-paragraph (a), the Higher Appointments Council shall ensure that the majority community and the three minority communities are represented.

- (c) The President shall appoint one of the members as the Chairperson of the Finance Commission.
 - (d) The Secretary to the Treasury and the Governor of the Central Bank should give all assistance to the Commission, without being members of the Commission.
 - (e) There shall be a Provincial Financial Consultative Committee which will work together with the Finance Commission. This will be made up of representatives chosen by Provincial Administrations, one from each Province.
 - (f) There shall be a Provincial Planning Unit in each Province. Each Provincial Planning Unit will prepare a medium term plan for the Province covering development activities undertaken by the Central Provincial and Local Government institutions. The Finance Commission must ensure that adequate resources will be made available to the institutions of Local Government, including the village committees. Together with the National Planning Department and the National Budget Department, it will assist the Finance Commission to decide on the allocation to the Provinces on a medium term basis (eg. 3 to 5 years).
- (2) Every member of the Commission, unless the member earlier resigns or is removed, from office, shall hold office for a period of five years.
 - (3) The Central Government shall, on the recommendation of and in consultation with the Commission, allocate from the annual budget such funds as are adequate for the purpose of meeting the needs of the provinces.
 - (4) Subject to paragraph (5) below, it shall be the duty of the Commission to make recommendations to the President as to –
 - (a) the principles on which such funds as are granted annually by the Central Government for the use of Provinces, shall be apportioned between the various Provinces.
 - (b) the principles on which the sharing and assignment or the assignment of revenue between the Central Government and the Provinces should take place with a view to ensuring the assured measure of finances necessary for effective devolution; and
 - (c) any other matter referred to the Commission by the President relating to provincial finance.
 - (5) In making the recommendations under sub-paragraphs (a) and (b) of paragraph (4) above, the Commission shall formulate such principles with the objective of achieving balanced regional development in the country, and shall accordingly take into account-
 - (a) the needs of the Province to implement the devolution of powers and its capacity to raise revenue;

- (b) the population of each Province;
 - (c) the per capita GNP of each Province;
 - (d) the need, progressively, to reduce social and economic disparities;
 - (e) the need, progressively, to reduce the difference between the *per capita* GNP of each Province and the highest *per capita* GNP among the Provinces;
 - (f) the need to have effective utilization of the monies made available to the respective provinces by ensuring timely and objective allocations in a definitive and predictable manner;
 - (g) any exceptional expenditure incurred by a Provincial Administration to meet exigencies such as natural disaster;
 - (h) special needs of particularly under privileged communities;
 - (i) the returns submitted to the Commission by every Provincial Administration including information relating to expenditure; and
 - (j) the reports of the Auditor-General consequent to the audits of Provincial Administrations and authorities thereof.
- (6) Legislation to empower the Finance Commission to discharge its duties as per the Constitution must be passed by Parliament. The Commission shall determine its own procedure, appoint its staff and determine their salaries and shall have such power in the performance of its duties as Parliament may, by law, confer on it. The Ministry of Finance shall provide the information requested by Commission.
- (7) The Report of the Finance Commission should be presented for approval to the Council of Chief Ministers, chaired by the President in the presence of the 3 months prior to the presentation of the National and Provincial Budgets. Once adopted the provision of Funds for its implementation should be considered mandatory.
- (8) The Finance Commission recommendations should ensure that there is fair revenue sharing taking into consideration the needs of the three tiers of government, the Centre, the Province and Local Government, based on the application of the guiding principles and with due regard to the extent of devolved powers.
- (9) The President shall cause every recommendation made by the Finance Commission to be laid before Parliament and shall notify Parliament as to the action taken thereon. The needs of the Provinces should be assessed every 3 to 5 years and our economic framework approved by Parliament.

- (10) The Provinces should be empowered to pass laws to raise revenue within the subjects devolved to the Provinces, without any restriction and without abdicating this authority to Parliament. The revenue collecting authorities should credit all revenue to the Consolidated Fund of the Province.
- (11) The Central Bank should distribute funds to the Provinces according to the recommendations of the Finance Commission, without going through the Treasury.
- (12) Any court, tribunal or other institution shall not inquire into or pronounce on, or in any manner entertain, determine or rule upon, any question relating to the adequacy of such funds, or any recommendation made, or principle formulated by the Commission.

16.7 Exemption of income and property of the Central Government and of Regional Administrations from taxation.

- (1) The property and income of the Central Government shall, save in so far as Parliament may by law otherwise provide, be exempt from all taxes imposed by a Provincial Administration.
- (2) The property and income of a Provincial Administration shall be exempt from taxation by the Central Government, save and except customs duties.

16.8 Auditor General

- (1) There shall be an Auditor-General who shall be appointed by the President and who shall hold office during good behaviour.
- (2) The salary of the Auditor-General shall be determined by Parliament, shall be charged on the Consolidated Fund of Sri Lanka and shall not be reduced during the term of office of the Auditor-General.
- (3) The office of the Auditor-General shall become vacant –
 - (a) upon death;
 - (b) on resignation in writing addressed to the President;
 - (c) on attaining the age of sixty years;
 - (d) on removal by the President on account of ill health or physical or mental infirmity;
 - or
 - (e) on removal by the President upon an address of Parliament.
- (4) Whenever the Auditor-General is unable to discharge the functions of the office, the President may appoint a person to act in the place of the Auditor-General.

