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Power Sharing: Selected Documents

Sri Lanka

Social Scientists' Association
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Berghof Foundation for Conflict Studies

October 2004

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**THE PROPOSAL BY THE LIBERATION TIGERS OF TAMIL EELAM
ON BEHALF OF THE TAMIL PEOPLE
FOR AN AGREEMENT TO ESTABLISH
AN INTERIM SELF-GOVERNING AUTHORITY
FOR THE NORTHEAST OF THE ISLAND OF SRI LANKA**

- (1) Consistent with the principles of the rule of law, the human rights and equality of all persons, and the right to self-determination of Peoples,*
- (2) Determined to bring lasting peace to all persons of the island of Sri Lanka,*
- (3) Acknowledging with appreciation the services of the Royal Norwegian Government, the Norwegian People, and the international community in attempting to bring peace to the island,*
- (4) Recognizing that a peaceful resolution is a real possibility, despite the challenging history of the peace process between the Tamil people and the Sinhala people.*
- (5) Determined to establish an interim self-governing authority for the NorthEast region and to provide for the urgent needs of the people of the NorthEast by formulating laws and policies and, effectively and expeditiously executing all resettlement, rehabilitation, reconstruction, and development in the NorthEast, while the process for reaching a final settlement remains ongoing.*
- (6) Being aware that the history of the relations between the Tamil People and the Sinhala People has been a process of broken promises and unilateral abrogation, by successive governments of Sri Lanka, of pacts and agreements solemnly entered into between the government of Sri Lanka (GOSL) and the elected representatives of the Tamil People,*
- (7) Bearing in mind that successive Governments of Sri Lanka have perpetrated persecution, discrimination, State violence and State-orchestrated violence against the Tamil People,*
- (8) Noting that the Tamil people mandated their elected representatives to establish an independent sovereign, secular State for the Tamil people in the elections subsequent to the Vaddukoddai Resolution of 1976,*

(9) Bearing in mind that the Tamil armed struggle as a measure of self-defense and as a means for the realisation of the Tamil right to self-determination arose only after more than four decades of non-violent and peaceful constitutional struggle proved to be futile and due to the absence of means to resolve the conflict peacefully,

(10) Recalling that the Liberation Tigers of Tamil Eelam (LTTE) first took measures towards peace by unilaterally declaring the ceasefire in December, 2000 and again in December, 2001, opening highways, facilitating trade and the free movement of people, and entering into peace negotiations in good faith in the hope of creating an environment conducive to the return of normalcy and a just resolution of the conflict,

(11) Taking Note of the political courage of the present GOSL in reciprocating to the 2001 ceasefire,

(12) Realizing that the war in the island of Sri Lanka was principally confined to the NorthEast, resulting in the destruction of the social, economic, administrative, and physical infrastructure of that area, and that the NorthEast still remains the region in the island of Sri Lanka affected by war,

(13) Recognising that the majority of the Tamil People in the NorthEast, by their actions in the general elections held in the year 2000, gave their mandate acknowledging the LTTE as their authentic representative,

(14) Knowing that the LTTE exercises effective control and jurisdiction over the majority of the NorthEast area of the island of Sri Lanka,

(15) Realising that reaching a final negotiated settlement and the implementation thereof is expected to be a long process,

(16) Affirming the necessity for the safe and free return of all refugees and displaced persons and their urgent need for unimpeded access to their homes and secure livelihoods at land and sea in the NorthEast,

(17) Mindful that institutions and services provided by the GOSL have proved to be inadequate to meet the urgent needs of the people of the NorthEast,

- (18) Recognising the failure of the Sub-committee on Immediate Humanitarian and Rehabilitation Needs (SIHRN) and other Sub-Committees formed during the peace negotiations, which failure was due to the composition of such Sub-Committees, which repeatedly led to inaction,*
- (19) Acknowledging the recognition by the GOSL of the necessity for an Interim Authority, as mentioned in its 2000 election manifesto,*
- (20) Realising that maintenance of law and order is an essential pre-requisite for a just and free society,*
- (21) Recognising the need for raising revenue to meet the urgent needs for the Resettlement, Rehabilitation, Reconstruction and Development of the NorthEast region, which has been devastated by war, and for the carrying out of any function of Government,*
- (22) Recognising the importance of control over land in resettlement, rehabilitation, reconstruction and development,*
- (23) Mindful that the Tamils did not participate in the making of the 1972 and 1978 constitutions, which institutionalized discrimination and denied them an effective role in the decision-making process,*
- (24) Noting the practice in international relations over the last decade of solving conflicts between Peoples through agreement between the parties to the conflict on terms of equality and through innovative and imaginative measures,*
- (25) Relying on international precedents for establishing interim governing arrangements in war torn countries having the force of law based solely on pacts or agreements between the warring parties recognized by the international community,*
- (26) Noting that measures such as the Ceasefire Agreement, including the role of the Sri Lanka Monitoring Mission (SLMM), and, the establishment of the SIHRN and the NorthEast Reconstruction Fund (NERF) constitute valid precedents for making such arrangements,*

Wherefore, the Parties, namely the Liberation Tigers of Tamil Eelam and the Government of Sri Lanka, hereby agree to the following provisions:

1. Interim Self-Governing Authority

An Interim Self-Governing Authority (ISGA) shall be established comprised of the eight districts namely: Amparai, Batticaloa, Jaffna, Kilinochchi, Mannar, Mullaitivu, Trincomalee and Vavuniya in the NorthEast, until a final negotiated settlement is reached and implemented.

Representatives of the Muslim community have the right to participate in formulation of their role in the ISGA.

2. Composition of the ISGA

2.1. The ISGA shall consist of such number of members as may be determined by the Parties to this Agreement.

2.2. The composition of the ISGA shall be:

2.2.a. Members appointed by the LTTE,

2.2.b. Members appointed by the GOSL, and

2.2.c. Members appointed by the Muslim community in the NorthEast.

2.3. The number of members will be determined to ensure:

2.3.a. An absolute majority of the LTTE appointees in the ISGA.

2.3.b. Subject to (a) above, the Muslim and Sinhala Communities in the NorthEast shall have representation in the ISGA.

2.4. The Chairperson shall be elected by a majority vote of the ISGA and shall serve as the Chief Executive of the ISGA.

2.5. The Chairperson shall appoint the Chief Administrator for the NorthEast and such other officers as may be required to assist in the performance of his/her duties. The Chairperson shall have the powers to suspend or terminate any such appointment.

3. Elections

The provisions of Clauses 2.2 and 2.3 shall continue until elections for the ISGA are held. Such elections shall be held at the expiry of five years of the coming into force of this Agreement, if no final settlement has been reached and implemented by the end of the said period of five years. An independent Election Commission, appointed by the ISGA, shall conduct free and fair elections in accordance with international democratic principles and standards under international observation.

4. Human Rights

The people of the NorthEast shall be accorded all rights as are provided under international human rights law. Every law, regulation, rule, order or decision of the ISGA shall conform to internationally accepted standards of human rights protection. There shall be an independent Human Rights Commission, appointed by the ISGA, which shall ensure the compliance with all such human rights obligations. The Commission will seek the assistance of international human rights bodies to facilitate the rapid establishment of an effective regime for protecting human rights. The Commission shall be entitled to receive petitions from any individual person, award compensation to any such affected person, and ensure that such person's rights are restored.

5. Secularism

No religion shall be given the foremost place in the NorthEast.

6. Prohibition against Discrimination

The ISGA shall ensure that there is no discrimination on grounds of religion, race, caste, national or regional origin, age or gender in the NorthEast.

7. Prevention of Bribery and Corruption.

The ISGA shall ensure that no bribery or corruption is permitted in or under its administration.

8. Protection of All Communities

No law, regulation, rule, order or decision that confers a privilege or imposes a disability on any community, which is not conferred or imposed on any other community, shall be made concerning culture or religion.

9. Jurisdiction of the ISGA.

9.1. The ISGA shall have plenary power for the governance of the NorthEast including powers in relation to resettlement, rehabilitation, reconstruction, and development, including improvement and upgrading of existing services and facilities (hereinafter referred to as RRRD), raising revenue including imposition of taxes, revenue, levies and duties, law and order, and over land.

These powers shall include all powers and functions in relation to regional administration exercised by the GOSL in and for the NorthEast.

9.2. The detailed modalities for the exercise of such powers and the performance of such functions shall be subject to further discussion by the parties to this agreement.

10. Separation of Powers

Separate institutions for the administration of justice shall be established for the NorthEast, and judicial powers shall be vested in such institutions. The ISGA shall take appropriate measures to ensure the independence of the judges.

Subject to Clauses 4 (Human Rights) and 22 (Settlement of Disputes), of this Agreement, the institutions created under this clause shall have sole and exclusive jurisdiction to resolve all disputes concerning the interpretation and implementation of this agreement and any other disputes arising in or under this agreement or any provision thereof.

11. Finance

The ISGA shall prepare an annual budget.

There shall be a Financial Commission consisting of members appointed by the ISGA. The members should have distinguished themselves or held high office in the fields of finance, administration or business. This Commission shall make

recommendations as to the amount out of the Consolidated Fund to be allocated to the NorthEast. The GOSL shall make its good faith efforts to implement the recommendation.

The ISGA will, giving due consideration to an equitable distribution, determine the use of funds placed at its disposal. These funds shall include the NorthEast General Fund, the NorthEast Reconstruction Fund (NERF) and the Special Fund.

The GOSL agrees that any and all of its expenditures in or for the NorthEast shall be subject to the control of the ISGA.

11.1. NorthEast General Fund

The NorthEast General Fund shall be under the control of ISGA and shall consist of:

11.1.a. The proceeds of all grants and loans made by the GOSL to the ISGA and the proceeds of all other loans made to the ISGA.

11.1.b. All allocations by the GOSL from agreements with states, institutions and/or other organizations earmarked in any such agreements for the NorthEast.

11.1.c. All other receipts of the ISGA, other than the funds specified below.

11.2. NorthEast Reconstruction Fund

The NERF shall continue to exist in its present form except that control over it will be transferred to the ISGA.

All grants given for the reconstruction of the NorthEast, will be received through the NERF. Utilization of resources from NERF will be directly determined and supervised by the ISGA.

11.3. Special Fund

All loans and any grants which cannot be channeled through the NERF for the specific purpose of RRRD will be received into the Special Fund. As in the case of other Funds, the ISGA shall control the Special Fund.

12. Powers to Borrow, Receive Aid and Trade.

The ISGA shall have powers to borrow internally and externally, provide guarantees and indemnities, receive aid directly, and engage in or regulate internal and external trade.

13. Accounting and Auditing of Funds.

13.1. The ISGA shall appoint an Auditor General.

13.2. All Funds referred to in this Agreement shall be operated, maintained and audited in accordance with internationally accepted accounting and auditing standards. The accounts will be audited by the Auditor General. The auditing of all moneys received from international sources shall be subjected to approval by an internationally-reputed firm appointed by the ISGA.

14. District Committees.

14.1. In the effective exercise of its legislative and executive powers, the ISGA may create District Committees to carry out administration in the districts and delegate to such Committees, such powers as the ISGA may determine. The Chairpersons of such committees shall be appointed by the ISGA from amongst its members in order to serve as a liaison between the ISGA and the Committees.

14.2. The other members of the Committees shall also be appointed by the ISGA, which shall have the powers to suspend or terminate any such appointment. In appointing such members, due consideration shall be given to ensure representation of all communities.

14.3. The Committees will function directly under the ISGA.

14.4. The Chief Administrator of the ISGA shall appoint Principal Executive Officers in the districts, who shall also function as the Secretaries to the Committees. The Chief Administrator shall have the powers to suspend or terminate any such appointment.

14.5. All activities and functions of the Committees shall be coordinated through the respective Secretaries to the Committees.

14.6. Sub-committees may also be appointed to facilitate administration.

15. Administration

As part of the exercise of its executive powers the ISGA shall have direction and control over any and all administrative structures and personnel in the NorthEast pertaining to the powers set out in Clause 9 of this Agreement.

The ISGA may, at its discretion, create expert advisory committees in necessary areas. These areas will include but are not limited to Economic Affairs, Financial Affairs, Judicial Affairs, Resettlement and Rehabilitation Affairs, Development of Infrastructure, and Essential Services.

16. Administration of Land

Since land is vital to the exercise of the powers set out in Clause 9 (jurisdiction of the ISGA), the ISGA shall have the power to alienate and determine the appropriate use of all land in the NorthEast that is not privately owned.

The ISGA shall appoint a Special Commission on Administration of Land to inquire into and report on the rights of dispossessed people over land and land subject to encroachment, notwithstanding the lapse of any time relating to prescription.

The ISGA shall determine the term of competencies of the Special Commission.

17. Resettlement of Occupied Lands

The occupation of land by the armed forces of the GOSL, and the denial to the rightful civilian owners of unfettered access to such land, is a violation of the norms of international law. Such land must be immediately vacated and restored to the possession of the previous owners. The GOSL must also compensate the owners for the past dispossession of their land.

The ISGA shall be responsible for the resettlement and rehabilitation of displaced civilians and refugees in such lands.

18. Marine and off-shore resources

The ISGA shall have control over the marine and offshore resources of the adjacent seas and the power to regulate access thereto.

19. Natural Resources

The ISGA will have control over the natural resources in the NorthEast region. Existing agreements relating to any such natural resources will continue in force. The GOSL shall ensure that all monies due under such agreements are paid to the ISGA. Any future changes to such existing agreements should be made with the concurrence of the ISGA. Future agreements shall be entered into with the ISGA.

20. Water Use

Upper riparian users of river systems have a duty to ensure that there is a fair, equitable and reasonable use of water resources by lower riparian users. The GOSL and the ISGA shall ensure that this internationally recognized principle is followed in the use of water resources.

21. Agreements and contracts

All future agreements concerning matters under the jurisdiction of the ISGA shall be made with the ISGA. Existing agreements will continue, but the GOSL shall ensure that all proceeds under such agreements are paid to the ISGA. Any changes to such existing agreements should be made with the concurrence of the ISGA.

22. Settlement of Disputes

Where a dispute arises between the Parties to this Agreement as to its interpretation or implementation, and it cannot be resolved by any other means acceptable to the Parties including conciliation by the Royal Norwegian Government, there shall be an arbitration before a tribunal consisting of three members, two of whom shall be appointed by each Party. The third member, who shall be the Chairperson of the tribunal, shall be appointed jointly by the Parties concerned. In the event of any disagreement over the appointment of the Chairperson, the Parties shall ask the President of the International Court of Justice to appoint the Chairperson.

In the determination of any dispute the arbitrators shall ensure the parity of status of the LTTE and the GOSL and shall resolve disputes by reference only to the provisions of this Agreement.

The decision of the arbitrators shall be final and conclusive and it shall be binding on the Parties to the dispute.

23. Operational Period

This Agreement shall continue until a new Government for the NorthEast, pursuant to a permanent negotiated settlement, is established. The Parties will negotiate in good faith to reach such a settlement as early as possible.

Provided, however, that at the end of four years if no final agreement has been reached between the Parties to this agreement, both Parties shall engage in negotiations in good faith for the purpose of adding, clarifying, and strengthening the terms of this Agreement.



Sri Lanka Government's New Proposals to LTTE

Source: Sunday Times - July 20, 2003

By: Iqbal Athas

Here is the full text of the Government's latest proposals to the LTTE to set up a provincial administrative structure.

Discussion Document - Introduction

Based on a request from the Liberation Tigers of Tamil Eelam the Government of Sri Lanka (GOSL) has developed the below framework for establishing a provisional administrative arrangement which will enable the LTTE to participate significantly in decision making and delivery related to administration, and rebuilding of the war damage infrastructure and economy, in the Northern and Eastern Provinces.

The objective of establishing such an arrangement is to ensure rapid improvement in the life of the population in the eight districts in the north and east, while LTTE and GOSL at the same time are actively engaged in a dialog to arrive at a negotiated settlement based on the agreement reached during the third session of the negotiations in Oslo in December 2002.

Therefore - being an integral part of the process towards a negotiated settlement of the ethnic conflict - the establishment and continued operation of this interim administrative arrangement will depend on a continued dialogue between the parties both in the context of this administrative structure as well in the negotiations towards a final solution of the conflict.

Given the importance attached to a continued dialogue at all levels the proposal for an administrative arrangement is presented as framework - not a final document - which in it self must be subject for dialogue between the parties.

Given the understanding between the Parties during plenary sessions of negotiations that a Muslim delegation should be accommodated when issues of concern to the Muslim population is being deliberated, it is the view of GOSL that:

- A Muslim delegation must participate in the discussions relating to establishment of a provisional administrative structure for the Northern and Eastern Provinces; and

- That it should be open to the SLMC to submit separate proposal pertaining to the establishment of the above mentioned structure.

Provisional Administrative Structure for the Northern and Eastern Province –

Proposal for Discussion

Provisional Administrative Council

It is proposed that a body called the Provisional Administrative Council for the Northern and Eastern Provinces (Council) will be set up for the administration of this region.

1) The Council shall consist of such number of members as may be determined by the parties.

2) The composition of the Council shall consist of the following:

a. Members nominated by GOSL, which will include the nominees of the Peoples Alliance.

b. Members nominated by the LTTE.

c. Members nominated by Sri Lanka Muslim Congress (SLMC)

3) The number of members will be determined to ensure:

a. A majority of the LTTE in the Council

b. Subject to (a) above, the Muslim and Sinhala Communities will have weighted representation.

4) Chairperson

Two alternatives are presented concerning chairpersons for the Council:

Alt. 1 There shall be two chairpersons, one representing the LTTE and the other the GOSL elected by, and from amongst the members of the Council. Each chairperson shall have the right to veto any proposal brought before the Council.

Alt. 2 There shall be one Chairperson elected from amongst the members of the Council. If alternative 2 is selected the following para shall be included concerning decisions of the Council.