16.9 Duties and functions of the Auditor – General

- (1) The Auditor-General shall audit the accounts of all departments of the Central Government and of the Provincial Administrations, the offices of the Cabinet of Ministers, the Judicial Service Commission, the National Public Service Commission, the Finance Commission, the National Police Commission, Provincial Public Service Commissions, Provincial Police Commissions, the Parliamentary Commissioner for Administration, the Secretary-General of Parliament, the Election Commission, the Commission for the Investigation of Bribery or Corruption, local authorities, public corporations and business or other undertakings vested in the Central Government under any written law.
- (2) Notwithstanding the provisions of paragraph (1) above, the Minister of the Cabinet of Ministers in charge of any such public corporation or business or other undertaking may, with the concurrence of the Minister of the Cabinet of Ministers in charge of the subject of Finance, and in consultation with the Auditor-General, appoint a qualified auditor or auditors to audit the accounts of such public corporation or business or other undertaking, and where such appointment has been made by the Minister, the Auditor-General may, in writing, inform such auditor or auditors that the Auditor-General proposes to utilize the services of such auditor or auditors for the performance and discharge of the Auditor-General's duties and functions in relation to such public corporation, business or undertaking and thereupon such auditor or auditors shall act under the direction and control of the Auditor-General.
- (3) (a) The Auditor-General may for the purpose of the performance and discharge of the Auditor-General's duties and functions engage the services of a qualified auditor or auditors who shall act under the direction and control of the Auditor-General.

(b) If the Auditor General is of opinion that it is necessary to obtain assistance in the examination of any technical, professional or scientific problem relevant to the audit, the Auditor-General may engage the services of-
 - (i) a person not being an employee of the department, body or authority the accounts of which are being audited; or-
 - (ii) any technical or professional or scientific institution not being an institution which has any interest in the management of the affairs of such department, body or authority;and such person or institution shall act under the direction and control of the Auditor-General.
- (4) (a) The Auditor-General or any person authorized or engaged by the Auditor-General shall, in the performance and discharge of the duties and functions of the Auditor-General, be entitled –
 - (i) to have access to all books, records, returns and other documents;

- (ii) to have access to stores and other property; and
 - (iii) to be furnished with such information and explanations as may be necessary for the performance of such duties and functions.
- (b) Every qualified auditor appointed to audit the accounts of any public corporation, or business or other undertaking, or any other person authorized by such auditor shall be entitled to like access, information and explanations in relation to such public corporation, or business or other undertaking.
- (5) (a) The Auditor-General shall within ten months after the close of each financial year and as when the Auditor-General deems it necessary, submit reports on the performance and discharge of the duties and functions of the Auditor-General under the Constitution, to Parliament, in so far as those duties and functions relate to departments of the Central Government, public corporations, local authorities and business and other undertakings vested in the Government under any written law, and to the Provincial Legislature established for a Province in so far those duties and functions relate to the Provincial Administration of that Province.
- (b) The reports of the Auditor-General relating to the Provincial Administration which are required to be submitted to a Provincial Legislature under sub-paragraph (a) of this paragraph shall be laid before the relevant Provincial Legislature.
- (c) The Auditor General should be required to send his reports relevant to the Provincial Councils to the Provincial Legislature concerned.
- (6) Every qualified auditor appointed under the provisions of paragraph (2) of this Article shall submit the auditor's report to the Minister and also submit a copy thereof to the Auditor-General.
- (7) In this Article, "qualified auditor" means –
- (a) an individual who, being a member of the Institute of Chartered Accountants of Sri Lanka, or of any other Institute established by law, possesses a certificate to practice as an Accountant issued by the Council of such Institute; or
 - (c) a firm of Accountants each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law, possesses a certificate to practice as an Accountant issued by the Council of such Institute.

17. DEFENCE, NATIONAL SECURITY AND LAW AND ORDER

17.1 Defence, and national security, shall be subjects reserved exclusively for the Central Government.

17.2 Matters connected with National security relating to devolved subjects, if any, could be dealt with by the Centre in the exercise of its powers under national security.

17.3 In the exercise of police powers, law and order, including public order, shall be devolved on the Provinces as specified hereinafter but be reserved exclusively for the Central Government in the Capital Territory and in addition to those expressly provided for in the Constitution.

17.4 In respect of any Province, where the Central Government is of opinion that the Provincial Police Division is unable to provide adequate security to specified institutions of the Centre such as ports, harbours and airports, it may deploy the National Police Division to provide the security.

17.5 In a serious breakdown of Law and Order situation/ in a riotous or violent situation, the Minister in charge of the subject of Defence is free to deploy the National Police Division or the Armed Forces in any part of the country and take such other steps as deemed necessary for the preservation of law and order, and for the safety and security of the people, independent of the Provincial Administration concerned.

17.6 The Inspector General of Police (IGP) shall be the head of the Sri Lanka Police Service. The Sri Lanka Police Service shall be divided into –

(a) the National Division (including Special Units); and

(b) a Provincial Division for each Province.

17.7 There shall be a National Police Division headed by an Inspector General of Police (IGP) and Provincial Police Divisions, each headed by a Provincial Deputy Inspector General (PDIG) of the Province who shall be subordinate to the IGP. The Constitution shall provide for co-operation between the National and Provincial Police Divisions. The Inspector General of Police shall be appointed by the President on the advice of the Prime Minister with the approval of the Higher Appointments Council.

17.8 The National Police Division shall have exclusive competence to investigate offences laid down in the schedule to Appendix 1 of the 1978 Constitution. These would include offences against the Republic, offences relating to the National Police, Army, Navy and Air Force, any offence committed against specified persons such as the President, Prime Minister, Ministers, Members of Parliament, Judges of the Supreme Court or the Court of Appeal, any offence prejudicial to national security or the maintenance of essential services, any offence in respect of which courts in more than one Province have jurisdiction, any international crime and any offence committed within the Capital Territory.

17.9 Where the Chief Minister of a Province seeks the assistance of the Centre to preserve public order within the Province, the Minister in charge of the National Police Division

shall direct the IGP to deploy such personnel as are necessary for the purpose and they shall be placed under the control of the Provincial Deputy Inspector General (PDIG) of the Province.