Any decision of the Council, which affects either the Muslim, or the Sinhala Community, can only be made valid if the decision is supported by:

- a. A majority of the Members of the Council, and
- b. A majority of the representatives of the Muslim or the Sinhala communities as the case may be.

Powers and Functions of the Provisional Administrative Council

1) It is proposed that the powers and functions of the Council will extend to:

Adequate arrangements to enable the Council to participate effectively in the exercise and performance of such powers and functions as are at present being exercised and performed by the Government in respect of regional administration - except the area of police and security; land; and revenue - but including rehabilitation, reconstruction, and resettlement.

2) The participation mentioned above shall include policy making, implementation and monitoring.

3) The detailed modalities required to give effect to the above 1) and 2) shall be subject for discussion between the parties.

The Special Commissioner

It is further proposed that:

- 1) A "Special Commissioner" is appointed with the authority to utilize the State machinery for the implementation of the decisions of the Council;
- 2) The Special Commissioner will be appointed by the GOSL with the consent of the majority of the Council;
- 3) The Special commissioner will be a non-voting member of the Council, and accountable to this body;
- 4) The Council may designate another person or an organization to co-ordinate rehabilitation or development work implemented by non-State agencies and organisations.

Finances

1) The Council will - giving due consideration to an equitable distribution - determine the use of funds placed at its disposal. The Council will further identify such utilization by State agencies, NGOs, international agencies, private sector agencies for administration, rehabilitation reconstruction and development in the North-East region. The funds made available to the work of the Council will include - but not necessarily be limited to - such funds as:

- a. received from Donors to the North East Reconstruction Fund (NERF)
- b. allocated by GOSL to NERF; and
- c. such resources as are received for rehabilitation and reconstruction of the Northern and Eastern Provinces other than through NERF.

2) North East Reconstruction and Rehabilitation Fund (NERRF)
It is recognised that NERF was established to cater for meeting the immediate needs of the population in the north and east. In order to enlarge the scope of this fund it is suggested that the funds should be modified to deal with both rehabilitation and reconstruction as well as cover medium term requirements. It is therefore suggested that the NERF is renamed NERRF.

It is further proposed that the GOSL and the LTTE shall actively encourage contributions to NERRF. The Government will provide funding through NERRF wherever practical. Utilization of resources from NERRF will as mentioned above be directly determined and supervised by the Council.

3) The Special Fund

A "Special Fund" is proposed instituted as an information, accounting and monitoring device for resources from donors or the Government that is not channelled through NERRF. The purpose of this mechanism is to enable the Council to be aware, and become responsible for effective utilization of resources to the north and east including loans and other finances that cannot be channelled through NERRF.

The District Committees

It is also proposed to institute a District Committee for each of the eight Districts in the Northern and Eastern Provinces.

1) Chairperson, Composition and Relationship to the Council

- a.** The Chairperson of the District Committee will be appointed by and from amongst the members of the Council in order to serve as a link between the Council and the District Committee.
- b.** The other members will also be appointed by the Council. In appointing such members, due consideration will be given to ensure adequate representation of the ethnic composition of the District in question.
- c.** The District Committee will function directly under the Council and will be charged with carrying out the decisions of the Council.
- d.** The District Secretary will be the Secretary and the Chief Executive Officer of the District Committee.
- e.** All activities within the District relating to the powers and functions of the Council will be co-ordinated through the Secretary to the District Committee.

2) Functions of the District Committee It is proposed that the functions of the District Committee will consist of:

- a.** Implementation of the decisions of the Council;
- b.** Co-ordination of all development activities within the district;
and
- c.** Formulation of proposal for consideration by the Council.

3) Powers of the District Committee

- a.** Each District Committee will function as a delegate of the Council and ensure the effective implementation of the decisions of Council.
- b.** For all purposes a district Committee will be responsible for the district for which it is established and will function as an administrative mechanism at district level.
- c.** A District Committee may - with the concurrence of the Council, obtain the assistance of individual or body of persons for the effective discharge of its functions.

District Sub-Committee It is proposed that each District Committee may establish such number of District Sub-Committees as may be necessary for such sub-divisions in the district in order to ensure effective implementation of the decisions of the Council and the District Committees at local level. The members of the District Sub-Committee will be nominated by the District Committee with the concurrence of the Council.

Committees of the Provisional Administrative Council

1) It is further viewed as advantageous for the Council to establish the following special committees to strengthen its work:

- a.** An Economic Affairs Committee
- b.** An Infrastructure Committee
- c.** An Essential Services Committee

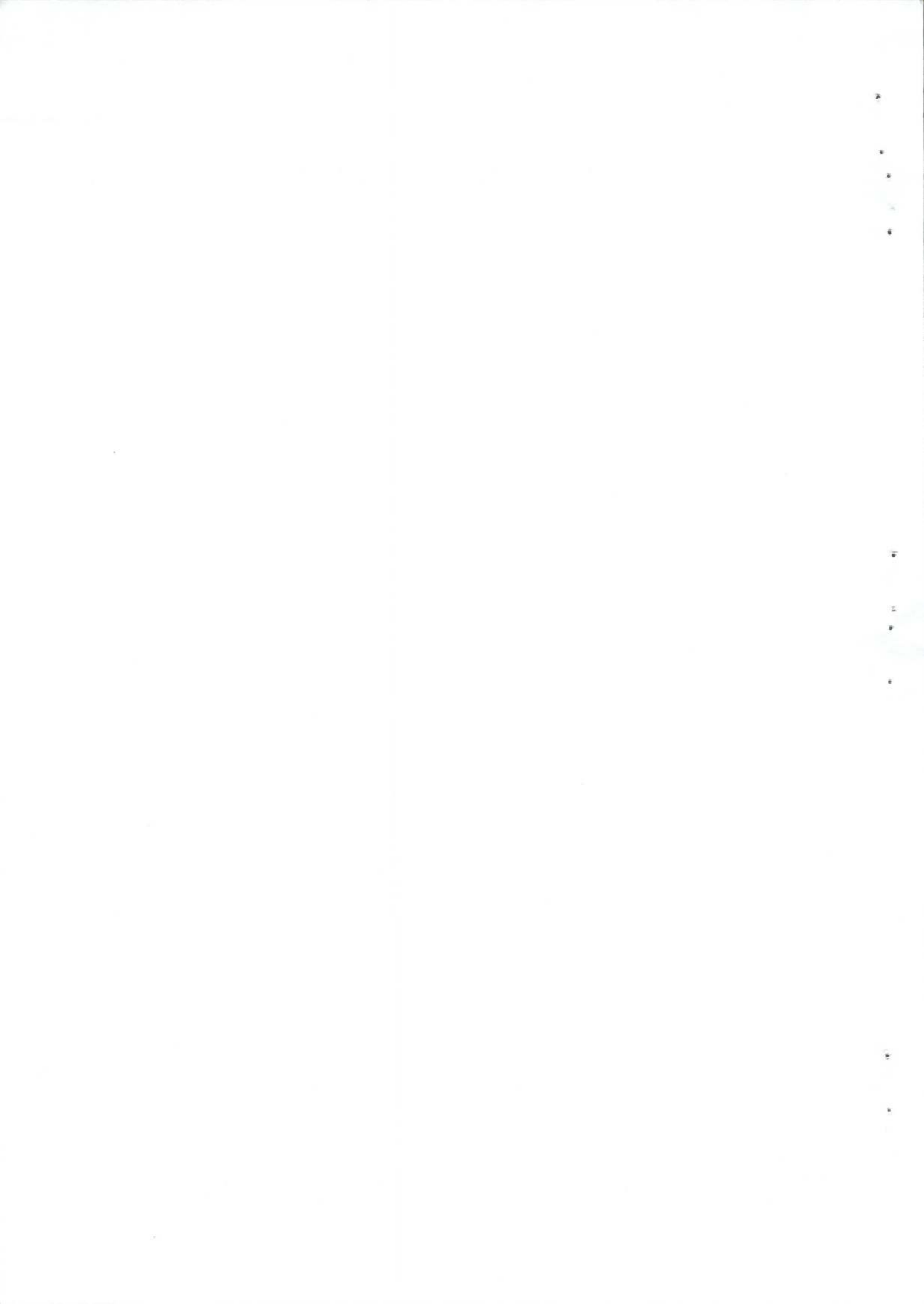
2) Each Committee should consist of not more than four members of the Council, and such persons - including experts and officers - as may be determined by the parties.

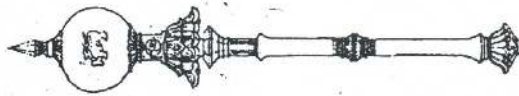
3) The Chairman of the Committee should be a member of the Council.

4) Each committee will function under the direction of the council.

Period of Operation

It is proposed that the contemplated arrangement will be in operation for a limited period as agreed upon by the parties, however, subject to the arrangement being reviewed by the parties every six months.





**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**THE CONSTITUTION OF THE REPUBLIC
OF SRI LANKA**

A

BILL

**to repeal and replace the Constitution of the Democratic Socialist
Republic of Sri Lanka**

*Presented by the Minister of Justice, Constitutional Affairs, Ethnic Affairs
and National Integration and Deputy Minister of Finance
on 03rd August, 2000*

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CHAPTER I

THE PEOPLE, THE STATE AND SOVEREIGNTY

1. (1) The Republic of Sri Lanka is one, free, sovereign and independent State consisting of the institutions of the Centre and of the Regions which shall exercise power as laid down in the Constitution.

The State.

(2) The State shall safeguard the independence, sovereignty, unity and the territorial integrity of the Republic and shall preserve and advance a Sri Lankan identity, recognizing the multi-ethnic, multi-lingual and multi-religious character of Sri Lankan society.

2. (1) In the Republic, Sovereignty is in the People and is inalienable.

Sovereignty of the People.

(2) Sovereignty includes powers 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, by the People at a Referendum, by Parliament and by Regional Councils to the respective extents and in the manner hereinafter provided;
- (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 acting on the advice of the respective Chief Ministers and Regional Boards of Ministers to the extent hereinafter provided;
- (c) the judicial power of the People shall be exercised through courts, tribunals and institutions created and established, or recognized by the Constitution, or created, ordained and established by law, except in regard to matters relating to the privileges, immunities and powers of Parliament and of its Members, wherein the judicial power of the People may also be exercised directly by Parliament to the extent provided by law ;
- (d) the fundamental rights which are by the Constitution declared and recognized shall be exercised and enjoyed by the People individually and collectively, and shall be respected, secured and advanced by all institutions of the State and shall not be abridged, restricted or denied, save in the manner and to the extent hereinafter provided ; and
- (e) the franchise shall be exercisable at the election of Members of Parliament and of Members of Regional Councils and 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 as hereinafter provided, has the citizen's name entered

The Constitution of the Republic of Sri Lanka

Territory and
Rights of the
Republic.

3. (1) The territory of the Republic shall consist of the Regions as set out in the First Schedule, its territorial waters and airspace and the Republic shall have all rights recognized by law, custom and usage, pertaining to such territory.

(2) Any Regional Council or Regional Administration shall not, by direct or indirect means, promote or otherwise advocate or attempt to promote or otherwise advocate an initiative towards -

- (a) the separation or secession of any Region or part thereof, from the Republic;
- (b) the alteration of the area or boundaries of a Region;
- (c) the alteration of the name of a Region;
- (d) the formation of a new Region by separation of territory from any Region or by uniting two or more Regions or parts of Regions or by uniting any territory with a part of any Region.

(3) Anything in paragraph (2) of this Article shall not be read and construed as prohibiting a Regional Council or Regional Administration from making representations to the Central Government regarding the matters referred to in sub-paragraph (b), (c) or (d) of that paragraph.

National Flag.

4. The National Flag of the Republic shall be the Lion Flag depicted in the Third Schedule.

National
Anthem.

5. (1) The National Anthem of the Republic shall be "*Sri Lanka Matha*", the words and music of which are set out in Part I of the Fourth Schedule.

(2) The Tamil language translation of the National Anthem shall be as set out in Part II of the Fourth Schedule

National Day.

6. The National Day of the Republic shall be the fourth day of February.

CHAPTER XV

THE DEVOLUTION OF POWER TO REGIONS

Establishment of
Regional
Council.

127. (1) (a) There shall be a Regional Council for every Region specified in Part A of the First Schedule.

(b) The Capital Territory shall form part of the Western Region.

(c) Parliament may, from time to time, by resolution, determine the limits of the Capital Territory, so however, that the limits so determined do not result in the alteration of the boundaries of the Western Province.

(2) (a) The President shall, by Order published in the *Gazette*, require a Referendum to be held in the Administrative Districts of Trincomalee, Batticaloa and Amparai, and fix a date or dates therefor, being a date or dates not earlier than the expiration of a period of nine years from the commencement of the Constitution and not later than three months prior to the expiration of a period of ten years from the commencement of the Constitution to enable the electors of such Districts to decide on the question whether or not such Districts and the Administrative Districts of Jaffna, Kilinochchi, Vavuniya, Mannar and Mullaitivu should form one Region to be designated the North-Eastern Region.

(b) Where at such Referendum the question-

(i) is answered in the affirmative by a majority of the valid votes cast, a Regional Council shall be established for the North-Eastern Region specified in Part B of the First Schedule with effect from such date as the President shall appoint by Order published in the *Gazette*;

(ii) is not answered in the affirmative, two separate Regional Councils shall be established for the Northern Region and the Eastern Region as specified respectively in Part C of the First Schedule with effect from such date as the President shall appoint by Order published in the *Gazette*.

(3) (a) For the purposes of Article 3 and this Article, the Administrative Districts specified therein and in the First Schedule and the areas and boundaries of such districts shall be those specified by or under any written law and in force at the commencement of the Constitution.

(b) It shall be lawful for Parliament, by resolution under the applicable law, to abolish any Administrative District referred to in the First Schedule, establish a new Administrative District, or to alter the limits of any such Administrative District, so however that such abolition, establishment or alteration does not result in the alteration of the area or boundaries of any Region.

(4) (a) The holding of the Referendum provided for in this Article shall be deemed to be valid notwithstanding any inconsistency with the provisions of Chapter XII.

(b) Parliament shall, by law, provide for all matters relating to such Referendum and, until Parliament so provides, the provisions of the Referendum Act. No. 7 of 1981 shall, *mutatis mutandis*, apply.

128. Every Regional Council established under Article 127 shall be constituted upon the members of such Council being elected in accordance with the law relating to Regional Council elections.

Election of Members.

129. (1) There shall be a Governor for each Region for which a Regional Council has been established under with Article 127.

Governor.

(2) (a) Subject to sub-paragraph (b) of this paragraph, the Governor shall be appointed by the President in consultation with the Prime Minister and with the concurrence of the Chief Minister of the Region.

(b) Where an agreement cannot be arrived at under sub-paragraph (a) this paragraph as to the person to be appointed as Governor, the President shall refer the matter to the Constitutional Council, which shall, after ascertaining the views of the Prime Minister and the Chief Minister, recommend to the President, a suitable person for appointment as Governor and the President shall appoint the person so recommended as Governor.

(c) The appointment of the Governor under this Article shall be made by warrant under the hand of the President.

(d) The office of Governor shall become vacant upon—

(i) the expiry of the term of office of the Governor;

(ii) the death of the Governor;

(iii) the resignation from office by the Governor by writing addressed to the President;

(iv) the making of a decision of a Committee consisting of the Chairman of the Regional Council of the Region, the Chief Minister of the Region, the Leader of the largest political party or independent group in the Regional Council other than the party or group to which the Chief Minister belongs and the Advocate-General of the Region, that the Governor is permanently incapable of discharging the functions of the office of Governor by reason of mental or physical infirmity; or

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(v) the removal of the Governor from office by the President on an address made by the Regional Council under paragraph (3) of this Article.

(3)(a) A Regional Council may, subject to sub-paragraph (b) of this paragraph, present an address to the President advising the removal of the Governor on the ground that the Governor-

(i) has intentionally violated the provisions of the Constitution;

(ii) is guilty of misconduct or corruption involving the abuse of power of the office of Governor; or

(iii) is guilty of bribery or an offence involving moral turpitude,

if a resolution for the presentation of such address is passed by an absolute majority of the whole number of members of the Council (including those not present) voting in its favour.

(b) A resolution for the presentation of an address to the President advising the removal of the Governor on the grounds referred to in sub-paragraph (a) of this paragraph shall not be entertained by the Speaker of the Regional Council or discussed at the Council, unless notice of such resolution is signed by not less than one-third of the whole number of members of the Council.

(4) Whenever the Governor is prevented by illness or any other cause from performing the duties of the office of Governor, or is temporarily absent from Sri Lanka, the President shall appoint the Governor of an adjoining Region to act in the office of Governor.

(5) Subject to the provisions of this Article, the Governor shall hold office for a period of five years from the date the Governor assumes office.

(6) Every person appointed as Governor shall assume office upon making and subscribing the affirmation or taking and subscribing the oath, set out in the Fifth Schedule, before the President.

(7) Upon the assumption of office, a Governor shall cease to hold any other office created or recognised by the Constitution and if the Governor is a Member of Parliament or a Member of a Regional Council, shall vacate the seat in Parliament or in the Regional Council, as the case may be, and shall not hold any other office or place of profit.

(8) (a) The Governor may from time to time summon a Regional Council to meet for the first sitting of any session at such time and place as the Governor thinks fit, but two months shall not intervene between the last sitting in one session and the date appointed for the first sitting of the next session.

(b) The Governor may, from time to time, prorogue the Regional Council.

(c) The Governor may dissolve the Regional Council.

(d) Subject to the provisions of the Constitution, the Governor shall exercise the powers under sub-paragraphs (b) and (c) of this paragraph in accordance with the advice of the Chief Minister, as long as the Chief Minister commands the support of the majority of the Regional Council.

(9) (a) The Governor of a Region shall have the power to grant pardon to any person convicted of an offence under a Statute made by the Regional Council of that Region or a law made by Parliament on a matter in respect of which the Regional Council has power to make Statutes, or to grant a respite or remission of punishment imposed by court on any such person.