- 17.10 The Police Commission (PC) will be responsible for the appointment, promotion, transfer, disciplinary control and dismissal of officers coming under its purview. The cadres of Police Officers of all ranks of the National Division shall be fixed by the Government of Sri Lanka. The cadre of Officers and other ranks of each Provincial Division shall be fixed by the Provincial Administration with the approval of the National Police Commission, having regard to –
- (a) the area of the Province;
 - (b) population of the Province; and
 - (c) such other criteria, as may be agreed to or prescribed.
- 17.11 There shall be a single Sri Lanka Police Officers Service (SLPOS) consisting of officers in the grades of Assistant Superintendent of Police (ASP) and above. ASPs shall be recruited nationally and be deployed in the national and provincial police services on release by the National Police Service Commission.
- 17.12 The National Police Division shall consist of the IGP and other officers belonging to the SLPOS and lower ranks recruited or promoted at the national level. The National Police Service shall reflect the pluralistic character of Sri Lanka.
- 17.13 The IGP shall establish special units of the National Police Division reflecting the pluralistic character of Sri Lanka to be kept in reserve for exigencies in the Provinces.
- 17.14 A Provincial Police Division shall consist of officers of the Sri Lanka Police Officers Service released to the Province, and ranks below the grade of ASP recruited or promoted at the provincial level or released from the National Police Division. Each Provincial Police Division shall reflect the ethnic composition of the Province. The Provincial Deputy Inspector General of Police of a Province shall be appointed by the IGP with the concurrence of the Chief Minister of the Province. However, where there is no agreement between the IGP and the Chief Minister, the matter will be referred to the President, who, after due consultation with the Chief Minister, shall make the appointment.
- 17.15 Every Police Station in the country should be able at all times to provide facilities for communication in the Sinhala and Tamil languages.
- 17.16 All Police Officers serving in units of the National Division and Provincial Divisions in any Province shall function under the direction and control of the PDIG of such Province.
- 17.17 The Provincial Deputy Inspector General of Police (PDIG) shall be responsible to and under the control of the Chief Minister thereof in respect of the maintenance of public order in the Province and the exercise of police powers in the Province as set out in this

Schedule. However the Chief Minister shall act in consultation and with the concurrence of the Governor of the Province in the exercise of these powers.

18. LOCAL GOVERNMENT

- 18.1 Local authorities, that is, Pradeshiya Sabhas and Municipal or Urban Councils should be recognized and granted much more powers than at present. The implementation of Provincial Statutes relating to subjects listed in a Schedule to the Constitution would be a matter for local authorities. Local authorities would not have legislative power, but would have power to make by-laws in respect of subjects in List III.
- 18.2 Such an arrangement would help in the empowerment of the people in their own localities. Further, this would also enable localized ethnic communities to be in better control of their living and working environment, and its improvement. This empowerment can be strengthened through the Grama Sabhas/ Urban Ward Sabhas.
- 18.3 The elected representatives to the Pradeshiya Sabhas should be drawn from the Grama Sabhas while the elected representatives to the Urban/ Municipal Councils should be drawn from the Urban Ward Sabhas. The elections to the Grama Sabhas and the Urban Ward Sabhas should be based on Wards. (See Annex 2)
- 18.4 People's participation in governance will be through the Jana Sabhas which will consist of about a hundred families at village level and through Veedi Sabhas which will consist of about two hundred families at the street level in the urban areas. It is by the Jana/Veedi Sabhas that the local needs will be listed and prioritized at their meetings and subsequently monitored and audited.
- 18.5 After a representative has completed half his term, he could be recalled for poor performance or errant behaviour by the electing body if two-thirds of the electors support such a move.
- 18.6 A Grama Sabha will consist of two or three Grama Niladhari Divisions which are divided into Wards, each Ward being made up of about 100 families who will form the Jana Sabha. Each of these Jana Sabhas will elect its ward member in the Grama Sabha (GS). The members of each Grama Sabha will elect one amongst them as its chairman.
- 18.7 The members of all the Grama Sabhas in a Pradeshiya Sabha division will constitute an electoral college and will elect one amongst them to be the chairman of the Pradeshiya Sabha and a member to represent each of the Grama Sabhas in the Pradeshiya Sabha. To enable representation of political parties that do not obtain representation through this process, up to a maximum of five additional seats will be reserved in the Pradeshiya Sabha for the election of members of the electoral college belonging to those parties.
- 18.8 There will be an Urban Ward Sabha for each Municipal/UC Ward. This Urban Ward Sabha will be made up of Veedi Sabhas, each representing about 200 families. Each of the

Veedi Sabhas will elect a member to represent it in the Urban Ward Sabha (UWS). The members of each Urban Ward Sabha will elect one amongst them as its chairman.

18.9 The members of all the Urban Ward Sabhas in an Urban/ Municipal area will constitute an electoral college and elect one amongst them to be the chairman/ mayor of the Council and a member to represent each of the Urban Ward Sabhas in the Urban/ Municipal Council. To enable representation of political parties that do not obtain representation through this process, up to a maximum of five additional seats will be reserved in the Council for the election of members of the electoral college belonging to those parties.

18.10 Each Grama Sabha/ Urban Ward Sabha will have a Secretariat which is headed by a graduate with administrative training and will include the various officials who are functioning at that level eg. Grama Sevakas, Samurdhi Niyamakas et al.

18.11 As every effort is being taken to give local authorities their due place within the district, a competent officer belonging to the provincial public service must hold the office of the Secretary of the Pradeshiya Sabha. It may be noted that the Pradeshiya Sabhas Act confers the position of chief administrative officer of the Sabha on the Secretary, and the position of chief executive officer of the Sabha on the Chairman.

18.12 The Assistant Commissioner of Local Government who functions in the District Secretariat will be the link between the local authorities and the Commissioner of Local Government at the provincial level. He will also provide the link between the District Council and the local authorities in the District.

18.13 There would be statutory provision to ensure that adequate funds are made available to the pradeshiya and grama sabhas, and the urban/municipal councils and the urban ward sabhas.

18.14 A local authority shall, unless sooner dissolved, continue for a period of four years from the date appointed for its first meeting and the expiration of the said period of four years shall operate as a dissolution of that local authority.

18.15 In demarcating Pradeshiya Sabhas, due consideration should be given to the geography of the area, ease of communication within the area, economic activities, and community cohesiveness of the population. The same factors should be taken into account even in the demarcation of Grama Sabhas. Ideally, one Grama Sabha should be established for a population ranging from 3,000 to 5,000 and consisting of 2 to 4 Grama Sevaka divisions. Ideally, a Pradeshiya Sabha should be established for a rural or estate population ranging from 25,000 to 45,000. A Delimitation Commission should initially demarcate the Grama Sabhas and thereafter redemarcate the Pradeshiya Sabhas in the country based on these criteria. This would consequently result in rational changes to boundaries of administrative divisions.

18.16 In Urban Council areas, an Urban Ward Sabha shall be established for every 2 Grama Sevaka divisions comprising around 8,000 persons.

18.17 In a Municipal area, it may not be necessary to establish Urban Ward Sabhas. Instead, it will be prudent to divide the area into Wards, co-terminus with the Grama Sevaka divisions.

19. CENTRE-PROVINCIAL RELATIONS

19.1 The need for mechanisms to encourage and enhance cooperation between the Centre and the Provinces is recognized. The concept of the Provinces sharing power at the Centre through the Senate was viewed as a possible mechanism that would generate a sense of participation by the Provinces in legislative and executive decision making at the Centre, and would in turn weaken the tendency towards separation.

19.2 A Council of Chief Ministers chaired by the President/Prime Minister would be an effective coordinating mechanism. Such a Council should meet quarterly or more frequently if the need arises. The Cabinet Secretariat should service this Council.

19.3 Resolution of Centre-Provincial and Inter-Provincial Issues

There is a need for mechanisms for the resolution of disputes that may arise between the Centre and the Provinces or among the Provinces. As a matter of approach in the first instance attempts must be made to resolve the disputes through informal discussions. If these discussions do not lead to satisfactory solutions, the following mechanisms could be utilized for resolution of the disputes:

- Mediation / Conciliation undertaken by the Council of Chief Ministers chaired by the Prime Minister (in the interim period, by the President).
- Arbitration by a Tribunal appointed by Parliament.
- Reference to the Constitutional Court.

20. INDEPENDENCE OF THE JUDICIARY AND OF THE PUBLIC SERVICES.

Mechanisms for ensuring the independence of state services and those holding key positions in such services.

20.1 National

There should be a Higher Appointments Council to ensure the independence of the state services and that of the judiciary of the Republic.

20.1.1 Composition of the Higher Appointments Council:

- (j) The Prime Minister

- (ii) The Speaker
- (iii) The Leader of the Opposition in Parliament, and
- (iv) Six persons appointed by the President on the nomination of a Committee of Parliament proportionally composed of all parties represented in Parliament which should include three persons to represent minority interests appointed in consultation with Members of Parliament who belong to the respective minority communities. The speaker shall be the Chairman.

20.1.2 Duties of the Higher Appointments Council - It should recommend the appointment of Chairmen and members of Commissions specified in Part I of the Schedule hereto. (As far as practical the composition of the Commissions should reflect the ethnic composition of the country).

20.1.3 All persons sought to be appointed by the President on the advice of the Prime Minister to any of the offices specified in Part II A and Part II B of the schedule hereto should have the approval of the Higher Appointments Council before they are appointed. The Prime Minister in so advising the President shall obtain the concurrence of the Cabinet.

Schedule - Part I

- I. The Election Commission
- II. The National Public Service Commission
- III. The Police Commission
- IV. The Human Rights Commission of Sri Lanka
- V. The Permanent Commission to investigate Allegations of Bribery or Corruption.
- VI. The Finance Commission
- VII. The Delimitation Commission
- VIII. The Official Languages Commission
- IX. The Land and Water Commission.

Part IIA

- I. The President and other Judges of the Constitutional Court.
- II. Chief Justice and Judges of the Supreme Court
- III. The President and Judges of the Court of Appeal
- IV. The members of the Judicial Service Commission.

Part IIB

- I. The Attorney General
- II. The Auditor General
- III. The Inspector General of Police

- IV. The Parliamentary Commissioner for Administration (Ombudsman)
- V. The Secretary -General of Parliament.

20.2 Provincial

- (a) There should be a Provincial Higher Appointments Board consisting of nine members, comprising the Chief Minister, the Chairman of the Council and the Leader of the Opposition (all legally provided for) as *ex officio* members and six other distinguished persons appointed by the Governor nominated by a Committee of members of the Council representing all the political parties. The composition of the Provincial Board shall as far as possible reflect the ethnic composition of the Province.
- (b) The Provincial Higher Appointments Board should nominate the Chairman and members of the Provincial Public Service Commission whose number (including the Chairman) should not exceed seven members.
- (c) As far as practical, the Commission should reflect the ethnic composition of the Province.
- (d) The Provincial Higher Appointments Board referred to in (a) above may also be charged with the nomination of any key officials of the Provincial Public Service, identified by the Provincial Legislature concerned as officers whose independence should be assured.

21. AMENDMENT PROCEDURE

- 21.1 The substance of Articles 82 (5) and 83 of the 1978 Constitution will be retained.
- 21.2 A Bill to amend the Constitution or replace it with a new Constitution should be approved by 2/3 of the members of each House of Parliament sitting and voting separately.
- 21.3 Notwithstanding 21:2, a Bill for the amendment or for the repeal and replacement of or which is inconsistent with any of the provisions of specified Articles of the Constitution or of the amendment procedure itself, shall not become law unless it is also approved by the people at a Referendum.