(b) The Governor shall exercise the power under this paragraph in consultation with a committee consisting of the seniormost Judge of the Regional High Court or any other Judge of the Regional High Court nominated by such Judge, a nominee of the Chief Minister and the Advocate-General of the Region.

(c) The Governor shall not exercise the powers under this paragraph where power has been exercised by the President under Article 59 in respect of the same person and in respect of the same offence.

(10) The Governor may address the Regional Council and may for that purpose require the attendance of members.

(11) It shall be the duty of the Chief Minister of every Region to communicate to the Governor of the Region all decisions of the Board of Ministers relating to the administration of the affairs of the Region and the proposals for legislation.

(12) Parliament shall, by law or resolution, make provision for the salary and allowances payable to holders of the office of Governor.

130. (1) (a) The executive power of the Region is vested in the Governor, and, insofar as such power relates to matters with respect to which a Regional Council has power to make Statutes, the Governor shall act on the advice of the Chief Minister and the Board of Ministers.

Executive powers of the Region.

(b) The exercise of executive power relating to specific subjects and functions shall be through Ministers acting directly or through subordinate officers, in accordance with this Chapter.

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(2) (a) All contracts made in the exercise of the executive power of a Region shall be expressly made in the name of the Governor of the Region, and all such contracts and all assurances of property made in the exercise of that power shall be executed on behalf of the Governor by such persons and in such manner as the Governor may direct or authorize.

(b) The Governor shall not be personally liable in respect of any contract or assurance made or executed for the purposes of this Article, nor shall any person making any such contract or assurance on behalf of the Governor, be personally liable in respect thereof.

Interpretation of written law on matters enumerated in the Regional List.

131. (1) Where any power or function including the power to make any Order, Proclamation, Notification, regulation or rule, is conferred on, or assigned to a Minister of the Cabinet of Ministers or to a public officer, as the case may be, by any written law made prior to the commencement of the Constitution on any matter enumerated in List II of the Second Schedule (hereinafter referred to as the "Regional List"), such power or function may -

(a) if such power or function is conferred on, or assigned to, any such Minister, be exercised or discharged, in relation to a Region and unless the context otherwise requires, by the Minister of the Board of Ministers of that Region to whom the subject has been assigned; and accordingly, references in every such written law to a Minister of the Cabinet of Ministers shall be deemed to include references to the Minister of the Board of Ministers of such Region to whom the function has been assigned ; and

(b) if such power or function is conferred on, or assigned to, a public officer, be exercised or discharged, in relation to a Region and unless the context otherwise requires, by the officer of the Regional Public Service holding an office corresponding to the office held by such public officer; and accordingly, references in every such written law to a public officer shall be deemed to include a reference to the officer of the Regional Public Service who holds an office corresponding to the office held by such public officer.

(2) Where any such written law referred to in paragraph (1) of this Article makes provision-

(a) for any Order, Proclamation, Notification, regulation or rule made under that written law to be laid before Parliament ; or

(b) for the annulment or approval of any such Order, Proclamation, Notification, regulation or rule, by Parliament,

such provision shall have effect in relation to a Region as if reference in it to Parliament were a reference to the Regional Council established for that Region.

(3) The provisions of paragraphs (1) and (2) of this Article shall apply, *mutatis mutandis*, to Statutes of the corresponding Provincial Councils established by the 1978 Constitution and in force immediately prior to the commencement of the Constitution.

132. A Regional Council shall consist of such number of members as may be determined by or under law, who shall be elected in such manner as may be determined by Parliament by law.

Membership of a Regional Council.

133. A Regional Council shall, unless sooner dissolved, continue for a period of five years from the date appointed for its first meeting, and the expiry of the said period of five years shall operate as the dissolution of the Council.

Term of office.

134. (1) There shall be a Board of Ministers with the Chief Minister as the Head of the Board and such number of Ministers in respect of each Region as is specified in Column III of the First Schedule, to aid and advise the Governor of the Region in the discharge of the functions of the Governor and the Governor shall, in the discharge of those functions, act in accordance with such advice except in so far as the Governor is by or under the Constitution required to discharge the functions or any of them in the Governor's discretion or in consultation with a person or body of persons.

Board of Ministers.

(2) (a) The Governor shall, subject to sub-paragraph (b) of this paragraph, appoint as Chief Minister, the member of the Regional Council established for that Region who is best able to command the support of a majority of the members of that Council.

(b) Where more than one half of the members elected to a Regional Council are members of one political party or independent group, the Governor shall appoint the leader of that party or group in the Council as Chief Minister.

(3) After the conclusion of an election of members of a Regional Council, the Commissioner-General of Elections shall forthwith apportion the number of Ministers among the recognised political parties and independent groups contesting the election and which have informed the Commissioner-General of Elections that they wish to participate in the Board of Ministers, in the same proportion as the proportion which the number of valid votes polled by each such party or group at the election held on the basis of proportional representation bears to the total number of valid votes polled by all such parties and groups at such election and for the purposes of such apportionment, the provisions of paragraphs (4), (5) and (6) and of Article 116 shall, *mutatis mutandis*, apply.

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(4) (a) The Commissioner-General of Elections shall forthwith inform the Governor, of the number of Ministers each such recognised political party or independent group is entitled to appoint by virtue of the apportionment made under paragraph (3) and the Governor shall, within three days of the receipt of such information, summon the Chief Minister and the secretaries and group leaders of such parties and groups and shall on the recommendations of such secretaries and group leaders and after consultation with the Chief Minister, appoint the Ministers of the Board of Ministers.

(b) Any vacancy arising as a result of a Minister ceasing to hold office shall be filled in accordance with the provisions of this paragraph.

(5) Where the secretary of a recognised political party or the group leader of an independent group does not make any recommendation upon being summoned by the Governor under sub-paragraph (a) of paragraph (4) of this Article, it shall be presumed that such recognised political party or independent group does not wish to participate in the Board of Ministers and the Commissioner-General of Elections shall thereupon re-apportion the number of Ministers, and the provisions of paragraph (3) and (4) of this Article shall apply.

(6) Every Regional Council established for a Region shall by Statute, specify the principal subjects and functions in respect of which Ministers of the Board of Ministers of that Region shall be appointed, and until such Statute is passed, the Chief Minister shall determine such principal subjects and functions.

(7) (a) The Chief Minister of a Region shall in consultation with the Ministers appointed under paragraphs (4) and (5) of this Article, assign subjects and functions to such Ministers in accordance with the Statute made by the Regional Council established for that Region or the determination referred to in paragraph (6) of this Article.

(b) The Chief Minister of a Region together with the Ministers appointed under paragraphs (4) and (5) of this Article shall constitute the Board of Ministers of that Region, and the Board of Ministers shall be collectively responsible and answerable to the Regional Council established for that Region.

(c) The quorum for any meeting of the Board of Ministers shall be not less than one half of the total number of Ministers constituting the Board of Ministers.

(8) A person appointed to the office of Chief Minister or member of the Board of Ministers shall not enter upon the duties of the office of Chief Minister or Minister of the Board of Ministers until such person makes and subscribes the affirmation or takes and subscribes the oath set out in the Fifth Schedule.

(9) (a) Upon the death or resignation of the Chief Minister or where the Chief Minister is deemed to have resigned, the Board of Ministers shall stand dissolved, and the Governor shall, subject to sub-paragraph (b) of this paragraph, appoint a Chief Minister and a Board of Ministers in accordance with the provisions of this Article.

(b) Where it is not possible to make an appointment in accordance with the provisions of paragraph (2) of this Article, the Governor shall, subject to sub paragraph (c) of this paragraph, dissolve the Regional Council.

(c) The Governor shall, prior to such dissolution, endeavour to ascertain whether any member of the Regional Council is able to command the support of a majority of the members of that Council.

(10) If the Regional Council rejects the statement of policy of the Regional Administration or the draft Appropriation Statute or passes a vote of no-confidence in the Regional Administration, the Chief Minister shall be deemed to have resigned.

(11) There shall be for each Ministry in charge of a Minister of the Board of Ministers, a Secretary and the Secretary shall, subject to the direction and control of the Minister, exercise supervision over the departments and institutions in charge of such Minister of the Board of Ministers.

(12) The Secretary shall also function as the Secretary to the Executive Committee appointed for that Ministry.

135. (1) There shall be an Executive Committee for each Ministry of which the Minister in charge of such Ministry shall be the Chairperson.

Executive
Committees.

(2) The Minister shall exercise power in relation to the subjects and functions assigned to the Minister in consultation with the Executive Committee.

(3) (a) The Executive Committee may make proposals in relation to policy to the Board of Ministers through the Minister and the Board of Ministers shall consider such proposals.

(b) Where the Board of Ministers does not agree to a proposal made by an Executive Committee under sub-paragraph (a) of this paragraph, the Board shall notify its decision to such Executive Committee and any member of such Executive Committee may place such proposal before the Regional Council.

(c) The Executive Committee may delegate any of its powers to the Minister.

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(4) (a) Every Regional Council shall proceed to the election of the aforesaid Committees as soon as may be after the election of a Speaker and before proceeding to the despatch of any other business.

(b) Each Committee shall consist of, as nearly as possible, an equal number of members and every member of the Council, except the Speaker, shall be elected to one such Committee.

(c) Any member of the Council shall not be elected to more than one Committee.

(d) Where a member of a Committee is elected to fill any vacancy in the office of the Speaker, that member shall, upon such election, cease to be a member of such Committee.

(5) Subject to the provisions of this Article, the procedure for the election of Executive Committees and for the assignment to an Executive Committee of any member elected to the Council after the first meeting thereof following a general election and for transfer of members from one Committee to another shall be as prescribed by the Standing Orders of the Council and in the absence of such Standing Orders, the procedure shall be as determined by the Speaker.

(6) Whenever a Minister of the Board of Ministers is unable to discharge the functions of the Minister's office, the Governor, acting on the advice of the Chief Minister tendered in consultation with the Secretary of the recognised political party or the group leader of the independent group, as the case may be, of which such Minister is a member, may appoint any member of the Executive Committee, of which such Minister is Chairperson, to act in place of such Minister.

The Advocate-General of the Region.

136. (1) The Governor of each Region shall appoint an attorney-at-law from the Region who has achieved eminence in the profession and has maintained high standards of conduct and professional rectitude to be the Advocate-General of the Region.

(2) It shall be the duty of the Advocate-General to give advice to the Governor, the Chief Minister and the Board of Ministers upon such legal matters and perform such other duties in relation thereto, as may be from time to time referred or assigned to the Advocate-General by the Governor and to discharge the functions conferred on the Advocate-General by or under this Chapter or other law.

(3) The Advocate-General shall hold office during the pleasure of the Governor and shall receive such remuneration as the Governor may determine.

137. (1) Subject to the provisions of the Constitution, the Regional Council of a Region shall have exclusive power to make Statutes, including Statutes having retrospective effect, for such Region or any part thereof with respect to any of the matters enumerated in the "Regional List".

Legislative power, delegation and procedure.

(2) A Statute of a Regional Council shall not contravene or be inconsistent with the Constitution and any Statute, insofar as it is in contravention or inconsistent with the Constitution, shall, to the extent of such contravention or inconsistency be void.

(3) (a) A Regional Council shall not abdicate or in any manner alienate its legislative power.

(b) The provisions of paragraphs (2), (3) and (4) of Article 92 shall, *mutatis mutandis*, apply to the exercise of legislative power by Regional Councils.

(4) (a) Sittings of a Regional Council and the procedure for the transaction of business by a Regional Council shall be regulated by Standing Orders made by such Council.

(b) Parliament may by resolution provide for model Standing Orders for Regional Councils.

138. (1) Every draft Statute proposed to be presented in a Regional Council shall be submitted to the Governor at least fourteen days prior to presentation, and every such draft Statute shall be published in the *Gazette* at least seven days prior to presentation.

Review of constitutionality of draft Statutes.

(2) It shall be the duty of the Advocate-General of the Region to examine every draft Statute before it is published in the *Gazette*, for any contravention or inconsistency with the Constitution and the Advocate-General or any officer assisting the Advocate-General in the performance of the duties under this Article shall be afforded all facilities necessary for the performance of such duties.

(3) If the Advocate-General is of the opinion that a draft Statute or any provision thereof, contravenes, or is inconsistent with, the Constitution, the Advocate-General shall, subject to the provisions of paragraph (4) of this Article, communicate such opinion to the Governor, the Chief Minister and the Board of Ministers, and may, after publication of the draft Statute in the *Gazette*, invoke the jurisdiction of the Supreme Court under subparagraph (a) of paragraph (10) of Article 169(1)(a) to determine the constitutionality of the draft Statute or any provisions thereof.

(4) Where an amendment is proposed to a draft Statute in the Regional Council, the Advocate-General of the Region shall communicate the

opinion on matters specified in paragraph (2) of this Article to the Speaker at the stage when the draft Statute is ready to be put to the Regional Council for its acceptance.

(5) Where a draft Statute is passed, despite the opinion of the Advocate-General that it contravenes or is inconsistent with the Constitution, it shall be the duty of the Advocate-General to invoke the jurisdiction of the Supreme Court under sub-paragraph (b) of paragraph (1) of Article 169 to determine the constitutionality of such Statute or any provision thereof.

Statutes inconsistent with laws and Statutes of Provincial Councils.

139. (1) Where there is a law with respect to any matter in the Regional List in force in any Region on the date on which a Regional Council is established for that Region and the Regional Council established for that Region subsequently makes a Statute on the same matter and which is described in its long title as being inconsistent with that law, then, the provisions of that law shall, with effect from the date on which that Statute is certified by the Speaker of the Regional Council, remain suspended and be inoperative within that Region, to the extent of such inconsistency.

(2) Where there is a Statute of a Provincial Council established by the 1978 Constitution in force in any area of a Region on the date on which a Regional Council is established for that Region, such Statute shall continue to be in force in relation to the area to which it was applicable unless the Regional Council provides otherwise.

When a draft Statute becomes law.

140. (1) Every draft Statute passed by a Regional Council shall come into force upon the certificate of the Speaker of that Council being endorsed thereon.

(2) The Speaker shall endorse on every draft Statute passed by the Regional Council a certificate in the following form : -

“This draft Statute (state the short title of the draft Statute), has been duly passed by the Regional Council”.

(3) Where a certificate is endorsed on a draft Statute as provided for in paragraph (2) of this Article a court or tribunal shall not inquire into, pronounce upon or in any manner call in question, the validity of such Statute save as provided in Article 169.

Chief Ministers' Conference.

141. (1) (a) There shall be established a Chief Ministers' Conference which shall consist of the Chief Ministers of all the Regions

(b) Where there is no Chief Minister in office in any Region, the Governor of that Region, or any person authorized by the Governor, may represent the Region at the Conference.

(2) (a) The Chairperson of the Chief Ministers' Conference shall be elected by the Chief Ministers from among themselves in rotation, so however, that each Chief Minister shall hold office as Chairperson for a period of up to three months.

(b) The Chairperson of the Chief Ministers' Conference shall represent the Conference on the Constitutional Council.

(3) The Conference shall have the power-

(a) to take all such steps as may be necessary to ensure full compliance with the provisions of this Constitution relating to Regional Councils and Regional Administrations, in accordance with the spirit and intention of the Constitution;

(b) to inquire into and to settle by mediation or conciliation any dispute which may arise between or among two or more Regional Administrations;

(c) to inquire into and discuss subjects in which all or more than one of the Regions have a common interest, and to make recommendations for the better co-ordination of policy and action in respect of such subjects ; and

(d) to discuss matters, policy and procedure relating to finance, the financial administration and accountability of the Regional Administrations and to make representations thereon to the Finance Commission and the Central Government.

(4) (a) Where efforts at mediation and conciliation as provided for in sub-paragraph (b) of paragraph (3) of this Article fail, such dispute may be referred for adjudication to a tribunal established, in accordance with this Article.

(b) The tribunal referred to in sub-paragraph (a) of this paragraph shall consist of a member appointed by each of the Regional Administrations which is a party to the dispute and a Chairperson nominated by the members so appointed.

(c) Where there is no agreement on the nomination of the Chairperson, the Chairperson shall be nominated by the Constitutional Council.

(d) The practices and procedures of the tribunal shall be regulated by rules framed by the Conference, and until such rules are framed, by rules determined by the Chairperson of the tribunal.

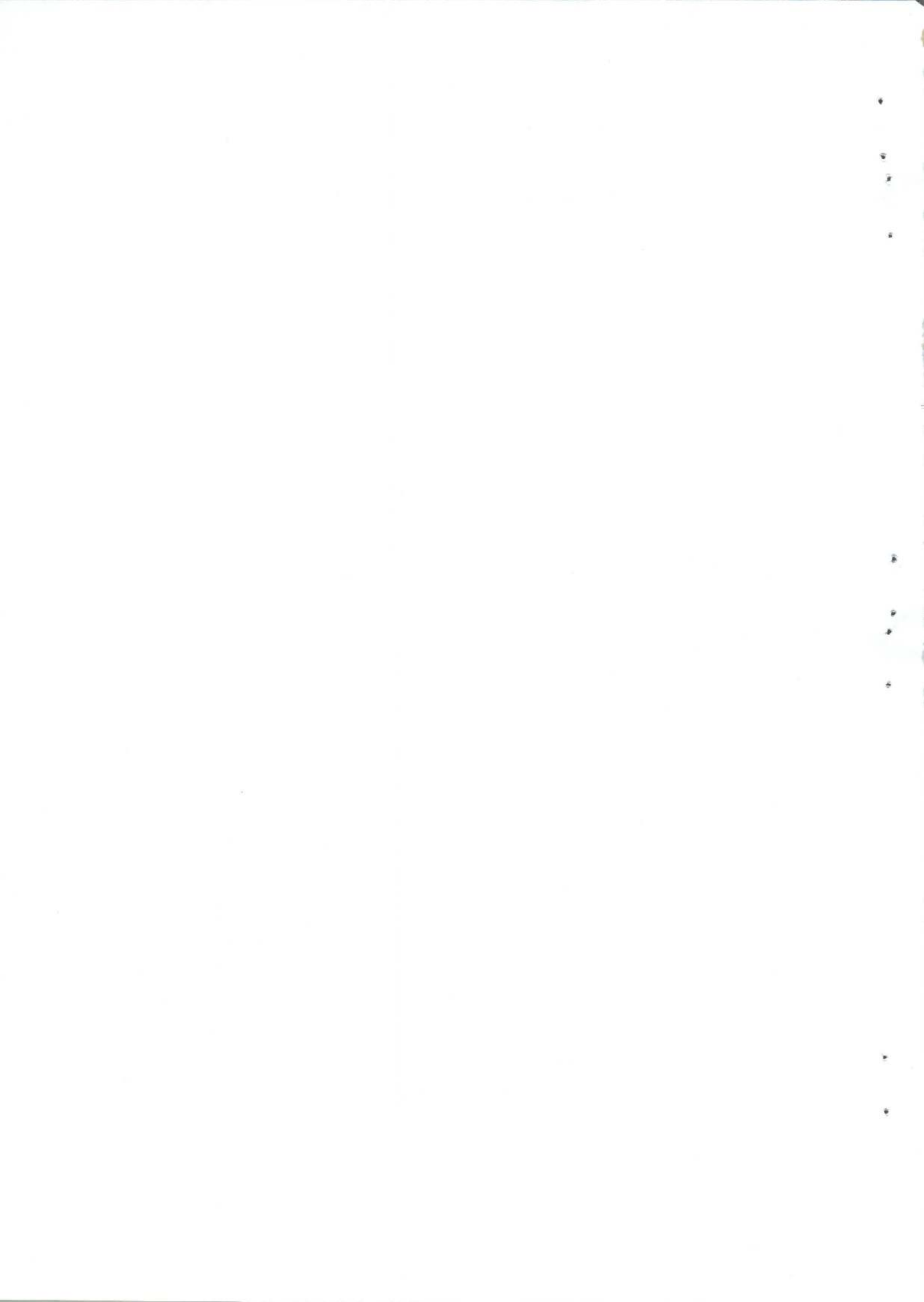
(e) Any award or determination made by such tribunal shall be binding on the parties to the dispute.

(5) Anything in this paragraph shall not be read and construed as empowering the tribunal to determine any question relating to the interpretation of the Constitution.

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(6) The Conference shall regulate its own procedures and shall meet every month, unless otherwise determined by the Conference.

(7) The Prime Minister shall meet with the Conference regularly, so however that a period of three months shall not elapse between two consecutive meetings.



CHAPTER XVI

STATE LAND, WATERS AND MINERALS

142. (1) The foreshore, all lands, mines, minerals and other things of value underlying the ocean within the territorial waters, rights pertaining to the continental shelf and rights pertaining to the exclusive economic zone of Sri Lanka, shall continue to vest in the Republic and shall be held by the Central Government.

Foreshore, lands underlying the ocean, mines and minerals &c.

(2) The limits of the territorial waters, the continental shelf, the exclusive economic zone and other maritime zones of Sri Lanka shall be such as are specified, from time to time, by law.

(3) The regulation of the development and exploitation of mines and minerals including oil fields, petroleum and petroleum products and the collection of royalties thereon shall be a subject and function of the Central Government.

143. (1) For the purposes of paragraphs (2), (3), (4) and (5) of this Article State land means all land in Sri Lanka vested in the Democratic Socialist Republic of Sri Lanka immediately prior to the commencement of the Constitution.

State land.

(2) The Centre and the Regions shall succeed to such State land at the commencement of the Constitution in the manner hereinafter provided and shall hold such State land in the name of the Republic.

(3) (a) The Centre shall succeed to State land controlled or used, in relation to subjects and functions enumerated in the Reserved List, by the Central Government, its institutions or any public corporation at the commencement of the Constitution.

(b) A Regional Administration may negotiate with the Central Government for the release of any State land referred to in sub-paragraph (a) of this paragraph to be used for the purposes of any subject or function in the Regional List.

(4) The Centre shall succeed to State land, situated within the Capital Territory, alienated before the commencement of the Constitution and the title to which continues to be with the Republic at the commencement of the Constitution.

(5) Every Region shall succeed to all other State land within the Region and such State land shall, subject to —

(a) the rights enjoyed, immediately prior to the commencement of the Constitution, by any person in lawful possession or occupation, immediately prior to the commencement of the Constitution, of any such land; and

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(b) the provisions of this Chapter,

be at the disposal of the Regional Administration of that Region for the purposes set out in the Regional List, and the Regional Administration 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, in accordance with applicable written law.

(6) (a) Where the Central Government is satisfied that State land in a Region is required for the purpose of a subject in the Reserve List, the Central Government may, after consultation with the relevant Regional Administration, require the Regional Administration to make available to the Central Government or to such public authority as the Central Government may specify, such land as may reasonably be required for such purpose and the Regional Administration shall comply with such requirement.

(b) Where a Regional Administration does not comply with a requirement made under sub-paragraph (a) of this paragraph, the President shall refer the matter for arbitration to a tribunal consisting of one member appointed by the Prime Minister, one member appointed by the Chief Minister of the relevant Region and a Chairman nominated by the members so appointed and, where there is no agreement on the nomination of a Chairman, the Chairman shall be nominated by the Constitutional Council.

(c) A decision of a tribunal referred to in sub-paragraph (b) of this paragraph shall be binding on the Central Government and the relevant Regional Administration, and a court or tribunal shall not have the power or jurisdiction to inquire into, pronounce upon, or in any manner call in question, such decision.

(7) Alienation of any State land shall be made on behalf of, and in the name of, the Republic and shall be subject to national land use policy as determined by the National Land Use Council.

(8) Priority in land settlement schemes after the commencement of the Constitution shall be accorded first to landless persons of any sub-division, recognized by law, of a District, then to landless persons of the District, and then to persons of the Region.

(9) All State land, whether under the control of the Centre or Regions, shall be used with due regard to national land use policy as laid down by the National Land Use Council.

144. (1) Inter-regional irrigation projects are schemes where the command area falls within two or more Regions.

(2) Projects referred to in paragraph (1) of this Article and the relocation of persons displaced as a result of their implementation, shall be a subject and function of the Central Government and such relocation shall be undertaken in consultation with the Chief Ministers of the Regions which benefit from such projects, and the provisions of paragraph (6) of Article 143 shall apply.

(3) The distribution of allotments of land in land development schemes begun prior to the commencement of the Constitution and which have not been completed shall be according to the criteria that applied to such schemes prior to the commencement of the Constitution.

145. (1) Parliament shall by law provide for the establishment of a National Land Use Council, the constitution of which shall ensure the equal representation of the Central Government on the one hand and the Regions on the other and the equitable representation of all the major communities.

National Land
Use Council.

(2) The Council shall be charged with —

- (a) the formulation of national land use policy, taking into account international standards relating to the appropriate amount of forest cover, exploitation of natural resources, the quality of the environment and other relevant matters ;
- (b) the making of recommendations to the Central Government and the Regional Administrations with regard to the protection of watersheds, the appropriate amount of forest cover in each Region, conservation of fauna and flora and the protection of the environment ; and
- (c) monitoring and keeping under review, land use and compliance with policy and recommendations formulated or made in accordance with sub-paragraphs (a) and (b) of this paragraph.

(3) Where in the opinion of the Council there is deliberate non-compliance with such policies or recommendations formulated or made by the Council or by a Regional Administration, the Council shall, with prior written notice to the Governor of the relevant Region and after giving the Regional Administration such hearing as the Council may consider fit, recommend to the Central Government that the Central Government shall assume control over the land in question so as to ensure compliance with such policies or recommendations of the Council and the Central Government shall act in accordance with such recommendation.

(4) It shall be the duty of every Regional Administration to comply with such policies and recommendations and to hand over land referred to in paragraph (3) of this Article to the Central Government when required to do so.

(5) Every recommendation made under paragraph (3) of this Article shall be final and conclusive and shall not be questioned in any court or tribunal and a court or tribunal shall not have jurisdiction to inquire into, or pronounce upon, or in any manner call in question, the validity of such recommendation on any ground whatsoever.

CHAPTER XXI

FINANCE

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

Taxes not to be imposed save by authority of law or Statute.

207. (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 Regions, 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.

Central and Regional Finances.

(b) All revenues received by a Regional 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 Region.

(c) All other public monies received by or on behalf of the Central Government or a Regional Administration shall be credited to the Consolidated Fund of Sri Lanka or the Consolidated Fund of the Region, as the case may be.

(d) Money out of the Consolidated Fund of Sri Lanka or the Consolidated Fund of the Region 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 of 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 Regional Council may by Statute establish a Contingency Fund in the nature of an imprest, to be entitled the Contingency Fund of the Region, 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 Minister of the Board of Ministers of the Region in charge of the subject of Finance to enable advances to be made by such Minister out of such Fund with the consent of the Chief Minister of the Region 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 Regional 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 Regional Administrations of the Regions within which such duties are respectively leviable.
- (b) The proceeds in any financial year of any such duty leviable within any Region shall not form part of the Consolidated Fund of Sri Lanka and shall be assigned to that Region.
- (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 Regions 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 Region 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-regional 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 Region within which such tax is leviable in that year and shall be disbursed to the respective Regions 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 Regions as Parliament may determine to be in need of assistance, and different sums may be fixed for different Regions.

208. (1) Save as otherwise expressly provided in paragraphs (3) and (4) of this Article, 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.

Withdrawals of sums from Consolidated Fund.

(2) Any warrant under paragraph (1) of this Article 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 Region except under a warrant under the hand of the Chief Minister of the Region.

(6) A warrant under paragraph (5) of this Article shall not be issued unless the money has by Statute of the Regional Council established for the Region, 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 Region.

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

209. A Bill or motion, authorizing the disposal of any monies of, or 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.

Regional
borrowing and
investment in the
Region.

210. (1) (a) The executive power of the Region extends to domestic and international borrowing upon the security of the Consolidated Fund of the Region.

(b) International borrowings by a Regional Administration shall be subject to such criteria and limitations as may be specified by Parliament and shall require the concurrence of the Minister of the Cabinet of Ministers in charge of the subject of Finance.

(2) (a) The limits as regards domestic borrowing and the limitations and criteria as regards international borrowing by each Regional 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 Regional Administration.

(3) Any agreements negotiated and entered into by Regional 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.

211. (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 Constitutional Council.

Finance
Commission.

(b) In making a recommendation under sub-paragraph (a) of this paragraph, the Constitutional Council shall ensure that the three major communities are represented on the Commission.

(c) The President shall appoint one of the members as the Chairperson of the Finance Commission.

(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 Regions.

(4) Subject to paragraph (5) of this Article, 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 Regions, shall be apportioned between the various Regions;

(b) 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 ; and

(c) any other matter referred to the Commission by the President relating to regional finance.

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- (5) In making the recommendations under sub-paragraphs (a) and (b) of paragraph (4) of this Article, 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 population of each Region ;
 - (b) the per capita income of each Region;
 - (c) the need, progressively, to reduce social and economic disparities;
 - (d) the need, progressively, to reduce the difference between the per capita income of each Region and the highest per capita income among the Regions ;
 - (e) the need to have effective utilization of the monies made available to the respective Regions;
 - (f) any exceptional expenditure incurred by a Regional Administration to meet exigencies such as natural disasters;
 - (g) the returns submitted to the Commission by every Regional Administration including information relating to expenditure ; and
 - (h) the reports of the Auditor-General consequent to the audits of Regional Administrations and authorities thereof.
- (6) The Commission shall determine its own procedure and shall have such powers in the performance of its duties as Parliament may, by law, confer on it.
- (7) The President shall cause every recommendation made by the Finance Commission under this Article to be laid before Parliament, and shall notify Parliament as to the action taken thereon.
- (8) 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.

212. (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 Regional Administration.

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

(2) The property and income of a Regional Administration shall be exempt from taxation by the Central Government, save and except customs duties.

213. (1) There shall be an Auditor-General who shall be appointed by the President and who shall hold office during good behaviour.

Auditor-General.

(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.

214. (1) The Auditor-General shall audit the accounts of all departments of the Central Government and of the Regional Administrations, the offices of the Cabinet of Ministers, the Judicial Service Commission, the National Public Service Commission, the Finance Commission, the National Police Commission, Regional Public Service Commissions, Regional 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.

Duties and functions of the Auditor-General.

- (2) Notwithstanding the provisions of paragraph (1) of this Article, 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) The Auditor-General shall also perform and discharge such duties and functions as may be prescribed by Parliament by law.
- (4) (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.

- (5) (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.
- (6) (a) The Auditor-General shall within ten months after the close of each financial year and as and 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 Regional Council established for a Region in so far those duties and functions relate to the Regional Administration of that Region.
- (b) The reports of the Auditor-General relating to the Regional Administration which are required to be submitted to a Regional Council under sub-paragraph (a) of this paragraph shall be laid before the relevant Regional Council.
- (7) 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.
- (8) 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 practise as an Accountant issued by the Council of such Institute ; or

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- (b) 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 practise as an Accountant issued by the Council of such Institute.

CHAPTER XXII

DEFENCE, NATIONAL SECURITY AND LAW AND ORDER

215. (1) Defence, national security and the raising, establishment and maintenance, as provided for by law, of regular, special and para-military forces shall be subjects reserved exclusively for the Central Government.

Matters pertaining to Defence, National Security, Law and Order &c.

(2) Law and order including public order and the exercise of police powers shall —

(a) be reserved exclusively for the Central Government in the Capital Territory and in cases expressly provided for in the Constitution; and

(b) subject to sub-paragraph (a) of this paragraph, be devolved in the Regions.

(3) (a) The nature, type and quantity of firearms, ammunition, explosives, armaments and other equipment for all Regional Police Services shall be determined by the National Police Commission after consulting the Regional Police Commissions as to the requirements of the respective Regional Police Services, and uniform standards and principles shall be applied for all Regional Police Services.

(b) It shall be the responsibility of the Central Government to procure and issue such firearms, ammunition, explosives, armaments and other equipment determined under sub-paragraph (a) of this paragraph.

216. (1) (a) There shall be a National Police Service headed by the National Police Commissioner, and including the National Deputy Police Commissioners, Senior Superintendents of Police, Superintendents of Police, Assistant Superintendents of Police, and other ranks recruited at the national level.

National Police Service and National Police Commission.

(b) There shall be a National Police Commission consisting of five members appointed by the President on the recommendation of the Constitutional Council and the President shall appoint one of the members as the Chairperson of the Commission, so however that the three major communities shall be represented on the Commission.

(c) Notwithstanding anything in Chapter XX, the National Police Commission shall be responsible for recruitment, promotion, transfer, disciplinary control and dismissal

of officers in the National Police Service and for the transfer of officers of a Regional Police Service from one Region to another in consultation with the relevant Regional Police Commissions.

- (d) The National Police Commission may delegate the powers of the Commission relating to disciplinary control of any category of officers of the National Police Service, to any officer of the police service not below the rank of a Senior Superintendent of Police.
- (e) The provisions of paragraphs (2), (4), (5), (6), (7), (9) and (10) of Article 194, paragraphs (2), (3) and (5) of Articles 196 and Articles 197, 198 and 199 shall, *mutatis mutandis*, apply to the National Police Commission.
- (f) The National Police Commissioner or a National Deputy Police Commissioner may transfer a national police officer subject to confirmation by the National Police Commission within one month of the order of transfer.

(2) Subject to the provisions of this Chapter, the following offences shall be exclusively investigated by the National Police Service -

- (a) any offence against the Republic;
- (b) any offence relating to the National Police, Army, Navy and Air Force;
- (c) any offence relating to elections;
- (d) any offence committed against the President;
- (e) any offence committed against the Prime Minister, the Speaker of Parliament, a Minister of the Cabinet of Ministers, a Deputy Minister or a Member of Parliament;
- (f) any offence committed against a Judge of the Supreme Court or the Court of Appeal, a member of the Constitutional Council, a member of any of the Commissions specified in the Schedule to Article 123 and persons holding any of the offices specified in the Schedule to Article 124, a member of the National Police Commission, the Secretary-General of Parliament, a member of the President's staff, a member of the Prime Minister's staff, or a member of the staff of Parliament;

- (g) any offence prejudicial to national security or the maintenance of essential services;
- (h) any offence relating to coins, currency and Government stamps;
- (i) any offence relating to property belonging to the Republic or a public corporation, company or establishment, the whole or part of the capital whereof has been provided by the Republic;
- (j) any offence in respect of which courts in more than one Region have jurisdiction;
- (k) any international crime;
- (l) any offence under any law relating to any matter in the Reserved List; and
- (m) any offence committed within the Capital Territory.

(3) All specialized agencies of the Sri Lanka Police existing immediately prior to the commencement of the Constitution shall form part of the National Police Service.

(4) The National Police Service shall be responsible for the prevention, detection and investigation of all offences committed within the Capital Territory and offences, the investigation of which is reserved exclusively to the National Police Service by paragraph (2) of this Article, and the institution of prosecutions in the relevant courts, other than prosecutions on indictment presented by the Attorney-General, in respect of such offences.

(5) Save as otherwise expressly provided in the Constitution, all officers in the National Police Service shall hold office at pleasure.

217. (1) (a) There shall be a Regional Police Service for each Region headed by a Regional Police Commissioner who shall be appointed by the Regional Police Commission with the concurrence of the Board of Ministers of the Region .

Regional Police Service and Regional Police Commission.

(b) (i) There shall be a Regional Police Commission for each Region consisting of five members, of whom two members shall be appointed by the Chief Minister of the Region and three members representing the three major communities of the Region shall be appointed by the Governor of that Region upon being nominated by the Constitutional Council acting in consultation with the Board of Ministers for that Region.