22. DIRECTIVE PRINCIPLES OF STATE POLICY AND FUNDAMENTAL DUTIES.

As a part of the universal adult franchise and as a part of the electoral process in a democratic state, it is important that women should receive a proportionate representation in the Legislature. The importance of science and technology for industrial development must be recognized and acted on. It is not possible for practical reasons to make such requirements mandatory. It is only possible to declare such requirements purposive and therefore desirable. Therefore it is proposed that Articles 29 of the 1978 Constitution be repealed and that the following sub-paragraphs be changed in Article 27(2) by replacing Article 27(2)(e) and (f) of the Constitution as follows:

1. **Article 2 (2)(f)** " the State shall ensure that a reasonable proportion of women candidates, who are considered suitable to be elected as members of Parliament, Provincial Councils, and local authorities, are chosen by the varying political parties to contest at such elections".
2. **Article 27(2)(e)** : "Invest adequate funds to promote and use science and technology and innovation so as to maximize productivity and industrialize the country, making Sri Lanka a leader in the use of advanced technology".
3. **Delete Article 27(7)** as it is not applicable at present.

The repeal of Article 29 is strongly recommended so that the Directive Principles of State Policy and Fundamental Duties which are stated in chapter 6 of the 1978 Constitution has the constitutional legitimacy of them being enforced as law and not remain merely as meaningless constitutional platitudes. It is for this reason that the repeal of Article 29 is imperative for the purpose of establishing the aforementioned duties.

Annex 1

DISTRIBUTION OF POWERS BETWEEN THE CENTRE AND THE PROVINCES

List - I - National List

1. Defence; national security; security forces; special forces including coast guards; para-military forces established by or under law.
2. National police; law and order including public order and the exercise of police powers in the Capital Territory and where expressly provided in the Constitution.
3. Firearms, ammunition, explosives and other armaments.
4. Foreign affairs, including all matters which bring the Republic of Sri Lanka into relations with other States, the United Nations Organization, its specialized agencies and inter-governmental organizations, and the undertaking of international obligations.
5. Entering into treaties, conventions and agreements with other States and international organizations and implementing such treaties, conventions and agreements.
6. Diplomatic, Consular and trade representation.
7. Facilitating international conferences, associations and other such bodies and implementing decisions made thereat.
8. Foreign jurisdiction; immigration and emigration; extradition.
9. Regulation of international and foreign funded non-governmental organizations.
10. Piracy and crimes committed on the high seas or in the air; offences against the law of nations committed on land or the high seas or in the air.
11. Citizenship.
12. Registration of births, marriages and deaths; registration of persons.
13. National census and statistics.
14. Elections; National Elections Commission.
15. Currency and foreign exchange, international economic relations, external resources and the formulation of monetary policy.
16. Public debt of the Government of Sri Lanka.
17. Foreign loans of the Government of Sri Lanka.
18. Regulation of banking, banking institutions and other national financial institutions.

19. National policy on insurance and institutions providing insurance services.
20. Regulation of securities, stock exchanges and future markets.
21. Audit of the accounts of the Government and of the Provinces and of other State institutions.
22. Taxes on income, capital and wealth of individuals, companies and corporations as provided in the Constitution.
23. Customs duties, including import and export duties, and excise duties (excluding such excise duties as may be specified by law) as provided in the Constitution.
24. Turnover taxes and stamp duties, goods and services taxes as provided in the Constitution.
25. Any other taxes, duties or levies not mentioned in the Provincial List.
26. National Lotteries.
27. Pensions payable by the Government of Sri Lanka or out of the Consolidated Fund of Sri Lanka.
28. Nuclear energy.
29. National grid for the supply of electricity; maintenance and management of the national grid; national projects in generation, supply and distribution of electricity as declared by Parliament by law.
30. National projects in non-conventional energy as declared by Parliament by law.
31. National projects in water supply and sanitation.
32. Regulation of the development and exploitation of oil fields, petroleum and petroleum products and the collection of Royalties thereon.
33. National policy on mines and minerals; national projects for the development and exploitation of mines and minerals as declared by Parliament by law.
34. National planning for inter-provincial rivers in consultation with the relevant Provinces; inter-provincial irrigation schemes, that is, schemes whose headworks and command areas are located in two or more provinces; regulation of flow of water in inter-provincial waterways, in keeping with the recommendations of the National Land and Water Commission.

35. Airports, ports and harbours with international transportation; provision of facilities, in consultation with the relevant Provincial Governments, in fishery harbours used mainly by vessels engaged in fishing beyond Sri Lankan waters.
36. Inter-Provincial transport.
37. National Railways.
38. Civil aviation.
39. The main inter-provincial highways linking the Capital Territory with the provincial capitals, provincial capitals with each other and district capitals with each other in so far as the highway linking district capitals traverse provincial boundaries; toll roads and expressways constructed by or under the authority of the Central Government.
40. Roads within the Capital Territory other than roads maintained by Local Authorities.
41. Shipping and navigation, but not including boat and ferry services for internal transportation; Maritime Zones including historical waters and territorial waters; Exclusive Economic Zone and Continental Shelf.
42. Posts and telecommunications.
43. Establishment of regulatory authorities which shall consist of the representatives of the Centre and of the Provinces, for the determination of national standards relating to communication and media and the enforcement of such standards; licensing of mass media including broadcasting and television institutions at the national level.
44. National holidays; national policy on holidays.
45. National Public Service; National Public Service Commission.
46. National policy on health; national health plan; national health administration; hospitals declared by Parliament by law as special purpose hospitals and teaching hospitals affiliated to National Universities; coordination of health services; co-ordination of education, training and research relating to health; determination of national health standards; administration of special health programmes; national institutions for education and training of auxiliary medical personnel.
47. Policy and enforcement procedure relating to drugs, poisons and narcotics and enforcement jointly with the Province.
48. Administration of Justice as provided in the Constitution; court procedure.
49. National prisons.
50. Policy and law relating to adoption of children.

51. Fishing beyond territorial waters (12 nautical miles); registration of vessels engaged in fishing beyond territorial waters; rights relating to traditional migratory fishing within territorial waters; reference of inter-provincial fishing disputes and disputes relating to traditional migratory fishing for settlement in accordance with the provisions of the Constitution.
52. Protection, development and exploitation of marine and aquatic resources in keeping with international obligations and measures to enforce such obligations.
53. National policy on education; national institutions in the field of education such as the National Institute of Education; administration and supervision of schools declared by Parliament by law as national schools, provided that the administration of any national school may be entrusted to the relevant Provincial Government; transfer of any national school to the relevant Provincial Government whenever found to be expedient, but not *vice-versa*; co-ordination of training of teachers; determination of minimum standards for national public certification examinations and the conduct of such examinations; determination of national syllabi and curricula; determination of minimum qualifications for teachers; national institutions for the training of teachers; special programmes in education; educational publications provided by the Central Government; *Privena* education.
54. University Grants Commission; universities declared by Parliament as national universities; national standards for universities; national institutions for technical and higher technical education.
55. National standards with regard to professions, occupations and training.
56. National policy on agriculture and animal husbandry; national institutions for education and training of auxiliary agricultural and veterinary personnel.
57. National standards relating to science and technology, and to research, development and training in the areas of industries, agriculture, fisheries and aquatic resources.
58. National research institutions.
59. Tea, rubber and coconut plantations and tea and rubber small holdings; the regulation of the production of tea, rubber and coconut, National policy on coconut cultivation and products.
60. Foreign trade; general policy on inter-provincial trade.
61. Sri Lanka Standards Institution.
62. Establishment of standards of weights and measures.

63. Intellectual property including patents, inventions, designs, copyrights, trademarks and merchandise marks.
64. Monopolies, mergers, restrictive trade practices.
65. *Buddha Sasana*.
66. Pilgrimages outside Sri Lanka.
67. National Libraries and the National Library Services Board.
68. National Archives and Museums.
69. Archaeology; Policy formulation; excavation and conservation including access for such purpose; maintenance and administration of ancient and historical monuments, archaeological sites, archaeological remains and records declared by or under law to be of national importance and future discoveries declared after consulting the relevant Provincial Government, by or under law, to be of national importance.
70. Treasure trove.
71. Preservation and promotion of the national heritage.
72. National standards relating to public performances; national certificates for public performances.
73. National policy on tourism; promotion of national tourism.
74. National zoological and botanical gardens.
75. National land use policy and planning in accordance with Section 13.
76. National policy on the environment; national plans on the environment and conservation of the environment, including forestry and fauna and flora, in keeping with international obligations.
77. National Parks, Strict Natural Reserves, Nature Reserves, Sanctuaries and National Heritage Wilderness Areas declared by or under law.
78. Reserved Forests and Conservation Forests declared by or under any law, which shall be used in conformity with national plans on forestry and in accordance with national land use policy.
79. Foreshore; national plans on coast conservation prepared in consultation with the relevant Provincial Governments; declaration and demarcation of coast reservations for the implementation of national programmes relating to coast conservation.

80. Formulation of national poverty alleviation programmes in consultation with the Provincial Governments and co-ordination of the implementation of such programmes by the Provinces.
81. Social security and social insurance.
82. National policy on youth.
83. National policy on women.
84. National policy on children and differently abled persons.
85. National policy on sports; administration of national sports bodies.
86. Disaster management at national level; intervention including relief, reconstruction and compensation in instances of natural and man-made disasters and epidemics, supplementing the role of the Provincial Governments.
87. Labour regulation and standards; labour laws.
88. National policy on industrial development including those based on agricultural products in consultation with the Provinces.
89. Establishment of commercial, industrial and other enterprises, partly or wholly owned by the Central Government.
90. Institutions for the promotion of investments and determination of policy relating to foreign investment.
91. National housing programmes with the concurrence of the relevant Provincial Government.
92. National spatial and urban planning in consultation with the relevant Provincial Governments.
93. Cadastral and Geological Surveys of Sri Lanka.
94. Urban planning and implementation in the Capital Territory; public utilities in the Capital Territory.
95. Drainage and waterways within the Capital Territory.
96. Establishment of any institutions for the discharge of any or all of the functions/subjects specified in items 40, 94 and 95 of the National List and for the delegation of any of the functions of such institution to any local authorities within the Capital Territory.
97. National policy on food security.

98. National policy on consumer protection including adulteration of foodstuffs and on price control.
99. Prevention of the introduction to the country and spread from one Province to another of infectious or contagious diseases or pests affecting human beings, animals or plants.
100. Surveys for the purpose of any matters enumerated in the National List.
101. Fees in respect of any of the matters in the National List.
102. Requisition or acquisition of private property for the purposes of any matter in the National List solely for the furtherance of economic or social needs, subject to the payment of compensation assessed and determined according to the market value of the subject property at the time of acquisition.

[In the formulation of national policies, standards or plans, the Central Government shall consult the Provincial Governments and the policies, standards or plans decided upon shall be subject to approval by both houses of Parliament]

List - II - Provincial List

1. Provincial planning including employment planning at the Provincial level and plan implementation including employment programmes.
2. Provincial policy on education; administration of education and educational services within the Province in conformity with national policy; administration of national schools entrusted by the Central Government; training of teachers; technical and higher technical education; provincial institutions for technical and higher technical education; provincial universities conforming to national standards set by the Universities Grants Commission, provided that not more than 75% of student intake shall be reserved for the relevant province; pre-schools; vocational education and training; research on education; educational publications provided by the Provincial Government.
3. Health and indigenous medicine including provincial health services and provincial health administration in conformity with national health policy; teaching hospitals affiliated to provincial universities; supervision of private medical care; control of nursing homes and of diagnostic facilities within a Province in keeping with national policy; provincial institutions for education and training of auxiliary medical personnel.
4. Agriculture and agrarian services; agricultural research, extension, promotion and education within the Province; promotion of agro-based industries within the Province; provincial institutions for education and training of auxiliary agricultural personnel.
5. Palmyrah development; cashew development.