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- (ii) The Governor of the Region shall, in consultation with the members of the Regional Police Commission, appoint one of the members as the Chairperson of the Commission.
- (c) (i) Subject to the succeeding provisions of this sub-paragraph the Regional Police Commission shall be responsible for the recruitment, promotion, transfer, disciplinary control and dismissal of officers of the Regional Police Service.
- (ii) The Regional Police Commission in exercising its powers under this Article may, if it deems it appropriate, adopt any criteria specified by the National Police Commission in respect of matters referred to in sub-paragraph (c) (i).
- (iii) The Regional Police Commissioner or a Regional Deputy Police Commissioner may transfer a regional police officer within the Region, subject to confirmation by the Regional Police Commission within one month of the order of transfer.
- (d) The provisions of paragraphs (2), (3), (4), (5) of Article 200 and of paragraphs (3), (4), (5) and (6) of Article 202 shall, *mutatis mutandis*, apply to a Regional Police Commission.
- (2) The Regional Police Service shall consist of the Regional Police Commissioner, Regional Deputy Police Commissioners, Regional Senior Superintendents of Police, Superintendents of Police, Assistant Superintendents of Police, Chief Inspectors, Inspectors of Police, Sergeants and Constables and other ranks recruited to the Regional Police Service of a Region or seconded to the Region.
- (3) Save as otherwise expressly provided in the Constitution, all officers in the Regional Police Service shall hold office at pleasure.
- (4) The Regional Police Commissioner shall be responsible to the Minister of the Board of Ministers in charge of the subject of law and order in respect of the exercise of powers by the Regional Police Service.
- (5) The Regional Police Service shall be responsible for the prevention, detection and investigation of all offences (except the offences specified in paragraph (2) of Article 216) committed within the Region and the institution of prosecutions in the relevant courts, other than prosecutions on indictments presented by the Attorney-General, in respect of such offences.

Co-operation
between National
and Regional
Police Services.

218. (1) Where the Chief Minister of a Region seeks the assistance of the National Police Service to preserve public order within the Region, the National Police Commissioner shall deploy such personnel as are necessary for the purpose.
- (2) Notwithstanding anything to the contrary in this Chapter but subject to sub-paragraph (b) of this paragraph -
- (a) it shall be the duty of every officer of the National Police Service or Regional Police Services to take all measures for the prevention, detection and investigation of all offences;
 - (b) where an offence is required to be investigated exclusively by a police service of which the police officer to whom a complaint is made is not a member, the measures taken in pursuance of such complaint shall be communicated without delay to the relevant Police Station or specialized agency having authority to investigate such offence; and
 - (c) it shall be the duty of every police officer of the National Police Service or a Regional Police Service to assist the police officer having lawful authority in the conduct of an investigation in relation to any offence and any steps taken in the proper discharge of this duty shall be deemed to have been lawfully taken.
- (3) It shall be the duty of the National Police Service to make available, upon request, the service of specialized agencies and technical assistance to any Regional Police Service.

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CHAPTER XXIII

PUBLIC SECURITY

Public Security.

219. (1) The Public Security Ordinance in force at the commencement of the Constitution shall be deemed to be a law enacted by Parliament.

(2) The power to make emergency regulations under the Public Security Ordinance or the law for the time being in force relating to public security, shall include the power to make regulations –

(a) on any matter in List I of the Second Schedule ; and

(b) to the extent strictly required in the interests of public security and the preservation of public order or for the maintenance of supplies and services essential to the life of the community, on any matter in List II of the Second Schedule,

having the legal effect of over-riding, amending or suspending the operation, of the provisions of any written law except the provisions of the Constitution.

(3) Subject to the provisions of this Chapter, the provisions of any law relating to public security empowering the President to make emergency regulations shall not come into operation, except upon the making of a Proclamation under such law, bringing such provisions into operation.

(4) The provisions of paragraphs (1), (2), (3), (4), (5) and (6) of Article 222 shall, *mutatis mutandis*, apply to a Proclamation referred to in paragraph (3) of this Article.

State of
emergency
within a Region.

220. (1) Where the President, upon being advised by the Prime Minister, is of opinion that the security or public order in a Region is threatened by armed insurrection, grave internal disturbances or by any act or omission of the Regional Administration which presents a clear and present danger to the unity and sovereignty of the Republic, the President may make a Proclamation bringing the provisions of the law relating to public security into force in the Region.

(2) Upon the making of a Proclamation pursuant to paragraph (1) of this Article, the President may-

(a) by order deploy in aid of the civil power, the armed forces or any unit of the National Police Service for the purpose of restoring public order; and

- (b) make regulations having the legal effect of over-riding, amending or suspending the operation of any written law, except the provisions of the Constitution, relating to any matter in List I of the Second Schedule or any matter provided for in Chapter XXII.

(3) Every Proclamation made pursuant to paragraph (1) of this Article shall be revoked, as soon as the President is satisfied that public order has been restored in the Region.

221. (1) (a) Where the Governor of a Region, upon being advised by the Chief Minister of the Region is of opinion that a situation has arisen in the Region or part thereof wherein the preservation of public order or the maintenance of supplies and services essential to the life of the community is threatened, the Governor may request the President to make a Proclamation bringing the provisions of the law for the time being in force relating to public security into force in the Region or part thereof.

Proclamation of emergency on the request of the Governor.

(b) Where the President makes a Proclamation pursuant to sub-paragraph (a) of this paragraph, it shall be lawful-

- (i) for the Central Government, its representatives or agencies, to exercise authority in respect of any subject or function contained in List II of the Second Schedule as may be specified by the Governor acting on the advice of the Chief Minister of the Region;
- (ii) for the President to make regulations under the law for the time being in force relating to public security having the legal effect of over-riding, amending or suspending the operation of the provisions of any written law, except the provisions of the Constitution, relating to any matter as may be specified by the Governor acting on the advice of the Chief Minister of the Region, in List II of the Second Schedule.

(2) The regulations under sub-paragraph (b) (ii) of paragraph (1) of this Article, shall as far as is practicable be made in consultation with the Governor acting on the advice of the Chief Minister of the Region and the Regional Advocate-General of the relevant Region.

Communication
of Proclamation
to Parliament and
Regional
Councils.

222. (1) Upon the making of a Proclamation pursuant to Articles 220 and 221, the occasion thereof shall, subject to the other provisions of this Article, be forthwith communicated to Parliament and, accordingly -

- (a) if such Proclamation is issued after the dissolution of Parliament such Proclamation shall operate as a summoning of Parliament to meet on the tenth day after such Proclamation, unless the Proclamation appoints an earlier date for the meeting which shall not be less than three days from the date of the Proclamation and the Parliament so summoned shall be kept in session until the expiration or revocation of such or any further Proclamation or until the conclusion of the General Election, whichever event occurs earlier, and shall thereupon stand dissolved;
- (b) if Parliament is at the date of the making of such Proclamation separated by any such adjournment or prorogation as will not expire within ten days, a Proclamation shall be issued for the meeting of Parliament within ten days.

(2) Where the provisions of the law relating to public security have been brought into operation in a Region by the making of a Proclamation under such law, such Proclamation shall, subject to the succeeding provisions of this Article, be in operation for a period of one month from the date of the making thereof, but without prejudice to the earlier revocation of such Proclamation or to the making of a further Proclamation at or before the end of that period.

(3) (a) A Proclamation made pursuant to Articles 220 and 221 shall, subject to sub-paragraph (b) of this paragraph, expire after a period of fourteen days from the date on which such Proclamation has been made, unless such Proclamation is approved by a resolution of Parliament .

(b) Where Parliament -

- (i) stands dissolved at the date of the making of such Proclamation ; or
- (ii) is at such date separated by any such adjournment or prorogation as is referred to in sub-paragraph (1) (b) of this Article ; or
- (iii) does not meet when summoned to meet as provided in sub-paragraph (a) or (b) of paragraph (1) of this Article,

then such Proclamation shall expire at the end of ten days after the date on which Parliament shall next meet and sit, unless approved by a resolution at such meeting of Parliament.

(4) Upon the revocation by the President of a Proclamation made pursuant to Articles 220 or 221 within a period of fourteen days from the date on which the Proclamation was made or upon the expiration of such a Proclamation in accordance with the provisions of paragraph (3) of this Article, a Proclamation made pursuant to Articles 220 and 221 made within thirty days next ensuing shall not come into operation until the making thereof shall have been approved by a resolution of Parliament.

(5) If Parliament does not approve any Proclamation made pursuant to Articles 220 and 221 such Proclamation shall, immediately upon such disapproval, cease to be valid and of any force in law but without prejudice to anything lawfully done thereunder.

(6) If the making of a Proclamation cannot be communicated to and approved by Parliament by reason of the fact that Parliament does not meet when summoned, nothing contained in paragraph (3) or (4) of this Article shall affect the validity or operation of such Proclamation and in such event, Parliament shall again be summoned to meet as early as possible thereafter.

(7) Notwithstanding anything in the preceding provisions of this Article, a Proclamation made pursuant to Articles 220 and 221 shall be communicated forthwith to the Regional Council of the Region in respect of which the Proclamation is made and –

(a) in the case of a Proclamation made pursuant to Article 220, and which has been in operation in the Region for a period of ninety consecutive days shall cease to be in force in that Region unless approved by the Regional Council thereof within ten days of the expiration of that period or, if the Regional Council stands adjourned, prorogued or dissolved at the expiration of such period, unless approved at the first meeting of the Regional Council held thereafter;

(b) in the case of a Proclamation made pursuant to Article 221, shall cease to be in force in that Region unless approved by the Regional Council thereof within a period of fourteen days of such communication or, if the Regional Council stands adjourned, prorogued or dissolved at the expiration of such period, unless approved at the first meeting of the Regional Council held thereafter.

223. (1) Where the President, upon being advised by the Prime Minister, is of opinion that a situation has arisen in which a Regional Administration is promoting armed rebellion or insurrection or engaging in an intentional violation of Article 1 or 2 or 3, or the provisions of Chapter XV or Chapter XXII of the Constitution which constitutes a clear and present danger to the unity and sovereignty of the Republic, the President may, by Proclamation,

Assumption of powers by the President.

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(a) assume to the President, all or any of the functions of the administration of the Region and all or any of the powers vested in, or exercisable by, the Governor, the Chief Minister, the Board of Ministers or any body or authority in the Region; and

(b) where it is necessary for the effectual exercise of the powers under sub-paragraph (a) of this paragraph, dissolve the Regional Council.

(2) Every Proclamation made pursuant to paragraph (1) of this Article shall be forthwith laid before Parliament.

(3) Any Proclamation made pursuant to paragraph (1) of this Article, may be revoked or varied by a subsequent Proclamation.

(4) (a) The President shall, within fourteen days of making a Proclamation pursuant to paragraph (1) of this Article, for the purpose of ascertaining the continued existence of the situation which necessitated the making of such Proclamation and any other relevant matter, direct that a tribunal be constituted in the manner provided in paragraph (5) of this Article, to inquire into and report upon such matters within a period of sixty days from the date of such Proclamation.

(b) Upon receipt of the report of such tribunal, the President shall—

(i) cause the report to be laid before Parliament within a period of thirty days; and

(ii) if the tribunal reports that the situation necessitating a Proclamation made pursuant to paragraph (1) of this Article has ceased to exist, revoke the Proclamation, and in any case where the Regional Council has been dissolved, re-summon such Regional Council.

(5) The tribunal referred to in paragraph (4) of this Article shall consist of a member appointed by the President, a member appointed by the Chief Minister of the relevant Region, and where the Regional Council for that Region has been dissolved, by the person who held office as Chief Minister at the time of such dissolution, and a Chairperson nominated by the members so appointed and, where there is no agreement on the nomination of a Chairperson, the Chairperson shall be nominated by the Constitutional Council.

(6) A court or tribunal shall not have the power or jurisdiction to inquire into, pronounce upon, or in any manner call in question, a report of a tribunal referred to in paragraph (4) of this Article.

224. Every Proclamation referred to in this Chapter shall be conclusive for all purposes and shall not be questioned in any court, tribunal, save and except a tribunal constituted in accordance with Article 223, or other institution shall not inquire into, or pronounce on, or in any manner call in question, such Proclamation or the grounds for making thereof.

Proclamations not to be called in question in any court or tribunal.

CHAPTER XXVIII

INTERIM COUNCIL FOR
THE NORTHERN AND EASTERN REGIONS

243. (1) There shall be an Interim Council for the Northern and Eastern Regions set out in Part C of the First Schedule, with effect from the commencement of the Constitution, and shall continue for a period of five years from that date and such Interim Council shall be deemed to have been dissolved at the end of that period

Interim Council.

(2) The Interim Council shall consist of such number of members as is equal to the total number of members entitled to be returned, in accordance with the determination made by the Commissioner of Elections under section 3(3) of the Provincial Councils Elections Act No.1, of 1988, from the several administrative districts of the Northern and Eastern Provinces to the North-Eastern Provincial Council established under the 1978 Constitution.

(3) The President shall appoint the members of the Interim Council, so however, that the President shall appoint such members for each administrative district of the Northern and Eastern Regions, the number of members appointed for each such administrative district being equal to the number of members that each such administrative district was entitled to return to the North-Eastern Provincial Council in accordance with the determination referred to in paragraph (2) of this Article .

(4)(a) Recognized political parties and independent groups shall nominate, from among persons ordinarily resident in the Northern and Eastern Regions, persons for appointment as members of the Interim Council, for each administrative district of the Northern and Eastern Regions.

(b) The President shall appoint members of the Interim Council from among the persons nominated under subparagraph (a) of this paragraph for each administrative district of the Northern and Eastern Regions, having regard to the ethnic composition of the Northern and Eastern Regions as well as to the ethnic composition of such administrative district.

(5) The members appointed by the President to the several administrative districts of the Northern and Eastern Regions shall together constitute the Interim Council for the Northern and Eastern Regions.

(6) (a) A member of the Interim Council may, resign from the Council by writing addressed to the President and such resignation shall take effect from the date on which the President accepts such resignation in writing.

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(b) The President shall remove a member of the Interim Council from office on the recommendation of the recognized political party or independent group nominating such member for appointment to the Council.

(7) Whenever a member of the Interim Council dies, resigns or is removed from office, the President shall appoint in place of such member, a person nominated by the recognized political party or independent group which had nominated the member who has died, resigned or was removed from office.

(8) An act or proceeding of the Interim Council shall not be, or be deemed not to be, invalid by reason only of any vacancy in the Council or any defect in the appointment of a member of the Council.

Board of
Ministers.

244. (1) There shall be a Board of Ministers for the Northern and Eastern Regions consisting of Chief Minister, two Deputy Chief Ministers and six other Ministers.

(2) The Governor shall appoint as Chief Minister of the two Regions, the member of the Interim Council who is best able to command the support of a majority of the members of the Council.

(3) Where the Chief Minister is from one of the three major communities in the two Regions, the two Deputy Chief Ministers shall be from the other two major communities in the two Regions.

(4) (a) The Governor shall appoint as Deputy Chief Ministers, the members respectively, of the Interim Council who are best able to command the support of a majority of the members of the Interim Council belonging to the respective communities of which they are members.

(b) Every Deputy Chief Minister shall be entitled to participate in meetings of the Chief Ministers Conference but shall not be entitled to vote at such meetings.

(5) Of the six other Ministers, at least one shall be from second major community in the two Regions and where there is only one other Minister from such community, such Minister shall be from a recognized political party or independent group other than the recognized political party or independent group of which the Deputy Chief Minister from that community is a member.

(6) (a) The Governor, shall assign the following subjects and functions to the Chief Minister and the two Deputy Chief Ministers –

- (i) the Chief Minister – Regional Planning, Finance, Law and Order, Public Investment and Local Government;
- (ii) the Deputy Chief Minister from the second major community – Health, Social Services, Rehabilitation and Islamic Culture;
- (iii) the Deputy Chief Minister from the third major community- Archaeology and Museums, Buddhist Culture, Transport and Highways, Housing and Urban Development.

(b) The Governor shall assign subjects and functions, other than the subjects and functions assigned under sub-paragraph (a) of this paragraph to the to the Chief Minister, Deputy Chief Ministers and the other Ministers of the Board of Ministers, on the advice of the Chief Minister.

245 (1) Subject to the provisions of this Chapter, the Governor of the Northern and Eastern Regions, the Interim Council and the Board of Ministers appointed under this Chapter shall exercise and perform, the powers and duties conferred and imposed respectively on, and discharge the functions assigned respectively to, the Governor of a Region, a Regional Council and the Board of Ministers of a Region, by this Constitution, and all the provisions of this Constitution relating to the Governor of a Region, Regional Councils and the Board of Ministers of a Region shall, save as expressly provided in this Chapter, apply respectively, to the Governor of the Northern and Eastern Regions and to the Interim Council and Board of Ministers appointed under this Chapter.

Powers of Interim Council and Board of Ministers.

(2) The Governor, Interim Council and the Board of Ministers shall exercise their respective powers with rigorous impartiality on behalf of all the people in the two Regions, recognizing the diversity of their identities and traditions, and such exercise shall be founded on the principles of full respect for the equality of the civil, political, social, religious and cultural rights of those people and of the freedom from discrimination for all citizens, and on parity of esteem and equal treatment for the identity, ethos and aspirations of all communities in the two Regions.

246. (1) The following shall require the votes of a majority of the members of the Interim Council, present and voting, as well as the votes of a majority of the members of the Interim Council belonging to the second and third major communities in the two Regions; present and voting -

Legislative powers of the Interim Council.

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(a) any decision relating to—

(i) the election of a Speaker;

(ii) the adoption of standing orders of the Council; and

(b) the passing of a draft Statute declared by the Speaker as having a vital bearing on —

(i) the manifestation of any religion in worship, observance, practice and teaching;

(ii) the security of the two Regions and its inhabitants;
or

(iii) economic opportunities in the two Regions,

upon a motion to that effect being presented to the Speaker signed by not less than thirty per centum of the total number of members of the Interim Council and the Speaker being satisfied that such draft Statute has such a vital bearing.

(2) A declaration made by the Speaker under sub-paragraph (b) of paragraph (1) of this Article shall be conclusive for all purposes.

(3) (a) Every Statute passed by the Interim Council shall come into force upon the Statute receiving assent as hereinafter provided.

(b) Every Statute passed by the Interim Council shall be presented to the Governor for assent forthwith on the making thereof, and the Governor shall either assent to the Statute or may as soon as possible after the Statute is presented to the Governor for assent, return the Statute to the Interim Council together with a message requesting the Council to reconsider the Statute or any provision thereof and in particular, requesting the Council to consider the desirability of introducing such amendments as may be recommended in the message.

(c) Where a Statute is returned to the Interim Council under sub-paragraph (b) of this paragraph, the Council shall reconsider the Statute having regard to the Governor's message and may pass such Statute with or without amendments and present the Statute to the Governor for assent.

(d) Upon presentation of a Statute to the Governor under sub-paragraph (c) of this paragraph, the Governor may assent to the Statute or reserve the Statute for reference by the President to the Supreme Court within one month of the passing of the Statute for the second time, for a determination that the Statute is not inconsistent with the provisions of the Constitution.

(e) Where, upon such reference, the Supreme Court determines that the Statute is consistent with the provisions of the Constitution, the Governor shall, on receipt of the Court's determination, assent to the Statute, but where the Supreme Court determines that the Statute is inconsistent with the provisions of the Constitution, the Governor shall withhold assent to the Statute.

(4) There shall be an Executive Committee for each Ministry in charge of a Minister of the Board of Ministers and the provisions of this Constitution relating to Executive Committees of Ministries in charge of Ministers of the Board of Ministers of a Region shall, *mutatis mutandis*, apply to such Executive Committees.

247. (1) There shall be a Public Service Commission and a Public Service for the Northern and Eastern Regions. Public Service.

(2) Subject to paragraph (3) of this Article, the provisions of this Constitution relating to a Regional Public Service Commission and a Regional Public Service shall, *mutatis mutandis*, apply to such Commission and such Service.

(3) The Public Service Commission of the two Regions shall make appointments to posts in the Public Service of the Regions in accordance with criteria relating, *inter alia*, to eligibility and merit prescribed by the National Public Service Commission, but shall ensure, as far as practicable, that appointments to all categories of posts in such Service at the regional level reflect the ethnic composition of the Regions, and that appointments to posts in such Service at district level, reflect the ethnic composition of the district.

248. (1) There shall be a Police Commission and a Police Service for the Northern and Eastern Regions. Police.

(2) The provisions of this Constitution relating to a Regional Police Commission and to a Regional Police Service shall, subject to paragraph (3) of this Article, apply to such Commission and such Service.

(3) The National Police Commission shall, during the period of office of the Interim Council, recruit officers to all posts in the Police Service of the two Regions.

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(4). The Board of Ministers of the two Regions shall assist the Central Government in the decommissioning of weapons unlawfully possessed by armed groups.

Finance.

249. (1) The Interim Council shall expend the funds granted annually by the Central Government for the use of the Northern and Eastern Provinces, in accordance with guidelines issued by the Finance Commission.

(2) The guidelines issued under paragraph (1) of this Article shall include, *inter alia*, guidelines for the expenditure of funds in local authority areas with a view to eliminating or reducing disparities in development prevailing in such local authority areas.

(3) Where funds are allocated by the Interim Council for the development of a local authority area, the Interim Council shall ensure that such funds are not applied in such manner as would discriminate against minority communities living in concentrations in such local authority area.

Rehabilitation
and
Resettlement.

250. The Interim Council and the Board of Ministers shall take such measures as may be necessary –

(a) to rehabilitate and resettle, persons who have been displaced in the Northern and Eastern Regions, after January 1, 1983;

(b) to enable such persons to recover possession of property lost by such persons; and

(c) where such recovery is not possible, to ensure that such persons received adequate compensation for the loss of such property.

Cultural
Committees.

251 .(1) (a) There shall be a Cultural Committee for each of the three major communities in the Northern and Eastern Regions.

(b) Every Cultural Committee set up for a community shall consist of the members of the Interim Council belonging to such community.

(c) The members of each Cultural Committee shall elect a Chairperson of the Committee from amongst the members .

(d) The Chairpersons of local authorities established for local authority areas within the Regions may attend meetings of a Cultural Committee but shall not be entitled to vote at such meetings .

(2) A Cultural Committee may exercise and perform such powers and duties as may be conferred and imposed on such Committee by Statute and may make recommendations to the Interim Council on measures for the promotion of the culture of the community in respect of which the Committee has been set up.

(3) The Interim Council shall allocate adequate funds annually to every Cultural Committee set up under this Article and it shall be the duty of such Committee to apply such funds for the promotion of the culture of the community in respect of which the Committee has been set up.

252. (1) There shall be an Equality Commission consisting of three members appointed by the President from the three major communities in the Northern and Eastern Regions.

Equality
Commission.

(2) It shall be the function of the Equality Commission to monitor measures taken by the Interim Council and the Board of Ministers of the Regions—

(a) to promote equality of opportunity for all communities in the two Regions in matters such as employment and access to public services; and

(b) to promote parity of esteem amongst all communities in such Regions,

and may, for the purpose of discharging of such function, inquire into complaints relating to such matters made against public bodies functioning in such Regions.

(3) The Equality Commission shall report to the President as often as may be necessary.

253. (1) There shall be an Interim Regional Council for the Northern and Eastern Regions set out in Part C of the First Schedule for the period commencing on the date of dissolution of the Interim Council established under the provisions of Article 243, and ending on the last of the dates fixed for the referendum referred to in paragraph (2) of Article 127.

Interim Regional
Council.

(2) The Interim Regional Council shall consist of such number of members as is equal to the total number of members appointed to the Interim Council increased by two.

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(3) The election of members to the Interim-Regional Council shall be from the several administrative districts of the Northern and Eastern Regions and the provisions of the Provincial Councils Elections Act, No. 2 of 1988 shall, *mutatis mutandis*, apply to such election.

(4) The provisions of Articles 244, 245, 246, 247, 248, 249, 250, 251 and 252, other than the provisions of paragraph (3) of Article 248, shall, *mutatis mutandis*, apply to the Interim Regional Council established under this Article.

(5) (a) If for some unforeseen reason the Referendum referred to in paragraph (2) of Article 127 cannot be held prior to the expiration of a period of ten years from the commencement of the Constitution, two Interim Regional Councils shall be deemed to have been established respectively for the Northern and Eastern Regions set out in Part C of the First Schedule, for the period commencing on the date of expiration of the ten year period and ending on the last of the dates on which such Referendum is subsequently held, and the provisions of the Constitution relating to Regional Councils shall, *mutatis mutandis*, and unless the context otherwise requires, apply to each such Council.

(b) Upon the holding of the Referendum referred to in sub-paragraph (a) of this paragraph, the relevant provisions of paragraph (2) of Article 127 shall apply.

SECOND SCHEDULE

List I

Reserved List

1. Defence; national security; national police; security forces; special forces ; para- military forces established by or under law.
2. 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. Immigration and emigration; citizenship.
5. Foreign affairs, including all matters which bring the Republic of Sri Lanka into relations with other States and the undertaking of international obligations.
6. Entering into treaties, conventions and agreements with other States and international organizations and implementing such treaties, conventions and agreements.
7. Elections.
8. National planning.
9. National census and statistics.
10. Currency and foreign exchange, international economic relations, formulation of monetary policy and external resources.
11. Public debt of the Government of Sri Lanka.
12. Foreign loans of the Government of Sri Lanka.
13. Regulation of banking, banking institutions and other national financial institutions.
14. National policy on insurance and national institutions providing insurance services.
15. Regulation of securities, stock exchanges and future markets.
16. Audit of the Government of Sri Lanka, State institutions and public corporations.
17. Taxes on income, capital and wealth of individuals, companies and corporations as provided in Chapter XXI.

18. Customs duties, including import and export duties, and excise duties (excluding such excise duties as may be specified by law) as provided in Chapter XXI.
19. Turnover taxes and stamp duties, goods and services taxes as provided in Chapter XXI.
20. Any other taxes, duties or levies not mentioned in the Regional List.
21. National lotteries.
22. Pensions payable by the Government of Sri Lanka or out of the Consolidated Fund of Sri Lanka.
23. Atomic energy.
24. National grid for the supply of electricity, maintenance and management of the national grid.
25. Regulation of the development and exploitation of mines and minerals including oil fields, petroleum and petroleum products and the collection of royalties thereon.
26. Inter-regional rivers; inter-regional waterways.
27. Airports; ports and harbours with international transportation; provision of facilities, in consultation with the relevant Regional Administrations, in fishery harbours used mainly by vessels engaged in fishing beyond Sri Lankan waters.
28. Inter-regional transport.
29. Railways.
30. Civil aviation.
31. Inter-regional highways linking the Capital Territory with regional capitals, regional capitals with each other and district capitals with each other in so far as the highway linking district capitals traverse regional boundaries; toll roads and expressways constructed by or under authority of the Central Government.
32. Roads within the Capital Territory other than roads maintained by local authorities.
33. Shipping and navigation; Maritime Zones including historical waters and territorial waters; Exclusive Economic Zone and Continental Shelf.
34. Posts and telecommunications.
35. Mass media including Central Government broadcasting and television institutions in conformity with national standards; licensing of broadcasting and media; establishment of regulatory authorities for the determination of national standards relating to communication and media.

36. National Public Service; National Public Service Commission.
37. National health administration (inclusive of existing special purpose hospitals, teaching hospitals affiliated to National Universities, co-ordination of health services, training and co-ordination of education and research relating to health, determination of national health standards, administration of all special programmes); national health plan.
38. Policy and enforcement procedure relating to drugs, poisons and narcotics.
39. Administration of justice; court procedure.
40. Prisons.
41. Policy and law relating to adoption of children.
42. Inter-regional irrigation schemes.
43. Fishing beyond Sri Lankan waters; registration of vessels engaged in fishing beyond Sri Lankan waters; rights relating to traditional migratory fishing within Sri Lankan waters; reference of inter-regional fishing disputes and disputes relating to traditional migratory fishing for settlement in accordance with Article 141.
44. Protection, development and exploitation of marine and aquatic resources in keeping with international obligations and measures to enforce such obligations.
45. National policy on education; national institutes in the field of education, such as the National Institute of Education; administration and supervision of national schools existing immediately prior to the commencement of the Constitution, provided that the administration of any national school may be handed over to the relevant Regional Administration; determination of minimum standards for national public certification examinations and the conduct of such examinations; determination of syllabi and curricula; determination of minimum qualifications for teachers; teacher training institutions; higher technical institutions; educational publications provided by the Central Government; *Privena* education; powers under the Education Ordinance and the Assisted Schools and Training Colleges (Special Provisions) Act in relation to private schools.
46. University Grants Commission; National Universities; National standards for Regional Universities.
47. National standards with regard to professions, occupations and training.
48. National standards relating to research, development and training in the areas of agriculture, fisheries and aquatic resources, science and industries.
49. National research institutions; lands and factories owned, managed or administered by such institutions immediately prior to the commencement of the Constitution.

50. Tea, rubber, coconut, oil palm and teak plantations owned by the Republic immediately prior to the commencement of the Constitution; the regulation of the manufacture of tea, rubber and coconut; tea small holdings; rubber small holdings; coconut small holdings.
51. Foreign trade; general policy on inter-regional trade.
52. Subjects and functions of the Sri Lanka Standards Institution immediately prior to the commencement of the Constitution.
53. Intellectual property including patents, inventions, designs, copyrights, trademarks and merchandise marks.
54. Monopolies, mergers, restrictive trade practices.
55. *Buddha Sasana*.
56. National Archives and Museums.
57. National Libraries and the National Library Services Board.
58. 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 before the commencement of the Constitution to be of national importance, and those declared, after consulting the relevant Regional Administration, by or under law, to be of national importance.
59. Preservation and promotion of the national heritage.
60. National Standards relating to public performances.
61. National policy on tourism and promotion of tourism.
62. National land use policy and planning.
63. National plans on forestry, environment and conservation including conservation of flora and fauna in keeping with international obligations.
64. National parks, Strict Natural Reserves, Nature Reserves, Sanctuaries and National Heritage Wilderness Areas declared by or under law and existing immediately prior to the commencement of the Constitution.
65. Reserved Forests and Conservation Forests declared by or under any law and existing immediately prior to the commencement of the Constitution, which shall be used in conformity with national plans on forestry and in accordance with national land use policy as determined by the National Land Use Council.
66. Foreshore; national plans on coast conservation; declaration and demarcation of coast reservations for the implementation of national programmes relating to coast conservation.

67. National housing programs with the concurrence of the relevant Regional Administration.
68. National physical planning; national urban development planning.
69. Formulation and co-ordination of national poverty alleviation programmes.
70. National policy on youth.
71. National policy on women's affairs.
72. National policy on sports; administration of national sports bodies.
73. Intervention in instances of 'national (natural and environmental) disasters and epidemics.
74. Labour regulation and standards; labour laws.
75. Promotion of and Policy on industrial development.
76. Institutions for the promotion of, and determination of policy relating to investment.
77. National programmes for infrastructure development.
78. National programs on spatial and urban planning in consultation with the relevant Regional Administrations.
79. Urban planning and implementation in the Capital Territory; public utilities in the Capital Territory.
80. Drainage and waterways within the Capital Territory.
81. Establishment of any authorities for the discharge of any or all of the functions/ subjects specified in items 32, 79 and 80 of the Reserved List and for the delegation of any of the functions of such authority to any local authorities within the Capital Territory.
82. Surveys for the purpose of any matters enumerated in the Reserved List.
83. Fees in respect of any of the matters in the Reserved List, but not including fees taken in any court.
84. Acquisition of private property required for the purposes of any matter in the Reserved List.
85. Requisition of private property for the purposes of any matter in the Reserved List.
86. Any other matter not enumerated in the Regional List.

List II**Regional List**

1. Regional Planning including employment planning at the Regional level and plan implementation including employment programmes.
2. Public debt of a Region, excluding debts owing to the Central Government.
3. Domestic and international borrowing to the extent specified in Chapter XXI.
4. The management and promotion of foreign direct investment, international grants and developmental assistance to the Region to the extent specified in Chapter XXI.
5. Regional programmes for public utility infrastructure development.
6. Regional financial and credit institutions including regional institutions providing insurance services.
7. Excise duties to be specified by law.
8. Betting and gaming taxes, taxes on prize competitions and on lotteries to be specified.
9. Motor vehicle licence fees.
10. Stamp duties on transfer of immovable properties and motor vehicles.
11. Utilisation of fines imposed by courts within the Region, provided that not less than ten per centum of the fines imposed shall be utilised for construction and maintenance of court buildings and the development of the infrastructure of courts.
12. Court fees, including Stamp fees on documents produced in courts.
13. Land revenue, including the assessment and collection of revenues, and maintenance of land records for revenue purposes.
14. Taxes on mineral rights.
15. Pensions payable by a Regional Administration or out of the Consolidated Fund of a Region.
16. Regional lotteries and their conduct.
17. Regional Public Service, Regional Public Service Commission.
18. Regional Commissioner for Administration (Regional Ombudsman).
19. Health and indigenous medicine including Regional Health Services and Regional Health Administration in conformity with the national health plan.

20. Regional policy on education; administration of education and educational services within the Region with due regard to national policy; administration of national schools handed over by the Central Government; research on education; in-service training of teachers; higher education other than as provided in the Reserved List; regional universities; pre-schools; educational publications provided by the Regional Administration.
21. Agriculture and agrarian services inclusive of agricultural research, extension, promotion and education within the Region and promotion of agro-based industries within the Region.
22. Animal husbandry.
23. State land and its use, alienation or disposal as specified in Chapter XVI.
24. Irrigation within the Region other than irrigation schemes utilising water through diversions from water systems from outside the Region.
25. Fisheries, marine resources and aquatic resources within Sri Lankan waters, excluding rights relating to traditional migratory fishing in Sri Lankan waters as provided in the Reserved List.
26. Forests, excluding those specified in the Reserved List, which shall be used, subject to paragraphs (3) and (4) of Article 145, in conformity with national plans on forestry and with due regard to national land use policy as determined by the National Land Use Council.
27. Protection of the environment within a Region in conformity with national plans on environment and conservation.
28. Regional programmes for coast conservation in conformity with national plans.
29. Industries and regional industrial development inclusive of industrial research and training within the Region.
30. Energy excluding the national grid.
31. Trade and commerce excluding foreign trade.
32. Co-operatives and Co-operative Banks.
33. Supply and distribution of food.
34. Markets and fairs.
35. Manufacture and supply of salt, distribution of salt within the Region of manufacture.

36. Roads excluding those specified in the Reserved List; toll roads and expressways constructed by or under the authority of the Regional Administration.
37. Drainage and waterways other than within the Capital Territory.
38. Transport excluding railways but including ferry services.
39. Ports, harbours and fishery harbours other than those specified in the Reserved List.
40. Housing and construction.
41. Urban planning and implementation, other than within the Capital Territory; public utilities, other than within the Capital Territory.
42. Rural development.
43. Local Government to the extent provided in Chapter XXV.
44. Regional libraries and museums.
45. Promotion of cultural activity within the Region including the preservation of cultural diversity.
46. Maintenance and administration of ancient and historical monuments, archaeological sites and records other than those specified in the Reserved List.
47. Public performances.
48. Promotion of regional tourism
49. Relief and reconstruction and the granting of compensation.
50. Social security and social insurance.
51. Social services.
52. Regulation of unincorporated associations and societies within the Region, charities and charitable institutions.
53. Law and order, Regional Police and Regional Police Commission to the extent provided in Chapter XXII.
54. Administration of justice within a Region, to the extent of the provision and setting up of court buildings in consultation with the Judicial Service Commission, the maintenance of court buildings and the development of infrastructure of courts;

55. Borstal and reformatory institutions.
56. Implementation of programmes for the advancement of youth.
57. Implementation of programmes for the advancement of women.
58. Sports.
59. Surveys for the purpose of any matters enumerated in the Regional List.
60. Fees in respect of any of the matters in the Regional List.
61. Acquisition of private property required for the purposes of any matter in the Regional List.
62. Requisition of private property required for the purposes of any matter in the Regional List.
63. Imposition, collection and utilisation of fines, other than court fines, in respect of the matters in the Regional List.
64. Any other tax that may be devolved by law on the Region
65. Any other matter provided for in the Constitution.