6. Coconut small holdings.
7. Animal husbandry; provincial institutions for education and training of auxiliary veterinary personnel; establishment and upkeep of pasture land.
8. Protection against pests and prevention of plant diseases in keeping with national policy.
9. Fisheries and aquatic resources within territorial waters, but not including rights relating to traditional migratory fishing in territorial waters as provided in the National List.
10. State land and its use, alienation or disposal as specified in the Constitution.
11. Irrigation within the Province; groundwater irrigation; salt water exclusion schemes.
12. Forests, excluding those specified in the National List, which shall be used, subject to the provisions of the Constitution, in conformity with national plans on forestry and with due regard to national land use policy.
13. Protection of the environment in conformity with national policy on conservation of the environment.
14. Coast conservation in conformity with national policy.
15. Conservation of fauna and flora in keeping with national policy.
16. Water supply and sanitation other than national water supply and sanitation projects.
17. Drainage and waterways within the Province other than within the Capital Territory.
18. Generation, supply and distribution of electricity, other than national projects.
19. Provincial projects in non-conventional energy.
20. Roads excluding those specified in the National List; toll roads and expressways constructed by or under the authority of the Provincial Government.
21. Transport excluding national railways, but including ferry and boat services for internal transportation.
22. Minor ports and harbours, jetties and piers for internal transportation, and with no international transportation; fishery harbours with no international transportation.
23. Housing, other than national housing programmes.
24. Urban planning and implementation, other than within the Capital Territory in accordance with national plans.

25. Local Government
26. Rural Development.
27. Development and exploitation of mines and minerals other than national projects, declared by Parliament by Law.
28. Production and supply of salt.
29. Development and exploitation of sand and rock quarries.
30. Industries and industrial development inclusive of industrial research and training within the Province.
31. Promotion of investments in the Province.
32. Trade and commerce excluding foreign trade.
33. Promotion and development of provincial products for the purpose of foreign trade.
34. Establishment of commercial enterprises, partly or wholly owned by the Province.
35. Co-operatives and co-operative banks.
36. Supply and distribution of food; rationing of food and maintenance of food stocks in keeping with national policy on food security.
37. Markets and fairs.
38. Law and Order, Provincial Police and Provincial Police Commission to the extent provided in the Constitution.
39. Administration of Justice within a Province to the extent permitted by the Constitution; mediation and conciliation; provision and the setting up of court buildings in consultation with the Judicial Service Commission, the maintenance of court buildings and the development of the infrastructure of courts.
40. Provincial prisons; borstal and reformatory institutions.
41. Formulation and implementation of programmes for the advancement of youth, subject to national policy.
42. Formulation and implementation of programmes for the advancement of women, subject to national policy.

43. Formulation and implementation of programmes for children and differently abled persons, subject to national policy.
44. Sports.
45. Social services, but not including social security and social insurance.
46. Poverty alleviation subject to the Centre's power to formulate and coordinate national poverty alleviation programmes as set out in item 80 of the National List.
47. Relief, rehabilitation and reconstruction and the granting of compensation consequent to natural or man-made disasters; disaster management at the Provincial level.
48. Public debt of a Province, excluding debts owed to the Central Government.
49. Domestic borrowing on the security of the Consolidated Fund of the Province.
50. International borrowing subject to such criteria and limitation as may be specified by Parliament and with the concurrence of the Finance Commission.
51. The promotion and management of foreign direct investment, international grants and developmental assistance to the Province subject to such criteria and limitation as may be specified by Parliament and with the concurrence of the Finance Commission.
52. Provincial financial and credit institutions including provincial institutions providing insurance services.
53. Provincial Public Service; Provincial Public Service Commission.
54. Provincial holidays subject to national policy on holidays.
- 55.1 Excise duties to be specified by law made by Parliament.
- 55.2 Betting and gaming taxes, taxes on prize competitions and on lotteries, other than national lotteries and lotteries organized by the National Government.
- 55.3 Provincial sales taxes and turnover taxes on wholesale and retail sales.
- 55.4 Liquor rentals; toddy tapping licence fees.
- 55.5 Licensing fees for the possession, transport, purchase and sale of intoxicating liquors.
- 55.6 Dealership licenses on drugs and other chemicals.
- 55.7 Motor vehicle license fees and other fees charged under the Motor Traffic Act.

- 55.8 Fees on lands alienated under the Land Development Ordinance and Crown Lands Ordinance.
- 55.9 Fees under the Fauna and Flora Ordinance.
- 55.10 Stamp duties on transfer of immovable properties and motor vehicles.
- 55.11 Taxes on mineral rights subject to limitations imposed by Parliament.
- 55.12 Taxes on products of agriculture, forestry, animal husbandry and fisheries.
- 55.13 Taxes on goods and passengers carried by roads or inland ferries and boats.
- 55.14 Taxes on entry of goods into a local area for consumption, use or sale therein.
- 55.15 Taxes on the consumption of sale of electricity and pipe-borne water.
- 55.16 Taxes on advertisements other than advertisements by means of newspapers, magazines, radio or television.
- 55.17 Taxes on vehicles, boats and animals.
- 55.18 Taxes on professions and trades.
- 55.19 Utilization of court fines within the Province provided that not less than ten per centum of the fines imposed shall be utilized for construction and maintenance of court buildings and the development of the infrastructure of courts.
- 55.20 Court fees, including stamp fees on documents produced in courts.
- 55.21 Imposition, collection and utilization of fines, other than court fines, in respect of the matters in the Provincial List.
- 55.22 Imposition of levies relating to any of the subjects or functions under the purview of the Province.
- 55.23 Any other tax that may be devolved by law by Parliament on the Province.
56. Land revenue, including the assessment and collection of revenues, and maintenance of land records.
57. Registration of motor vehicles.
58. Pensions payable by a Provincial Government or out of the Consolidated Fund of a Province.