B

Text of Government's Devolution Proposals of August 3, 1995

These proposals seek to redefine the constitutional foundation of a plural society within a united and sovereign Republic of Sri Lanka based on the following principles.

- a) promoting a vision of Sri Lanka where all communities can live in safety and security and their human dignity is valued and equality of treatment is an accepted norm of public life;
- b) ensuring that all communities be given the space to express their distinct identity and promote that identity including the right to enjoy their own culture, profess and practise their own religion, and nurture and promote their own language including the right to transact business with the state in the national language of their choice;
- c) ensuring that all persons may fully and effectively exercise all their human rights and fundamental freedoms without any distinction and in full equality before the law;
- d) giving recognition to Sinhala and Tamil as official languages and recognising English as a link language;
- e) providing an effective constitutional framework for the sharing of power with the regions based on an internally consistent

and coherent value system. There would be clarity and consistency in the distribution of power between the centre and the regions and the scheme would be one which is capable of effective implementation and include structures for the just and equitable resolution of centre region disputes;

- f) ensuring that all communities participate fully in the life of the nation whether it be at the national, regional or local level, thereby encouraging the regions and the communities which inhabit them to become constructive partners in a stable and pluralistic democracy.

I. Structure of Devolution

1.1 Unit of Devolution

A regional council will be established for every province identified by a new schedule to the Constitution. One of the regions would be constituted by redemarcating the existing boundaries of the present North-East Province in full consultation with a view to reconciling Sinhala, Tamil and Muslim interests.

1.2 Regional Councils

A Regional Council will consist of such number of members as may be determined by law. A Regional Council will, unless sooner dissolved, continue for a period of five years. There will be a Speaker and a Deputy Speaker for each Council.

- 1.2.1 Legislative power in the region will be vested in the Regional Council. Every region may make laws applicable to the region with respect to any subject set out in the regional list. The Regional Council will have no jurisdiction over the Reserved List.

1.3 Governor

There will be a Governor for each region for which a Regional Council has been established, appointed by the President with the concurrence of the Chief Minister of the Region.

1.3.1 The Governor will vacate his office upon; (a) resignation; (b) a two-thirds majority of the Regional Council passing a vote of no confidence; (c) removal by the President.

1.3.2 The Governor may summon, dissolve and prorogue the Regional Council on the advice of the Chief Minister.

1.4 Chief Minister and the Board of Ministers

The Governor will call upon the person who commands the confidence of the majority in the Regional Council to form the Regional administration.

1.4.1 The Chief Minister cannot be removed from office so long as he enjoys the confidence of the regional council.

1.4.2 Executive power in the Region will be vested in the Board of Ministers who will be appointed by the Governor on the advice of the Chief Minister. The Board of Ministers and the Chief Minister will be collectively responsible to the Regional Council.

1.5 Capital territory

The territory comprising the cities of Colombo and Sri Jayawardenapura-Kotte will be excluded from the jurisdiction of the Regional Council constituted for the Western Region and will be administered directly by the Centre in such manner as the Centre may think fit.

II. Finance

2.1 There will be a National Finance Commission entrusted with allocating grants to the region, keeping in mind the objectives of balanced regional development.

2.2 Regional Councils will have the powers of taxation in certain specified areas, and the Constitution will require other revenue sharing arrangements.

2.3 Regional Councils will have the power to borrow as well as to set up their own financial institutions. International borrowings above a prescribed limit will require the concurrence of the Centre.

2.4 Regional Councils may regulate and promote foreign direct investment, international grants and development assistance, subject to such conditions as may be specified by the Centre.

III. Law and order

3.1 There will be a regional police service headed by a Regional Police Commissioner appointed by the Chief Minister, in consultation with the Governor of the Region. The Regional Police Commissioner will be responsible to, and function under the control of, the relevant Chief Minister. The Regional police service will investigate all offences against persons and property.

3.2 There will be a national police service responsible for investigating offences against the state, threats to national security, offences related to elections, inter province crimes and international crimes. The national police service will be headed by the National Police Commissioner and will be responsible to the Central Government.

3.3 The recruitment, transfers within the region, dismissal and disciplinary control of members of the regional police service will be the responsibility of the Regional Police Commission.

3.4 There will be a National Police Commission, the functions of which will include the transfer of police officers from one region to another in consultation with the Regional Police Commission.

Commission will both be appointed by the Constitutional Council. In the case of appointment of the Regional Police Commission, the Constitutional Council will act in consultation with the Chief Minister of the region in question.

IV. Land and Land Settlement

4.1 Land will be a devolved subject and State land within a region will be vested in the Regional Councils. State land within a Region required for the purposes of the Centre in respect of a reserved subject may be utilized by the Centre in consultation with the relevant Regional Council in accordance with such procedures as may be established by law.

4.2 Priority in future land settlement schemes will be given to persons first of the district and then of the Region.

V. Education

5.1 Education and Higher Education will be devolved subjects included in the regional list.

5.2 Certain specified schools and universities may be declared "National" institutions administered by the Centre.

5.3 The recruitment, transfer and disciplinary control of teachers other than those in National Schools will be the responsibility of the Regional Council.

5.4 Training of teachers will be the responsibility of both the Centre and Regional Councils, depending on whether such teachers are to be recruited to the national or regional councils.

5.5 Curriculum development in regional schools will be the responsibility of the Regional Councils. Minimum standards will be set by the Centre.

representatives of the Centre and the regions entrusted with the following functions:-

- (a) identifying "National" schools and Universities in consultation with regional chief ministers and stipulating criteria for admission into these national schools and universities;
- (b) setting minimum standards with regard to training examination, curriculum and employment of teachers.

VI. Administration of justice

6.1 There will be a High Court in every region. The High Court will exercise criminal, appellate and writ jurisdiction within the region.

6.2 The Regional Judicial Service Commission, which will be appointed by the Constitutional Council in consultation with the Chief minister of the region, will consist of the Chief Judge of the High Court and the two High Court judges next in seniority.

6.3 Regional Judicial Service Commission will be responsible for the appointment of Regional High Court Judges and minor judiciary within the Region. The Regional Judicial Service Commission will consult with the National Judicial Service Commission with regard to the transfer of judges.

6.4 The Governor will appoint a Regional Attorney-General who will advise the Governor on the constitutionality of laws passed by the Regional Council. If a law is seen to be unconstitutional, the Regional Attorney-General, after consultation with the Governor, will institute action before the Supreme Court or any other tribunal specially set up to resolve disputes between the Centre and the Region.

VII. Public Service

7.1 There will be a Regional Public Service Commission (appointed by the Constitutional Council in consultation with the relevant Chief Minister) responsible for the recruitment, disciplinary control and dismissal of all persons employed by, or seconded to, the Regional Councils.

7.2 The Regional Public Service Commission will consult with the National Public Service Commission (also appointed by the Constitutional Council) in effecting the transfer of all such persons outside the Region.

VIII. Commission on devolution

8.1 There will be a Permanent Commission on Devolution appointed by the Constitutional Council to resolve disputes between the Centre and a region or disputes among the regions. The Commission will have powers of mediation as well as adjudication.

IX. Framework relating to devolution

- 9.1 The Constitution will provide:
- (a) that the Republic of Sri Lanka shall be united and sovereign. It shall be a Union of Regions;
 - (b) that the territory of the Republic will consist of regions, the names of which are set out in the first schedule, and its territorial waters;
 - (c) that the legislative power of the people will be exercised by Parliament, Regional Councils and the People at a Referendum to the extent hereinafter provided; and
 - (d) that the executive power of the People will be exercised by the President of the Republic acting on

the advice of the Prime Minister and the Cabinet of Ministers, and the Governors acting on the advice of the respective Chief Ministers and Regional Boards of Ministers to the extent hereinafter provided.

9.2 Article 76 of the existing constitution will be deleted.

X. Substance of devolution

10.1 Regional Councils will exercise exclusive legislative and executive competence within the devolved sphere. The subjects and functions will be distributed between the Centre and the Regions as set out in the appendix.

Appendix - Lists

(A) The Regional List

1. Health and indigenous medicine;
2. Education and Educational Services, excluding national school and national universities and the setting of minimum standards for training, examination, curriculum, and teacher qualifications;
3. Agriculture and agrarian services;
4. Irrigation within a region;
5. Animal husbandry;
6. Fisheries;
7. Forestry and Protection of the Environment within a Region;
8. Industries and Industrial Development;
9. Energy;
10. Transport;
11. Minor Ports and Harbours;
12. Roads and Waterways;
13. Housing and construction;
14. Urban Planning;
15. Rural Development;
16. Local Government;

17. Co-operatives;
18. Supply and distribution of food within the region;

41. Land revenue, including the assessment and collection of revenues, and maintenance of land records for revenue purposes;

18. Supply and distribution of food within the region;
19. Promotion of tourism;
20. The regulation of cultural activity within a region, including public performances;
21. Broadcasting and media, including television;
22. Relief, Rehabilitation and Reconstruction;
23. Social Security;
24. State land and its alienation or disposal (State land within a region required for the purposes of the Centre in respect of reserved subject may be utilized by the Centre in consultation with the relevant Regional Council and in accordance with such procedures as may be established by law);
25. Regional Police and law and order.
26. Administration of Borstal and reformatory institutions;
27. Regional Public Service;
28. Sports;
29. Regulation of unincorporated associations and societies within the region;
30. Regional debt;
31. Domestic and International borrowing (international borrowings above a specified limit would require the concurrence of the Centre);
32. The regulation and promotion of foreign direct investment, international grants and developmental assistance to the region;
33. Regional financial and credit institutions;
34. Excise duties to be specified;
35. Turnover taxes on wholesale or retail sales to the extent to be specified;
36. Betting taxes, taxes on prize competitions and lotteries other than National Lotteries;
37. Motor vehicle licence fees;
38. Stamp duties on transfer of properties, such as land and motor cars;
39. Fines imposed by courts;
40. Court fees, including stamp fees on documents produced in courts;

41. Land revenue, including the assessment and collection of revenues, and maintenance of land records for revenue purposes;
42. Taxes on mineral rights;
43. Offences against laws with respect to any of the matters specified in the List;
44. Fines in respect of the matters in the Regional List;
45. Planning at the regional level.

(B) Reserved List (Central Government List)

1. Defence, national security, national police, and the security forces;
2. Immigration, Emigration and Citizenship;
3. Foreign Affairs;
4. National Census and Statistics;
5. National Planning;
6. Currency and Foreign Exchange, international economic relations and monetary policy;
7. Public Debt of the Government of Sri Lanka;
8. Foreign loans of the Government of Sri Lanka;
9. Regulation of banking and other financial institutions;
10. Insurance;
11. Stock exchange and futures markets;
12. Audit of the Government of Sri Lanka;
13. Taxes on income, capital and wealth of individuals, companies and corporations;
14. Custom duties, including import and export duties, and excise duties (excluding such excise duties as may be devolved on the regions);
15. Turnover taxes and stamp duties, goods and services taxes (including those taxes and duties devolved on the regions);
16. Pensions payable by the Government of Sri Lanka or out of the consolidated fund;
17. Atomic Energy;
18. Maintenance and management of the National Grid;
19. Minerals and mines (regulation and development of oil fields; and mineral resources, petroleum and petroleum products);

20. National rivers;
21. Airports, harbours and ports with international transportation;
22. Inter-regional transport and railways;
23. Civil Aviation;
24. Inter-regional highways;
25. Shipping and navigation; Maritime Zones including historical waters and territorial waters (Exclusive Economic Zone and Continental Shelf);
26. Elections (excluding elections to Local Authorities);
27. Post and telecommunications;
28. National Public Service and the National Public Service Commission;
29. National Health Administration (inclusive of existing special purpose hospitals and teaching hospitals affiliated to national universities; Training, education and research relating to Health; Development of National Health Standards; Administration of all special programmes);
30. Drugs, poisons and narcotics;
31. Administration of justice;
32. National universities;
33. National standards with regard to professions, occupations and training;
34. National standards relating to research development and training in the area of agriculture;
35. Inter-regional irrigation schemes;
36. Fishing beyond the territorial waters;
37. Management of central policy and research institutions in the field of education eg. National Institute of Education; Management and supervision of national schools; conduct of national public certification examinations, imposition of minimum standards for training, curriculum and teacher qualifications;
38. Adoption of children;
39. National Industrial Research and Training;
40. Regulations of activities for the enhancement of quality standards;
41. Foreign trade inter-regional trade and commerce;

42. Patents, inventions, designs, copyright, trademarks and merchandise marks;
43. Monopolies and mergers;
44. Inter-regional food distribution;
45. National media including Central Government Broadcasting and Television Institutions;
46. National Archives and Museums, and archaeological sites declared by law to be of national importance;
47. National Environment and National Policy on Tourism;
48. Specialised National Housing Programmes;
49. Specialised National Poverty Alleviation Programmes;
50. Youth and Women's Affairs;
51. Buddhism;
52. Development of National sports administration and infrastructure;
53. Intervention in instances of National (natural and environmental) disasters and epidemics;
54. Labour regulation and standards;
55. Surveys for the purpose of any matters enumerated in the Reserved List;
56. Offences against Laws with respect to any of the matters in the List;
57. Fees in respect of any of the matters in the List, but not including fees taken in any Court;
58. Public utility infrastructure development.

nurture their distinct culture, practise and profess their own religion and promote their own language, thus preserving the rich cultural and ethnic diversity typifying a plural society:

Now, therefore, we the people of Sri Lanka having solemnly resolved to constitute Sri Lanka into a free, sovereign, united and independent Republic.

Cognizant of the sacrifices made by the people in the cause of sustaining the unity and sovereignty of the Republic;

Mindful of our obligation to succeeding generations of Sri Lankans and the World;

Inspired by the vision of a nation where all communities can co-exist in safety, security and contentment;

Conscious of the desire to achieve rapid, sustainable and equitable development so that the people of Sri Lanka may prosper and attain their rightful place among the community of nations:

do, on this (DAY) acting through our freely chosen representatives constituting the 10th Parliament of Sri Lanka established by us hereby adopt, enact and give to ourselves.

This constitution as the Supreme Law of the Republic of Sri Lanka.

I

The People, the State and Sovereignty

1. Sri Lanka is a united and sovereign Republic and shall be known as the Republic of Sri Lanka. The Republic of Sri Lanka shall be an indissoluble Union of Regions.
2. (1) The territory of the Republic shall consist of Regions, the names, boundaries and area of which are set out in the First Schedule, the Capital Territory and its territorial waters.

C

Text of Government's Devolution Proposals of January 16, 1996

Preamble

Whereas it is the will of the people of Sri Lanka to establish an order

Wherein the sovereignty of the people is assured and the exercise of authority by their freely chosen representatives is in the nature of a sacred trust;

Wherein the principles of democracy, freedom, humanity, tolerance and justice shall be fully observed;

Wherein the dignity of the individual shall be upheld through the guaranteeing of human rights and fundamental freedoms without distinction and in full equality before the law;

Wherein the territories constituting the nation shall form one indissoluble union, the units whereof will be characterized by such boundaries and limitations on their powers and authority as may be prescribed;

Wherein the territorial integrity, independence and unity of the nation including its sovereign rights over land, sea and air shall be safeguarded;

Wherein peace and fraternity between all communities shall be secured and provision made enabling all communities to enjoy and

(2) No Regional Administration or Regional Administrations shall attempt, by direct or indirect means, to promote or otherwise advocate an initiative towards:

- (a) the separation or secession of such Region or Regions from the Union of Regions constituting the Republic of Sri Lanka;
- (b) alteration of the area of such Region or Regions;
- (c) alteration of the boundaries of such Region or Regions;
- (d) alteration of the name or names of such Region or Regions;
- (e) formation of a new Region by separation of territory from any Regions or by uniting two or more Regions or parts of Regions or by uniting any territory with a part of any Region.

Provided that nothing in this paragraph shall be read and construed as prohibiting a Regional Administration from making representations to the Central Government regarding the matters referred to in sub-paragraph (c) of this paragraph.

3. In the Republic of Sri Lanka, sovereignty is in the people and is inalienable. Sovereignty includes the powers of Government, fundamental rights and the franchise and shall be exercised and enjoyed in the following manner.
 - (a) the legislative power of the People shall be exercised by Parliament, Regional Councils and the People at a Referendum;
 - (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 the Governors

acting on the advice of the respective Chief Ministers and Regional Boards of Ministers to the extent hereinafter provided;

- (c) the judicial power of the People shall be exercised through courts, tribunals and institutions created and established, or recognized, by the Constitution, or created and established by law, except in regard to matters relating to the privileges, immunities and powers of Parliament and of its Members, wherein the judicial power of the People may be exercised directly by Parliament according to law;
 - (d) the fundamental rights which are by the Constitution declared and recognized shall be respected, secured and advanced by all the organs of Government, and shall not be abridged, restricted or denied, save in the manner and to the extent hereinafter provided; and
 - (e) the franchise shall be exercisable at the election of Members of Parliament, and of the Members of Regional Councils, and at every Referendum by every citizen who has attained the age of eighteen years, and who, being qualified to be an elector as hereinafter provided, has his name entered in the register of electors.
4. The National Flag of the Republic of Sri Lanka shall be the Lion Flag depicted in the Third Schedule.
 5. The National Anthem of the Republic of Sri Lanka shall be *Sri Lanka Matha*, the words and music of which are set out in the Fourth Schedule.
 6. The National Day of the Republic of Sri Lanka shall be the fourth day of February.