59. Provincial lotteries and their conduct.
60. Cultural, tourism and trade representation of the Province in Sri Lankan Diplomatic Missions abroad.
61. Participation in international conferences, associations and other such bodies in relation to matters in the Provincial List.
62. Licensing and regulations of mass media including broadcasting and television institutions at the Provincial level; printing presses.
63. Provincial libraries and museums; Provincial archives.
64. Promotion of cultural activities within the Province with due regard to the preservation of cultural diversity.
65. Preservation, maintenance and administration of ancient and historical monuments, archaeological sites and records other than those specified in the National List.
66. Provincial certificates for public performances.
67. Promotion of provincial tourism.
68. Provincial zoological and botanical gardens.
69. Provision of facilities for festivals.
70. Pilgrimages within Sri Lanka.
71. Charitable and religious endowments.
72. Registration and regulation of unincorporated associations and societies within the Province, charities and charitable institutions; trusts and trustees.
73. Coordinating the activities of international and local non-governmental organizations in relation to matters in the Provincial List.
74. Consumer protection in keeping with national policy including price control of products not subject to price control by the Centre.
75. Weights and measures except establishment of standards.
76. Research on subjects and functions in the Provincial List.
77. Surveys for the purpose of any matters enumerated in the Provincial List.

78. Fees in respect of any of the matters in the Provincial List.

79. Requisition or acquisition of private property for the purposes of any matter in the Provincial List solely for the furtherance of economic or social needs, subject to the payment of compensation assessed and determined according to the market value of the subject property at the time of acquisition.

80. Any other matter provided for in the Constitution.

Note: Where a subject or function not enumerated in any of the Lists is ancillary to a subject or function already included in the Provincial List, such subject or function shall be deemed to be included in the Provincial List. All other subjects and functions not explicitly listed in the National or Provincial Lists shall be deemed to be included in the National List.

List - III - Local Authorities

Pradeshiya Sabhas and Municipal and Urban Councils shall have the power to make by-laws in respect of the following subjects and functions, subject to the statutes of the relevant Provincial Legislature:

1. Pre-schools.
2. Adult and non-formal education; vocational training.
3. Promotion of religion and culture, including the establishment and maintenance of religious schools and cultural centres.
4. Community centres, libraries and reading rooms.
5. Buildings; building operations and works.
6. Assessment and collection of land revenues.
7. Supply of electricity; promotion of non-conventional energy sources.
8. Water supply and water works.
9. Public wells; public baths and bathing places.
10. Drainage and flood control.
11. Lakes and canals, other than lakes and canals for irrigation.
12. Thoroughfares, including clearing and lighting of the same.
13. Local transport services; ferry and boat services.
14. Bus-stops and vehicle parks.
15. Preservation of public health.

16. Control of mosquitoes and other disease-causing insects.
17. Provision of public sanitary conveniences; conservancy and scavenging.
18. Primary health centres; indigenous medical clinics.
19. *Ambalams and madams.*
20. Inns and rest houses.
21. Licensing and regulation of lodging houses and tenement buildings.
22. Licensing and regulation of bakeries, eating houses, restaurants, tea and coffee kiosks and hotels.
23. Licensing and regulation of shops and places for the sale of perishable items of food.
24. Regulation of dairies and the sale of milk.
25. Abattoirs.
26. Markets and fairs; itinerant and sidewalk vendors.
27. Licensing and regulation of launderers and laundries.
28. Licensing and regulation of beauticians and hairdressers.
29. Licensing and regulation of forges.
30. Licensing and regulation of mills.
31. Regulation of small industries, including handlooms, textiles and garment manufacture.
32. Protection of the environment.
33. Care of waste of public lands.
34. Provision of facilities to fishermen.
35. Local authority housing, including housing for the poor.
36. Community amenities such as parks, gardens and playgrounds.
37. Burial and burial grounds, cremations and cremation grounds and crematoriums.
38. Regulation of toddy tapping; control of the sale and supply of toddy.
39. Regulation of breweries and aerated water manufactories.
40. Implementation of poverty alleviation programmes.
41. Implementation of youth welfare programmes.
42. Social welfare, including welfare of the differently abled; welfare of the weaker sections of society.
43. Family welfare; women and child development; provision of childcare facilities.
44. Licensing and regulation of brokers and money lenders.

45. Licensing and regulation of public entertainment.
46. Ambulance services.
47. Fire services.
48. Protection of wildlife.
49. Regulation of pens for cattle.
50. Branding of animals; control of diseases among animals and birds.
51. Stray animals including stray dogs.
52. Prevention of cruelty to animals.
53. Disposal of dead bodies of animals.
54. Control of gambling.
55. Advertisements displayed in public places.
56. Control of nuisances.
57. Regulation of processions and assemblies on thoroughfares.

Annex 2

Representatives of Political Parties at All Party Representatives Committee

1. Lanka Sama Samaja Party	:-	Hon. Prof. Tissa Vitharana M. P
2. Sri Lanka Freedom Party	:-	Hon. Prof. Viswa Warnapala M.P
3. United National Party (Dem group)	:-	Hon. P Dayaratne M. P
4. Communist Party of Sri Lanka	:-	Mr. Rajah Collure
5. Ceylon Workers' Congress	:-	Mr. R Yogarajan
6. Sri Lanka Muslim congress	:-	Mr. M Nizam Kariapper
7. National Unity Alliance	:-	Mr. Abdul Kalam
8. Jathika Hela Urumaya	:-	Mr. Udaya Gammanpila
9. Mahajana Eksath Peramuna	:-	Prof. Nalin de Silva
10. Upcountry Peoples Front	:-	Mr. S Vijesandiran
11. All Ceylon Muslim Congress	:-	Mr. Y L S Hameed
12. National Congress	:-	Dr. Adambawa Uthumalebbe
13. Western Peoples Front	:-	Dr. N Kumaragurubaran
14. Ealam People's Democratic Party	:-	Mr. S Thavarajah/ Ms.Maheswary Velautham/ Mr. S.Sivathanasan
15. Thamil Makkal Viduthalai Puligal	:-	Ms. Sivageetha Prabakaran

CHART SHOWING THREE TIERS OF GOVERNMENT

Annex-3