II

Buddhism

- 7* (1) 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 assuring to all religions the rights granted by Articles 15 (1) and 15(2)**
- (2) The State shall consult the Supreme Council in all matters pertaining to the protection and fostering of the Buddha Sasana.
- (3) For the purpose of this Article Supreme Council means a Council established by law in consultation with the Maha Sangha.

* Article 7 (formerly Article 6 in the Working Drafts of the New Constitution), shall be an entrenched provision requiring a 2/3 majority in Parliament and the approval of the People at a referendum for amendment.

** Article 15 (1) and 15 (2) refer to the rights declared in the Chapter on Fundamental Rights in the revised working draft of the Constitution which was published in the media on 21/05/95 (these rights were contained in Articles 10 and 14 (1) (e) of the First Working Draft of the Constitution presented to the Parliamentary Select Committee on the Constitution). Articles in question will be renumbered.

III

THE DEVOLUTION OF POWER TO REGIONS**Establishment of Regional Councils**

8. (1) A Regional Council shall be established for every Region specified in the First Schedule with effect from such date or dates as the President may appoint by Order published in the Gazette. Different dates may be specified in respect of different Regions.
- (2) The Capital Territory comprising the cities of Colombo and Sri Jayawardenapura-Kotte will be excluded from the jurisdiction of the Regional Council established for the Western Region under paragraph (1) and will be administered by the Centre.

Election of Members

9. Every Regional Council established under Article 8 (1) shall be constituted upon the members of such Council being elected in accordance with the law relating to Regional Council elections.

Governor

10. (1) There shall be a Governor for each Region for which a Regional Council has been established in accordance with article 8.
- (2) The Governor shall be appointed by the President on the advice of the Chief Minister of the region.
- (3) The Governor may, by writing addressed to the President, resign his office.

(4) (a) A Regional Council may, subject to paragraph (b), present an address to the President advising the removal of the Governor on the ground that the Governor-

(i) has intentionally violated the provisions of the Constitution; (ii) is guilty of misconduct or corruption involving the abuse of power of his office; or (iii) is guilty of bribery or an offence involving moral turpitude, if a resolution for the presentation of such address is passed by not less than two-thirds of the whole number of members of the Council (including those not present).

(b) No resolution for the presentation of an address to the President advising the removal of the Governor on the grounds referred to in sub-paragraph (a) shall be entertained by the Speaker of the Regional Council or discussed at the Council, unless notice of such resolution is signed by not less than one half of the whole number of members present.

(5) Subject to the provisions of this Article, the Governor shall hold office for a period of five years from the date he assumes office.

(6) Every person appointed as Governor shall assume office upon taking or subscribing the oath or making or subscribing the affirmation, set out in the Schedule, before the President.

(7) Upon such assumption of office, a Governor shall cease to hold any other office created or recognized by the Constitution and if he is a Member of Parliament or a Member of a Regional Council shall vacate his seat in Parliament or in the Regional Council. The Governor shall not hold any other office or place of profit.

(8) (a) The Governor may from time to time summon a Regional Council to meet at such time and place as it thinks fit, but two

months shall not intervene between the last sitting in one session and the date appointed for the first sitting of the next session.

(b) The Governor may, from time to time, prorogue the Regional Council

(c) The Governor may dissolve the Regional Council

(d) The Governor shall exercise his power under this paragraph in accordance with the advice of the Chief Minister, as long as the Board of Ministers commands, in the opinion of the Governor, the support of the majority of the Regional Council.

(9) The Governor of a region shall have the power to grant pardon to every person convicted of an offence against a statute made by the Regional Council of that region or a law made by Parliament on a matter in respect of which the Regional Council has power to make statutes, and to grant a respite or remission of punishment imposed by Court on any such person.

(10) The Governor may address the Regional Council and may for that purpose require the attendance of members.

(11) Parliament shall by law or resolution make provision for the salary, allowances, age of retirement and pension entitlement of holders of the office of Governor.

Executive Powers of the Region

11. The executive power of the Region which shall extend to the matters with respect to which a Regional Council has power to make statutes, shall be vested in the Governor acting on the advice of the Chief Minister and the Board of Ministers and shall

be exercised by the Board of Ministers either directly or through the Chief Minister and the Ministers of the Board of Ministers or through subordinate officers, in accordance with this Chapter.

Membership of the Regional Council

12. A Regional Council shall consist of such number of members as may be determined by or under law, having regard to the area and the population of the Region for which that Regional Council is established.

Term of Office

13. A Regional Council shall, unless sooner dissolved, continue for a period of five years from the date appointed for its first meeting, and the expiry of the said period of five years shall operate as the dissolution of the Council.

Board of Ministers

14. (1) There shall be a Board of Ministers with the Chief Minister as the Head and not more than six other Ministers to aid and advise the Governor of a Region in the exercise of his functions. The Governor shall, in the exercise of his functions, act in accordance with such advice except in so far as he is by or under the Constitution required to exercise his functions or any of them in his discretion.
- (2) The question of whether any and, if so, what advice was tendered by a Minister to the Governor shall not be inquired into in any Court.
- (3) The Governor shall appoint as Chief Minister the member of the Regional Council established for that Region who, in

his own judgement and opinion, is best able to command the support of a majority of the members of that Council.

Provided that where more than one half of the members elected to the Regional Council are members of one political party, the Governor shall appoint the leader of that political party in the Council as Chief Minister. (A Transitional Provision will provide for the appointment of the First Chief Minister by the President).

- (4) The Governor shall, on the advice of the Chief Minister appoint, from among the members of the Regional Council constituted for that Region, the other Ministers.
- (5) The Board of Ministers shall be collectively responsible, and answerable, to the Regional Council.
- (6) A person appointed to the office of Chief Minister or member of the Board of Ministers shall not enter upon the duties of his office until he takes and subscribes the oath or makes and subscribes the affirmation set out in the Fifth Schedule.
- (7) (a) Upon the death or resignation of the Chief Minister or where the Chief Minister is deemed to have resigned, the Board of Ministers shall stand dissolved, and the Governor shall appoint a Chief Minister, and a Board of Ministers in accordance with this article.
- (b) If the Regional Council rejects the statement of policy of the Region or the Appropriation Bill or passes a vote of no-confidence in the Regional administration, the Chief Minister shall be deemed to have resigned.

15. (1) Parliament has exclusive power to make laws with respect to any of the matters enumerated in list I of the Second Schedule (referred to as the Reserved List) and with respect to the matters in list II in the Second Schedule (referred to as the Regional List) in relation to the Capital Territory referred to in Article 8 (2).
- (2) The Regional Council of a Region has exclusive power to make statutes for such Region or any part thereof with respect to any of the matters enumerated in list II of the Second Schedule (referred to as the Regional List).
- (3) When there is a law with respect to any matter in the Regional List in force on the date on which this Chapter comes into force, and a Regional Council established for a Region subsequently makes a statute on the same matter and which is described in its long title as being inconsistent with that law, then, the provisions of that law shall, with effect from the date on which that Regional Council statute receives assent, remain suspended and be inoperative within that Region, to the extent of such inconsistency.

When a Draft Statute becomes Law

16. (1) Every Draft Statute passed by a Regional Council shall come into force upon the certificate of the Speaker being endorsed thereon.
- (2) The Speaker shall endorse on every Draft Statute passed by the Regional Council a certificate in the following form:
- "This Draft Statute (state the short title of the Draft Statute) has been duly passed by the Regional Council".

17. (1) There shall be a High Court for every Region with effect from the date on which this Chapter comes into force. Each such High Court shall be designated as the High Court of the relevant Region.
- (2) Every such Regional High Court shall exercise, according to law:
- a) the original criminal jurisdiction of the High Court of Sri Lanka on the day preceding the commencement of the Constitution, in respect of offences committed within the Region;
 - b) appellate and revisionary jurisdiction in respect of convictions, sentences and orders imposed by Magistrate's Courts and Primary Courts within the Region; and
 - c) such other jurisdiction and powers as Parliament may, by law, provide.
- (3) Every such High Court shall have jurisdiction to issue according to law -
- a) orders in the nature of habeas corpus, in respect of persons illegally detained within the Region; and
 - b) orders in the nature of writs of certiorari, prohibition, procedendo, mandamus and quo warranto against any person exercising, within the Region, any power under -
 - (i) any law, or
 - (ii) any statute made by the Regional Council established for that Region in respect of any matter set out in the Regional List.

(4) Subject to the provisions of this Constitution and any law, any person aggrieved by a final order, judgement or sentence of any such Court, in the exercise of its jurisdiction under paragraphs 17. (2) and 17. (3), may appeal therefrom to the Court of Appeal.

18. (1) There shall be a Regional Judicial Service Commission for every Region which shall consist of three retired judges or sitting judges of the Supreme Court, the Court of Appeal or the High Court, appointed by the Constitutional Council in consultation with the Chief Minister of the relevant region:

Provided that where a sitting judge is appointed, he shall relinquish his judicial office.

(2) The appointment, transfer, dismissal and disciplinary control of judicial officers within the Region is vested in the Regional Judicial Service Commission of that Region:

Provided that the National Judicial Service Commission shall provide for and determine all matters relating to judicial officers and the principles and procedure to be followed by Regional Judicial Service Commissions for the exercise of the powers of appointment, transfer, dismissal and disciplinary control of judicial officers including formulation of schemes of recruitment and principles to be followed in making promotions and transfers.

(3) The Chairman of the Regional Judicial Service Commission or any Judge of the Regional High Court authorized by the Chairman of the Commission shall have full power and authority to inspect any court of first instances in the Region or the records, registers or other documents maintained in such court and hold such inquiry as may be necessary.

The Regional Attorney-General

19. (1) The Governor of each region shall appoint a person who is qualified to be appointed as a judge of a Regional high Court, to be the Regional Attorney-General.

(2) It shall be the duty of the Regional Attorney-General to give advice to the Governor, the Chief Minister and the Board of Ministers upon such legal matters and perform such other duties of a legal character, as may from time to time be referred or assigned to him by the Governor, and to discharge the functions conferred on him by or under this Chapter or such other-law as may be enacted by Parliament.

(3) The Regional Attorney-General shall hold office during the pleasure of the Governor and shall receive such remuneration as the Governor may determine.

(4) (a) It shall be the duty of the Regional Attorney-General to examine every Draft Statute proposed to be passed by the Regional Council for any contravention of the Constitution, and the Regional Attorney-General or any officer assisting the Regional Attorney-General in the performance of his duties under this Article shall be afforded all facilities necessary for the performance of such duties.

(b) If the Regional Attorney-General is of the opinion that a Draft Statute contravenes the Constitution, he shall communicate such opinion to the Governor, the Chief Minister and the Board of ministers:

Provided that, in the case of an amendment proposed to a Draft Statute in the Regional Council, the Regional Attorney-General shall communicate his opinion to the Speaker at the stage when the Draft Statute is ready to be put to the Regional Council for its acceptance.

(c) Where a Draft Statute is passed, despite the opinion of the Regional Attorney-General that it contravenes the Constitution, it shall be the duty of the Regional Attorney-General to invoke the jurisdiction of the Supreme Court to determine the constitutionality of such statute or any part thereof.

Finance Commission

20. (1) There shall be a Finance Commission consisting of _ three members representing the three major communities each of whom shall be a person who has distinguished himself or held high office, in the field of finance, law, administration, business or learning who shall be appointed by the President on the recommendation of the Constitutional Council
- (2) Every member of the Commission, unless he earlier dies, resigns or is removed from office, shall hold office for a period of three years.
- (3) The 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 Regions.
- (4) 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 government for the use of Regions, should be apportioned between the various Regions;
- b) the principles on which the sharing and/or assignment of revenue between the Centre and the Regions 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 Regional finance.

(5) 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 population of each Region;
- b) the per capita income of each Region;
- c) the need, progressively, to reduce social and economic disparities; and
- d) the need, progressively, to reduce the difference between the per capita income of each Region and the highest per capita income among the Regions.
- (6) The Commission shall determine its own procedure and shall have such powers in the performance of its duties as Parliament may, by law, confer on it.
- (7) The President shall cause every recommendation made by the Finance Commission under this Article to be laid before Parliament, and shall notify Parliament as to the action taken thereon.
- (8) No court or tribunal shall 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.

Regional Public Service Commission

21. (1) There shall be a Regional Public Service Commission which shall consist of not less than five persons appointed by the Constitutional Council in consultation with the Governor. The Constitutional Council shall nominate one of the members of the Commission to be the Chairman.

- (2) No person shall be so appointed or continue as a member of the Regional Public Service Commission if he is a Member of Parliament, a Member of a Regional Council, a public officer, a judicial officer or an officer of a Regional Public Service.
- (3) Every member of a Regional Public Service Commission shall hold office for a period of five years from the date of his appointment unless he earlier resigns his office by writing under his hand addressed to the Governor of the Region or is removed from office by the Constitutional Council, in consultation with the Governor for cause assigned, but shall be eligible for reappointment.
- (4) A member of a Regional Public Service Commission shall be paid such salary as may be determined by the Regional Council for that Region. The salary payable to any such member shall be charged on the regional consolidated fund and shall not be diminished during his term of office.
- (5) A Regional Public Service Commission shall have the power to act notwithstanding any vacancy in its membership, and no act or proceedings of such Commission shall be deemed to be invalid by reason only if any such vacancy or any defect in the appointment of a member.

Regional Public Service

22. (1) The appointment, transfer, dismissal and disciplinary control of officers of the Regional Public Service in each Region is hereby vested in the Regional Public Service Commission.
- (2) The Regional Public Service Commission shall provide for and determine all matters relating to officers of the Regional Public Service, including the formulation of schemes of recruitment and codes of conduct for such officers, the principles to be followed in making promotions and transfers

and the procedure for the exercise and the delegation of the powers of appointment, transfer, dismissal and disciplinary control of such officers.

- (3) Every person who otherwise than in the course of duty directly or indirectly, by himself or by any other person, in any manner whatsoever, influences or attempts to influence any decisions of a Regional Public Service Commission or any member thereof shall be guilty of an offence and shall on conviction by a High Court after trial without a jury be liable to a fine not exceeding one thousand rupees or to imprisonment for a term not exceeding one year or to both such fine and imprisonment:

Provided that nothing in this Article shall prohibit any person from giving a testimonial or certificate to any applicant for any office in the Regional Public Service Commission.

Property, Contracts, Rights, Liabilities, Obligations and Suits

- 23 (1) (a) All lands, mineral and other things of value underlying the ocean within the territorial waters, or the continental shelf or the exclusive economic zone of Sri Lanka, shall continue to vest in the Centre and be held for the purposes of the Republic.
- (b) All other resources of the exclusive economic zone of Sri Lanka shall also continue to vest in the Centre and be held for the purposes of the Republic.
- (c) The limits of territorial waters, the continental shelf, the exclusive economic zone and other maritime zones of Sri Lanka shall be such as specified, from time to time, by any laws made by Parliament.
- (2) (a) All contracts made in the exercise of the executive powers of a Region shall be expressly made by the Governor

of the Region, and all such contracts and all assurances of property made in the exercise of that power shall be executed on behalf of the Governor by such persons in such manner as he may direct or authorize.

(b) The Governor shall not be personally liable in respect of any contract or assurance made or executed for the purposes of this Article. Nor shall any person making any such contract or assurance on behalf of the Governor be personally liable in respect thereof.

State Land

24. (1) State land within a region shall vest in the Region and shall, subject to this Article, be at the disposal of the Regional Council for the purposes set out in the Regional List.

(2) The Regional administration shall be entitled to exercise rights in or over such land, including land tenure, transfer or alienation of land, land use, land settlement and land improvement in accordance with applicable laws.

Provided that priority in future land settlement schemes shall be accorded first to persons of the district and then to persons of the Region.

(3) If the Centre is satisfied that State Land in a Region is needed for the purpose of a reserved subject, the Centre may, after consultation with the relevant Regional administration, require the Regional administration to make available to the Centre, or to such public authority as the Centre may specify, such land as may be required for such purpose, and the Regional administration shall comply with such requirement.

(4) Inter-regional irrigation projects are schemes where the command area falls within two or more Regions. These shall be the responsibility of the Centre.

Law and Order

25. (1) Law and order shall be a subject devolved on the regions and shall include public order in the region and the exercise of police powers.

(2) National defence and national security shall be reserved subjects.

(3) (a) There shall be a Regional Police Service headed by the Regional Police Commissioner who shall be appointed by the Chief Minister of the Region in consultation with the Governor of the Region.

(b) There shall be a Regional Police Commission consisting of the Regional Police Commissioner, and two others appointed by the Constitutional Council.

(c) The Regional Police Commission shall be responsible for the recruitment, transfer, promotion and disciplinary control of officers in the Regional Police Service. The Regional Police Commission in exercising its powers under this Article may, if it deems it appropriate, adopt any criteria specified by the National Police Commission in respect of these matters.

(4) The following offence shall not be investigated by the Regional Police Service;

Offences against the Republic,

Offences relating to the army, navy and air force,

Offences relating to elections except local authority elections, Any offence committed against the President,

Any offence committed against the Prime Minister, the Speaker, a Minister a Deputy Minister or a Member of Parliament,

Any offence committed against a Member of the National Judicial Service Commission, a Member of the National

Public Service Commission, the Secretary General of Parliament, a member of the President's Staff or a Member of the Staff of Parliament,

Any offence prejudicial to national security or the maintenance of essential services,

Offences relating to coins, currency and Government stamps, Any Offence relating to property belonging to the Republic or a State Corporation, Company or Establishment, the whole or part of the capital whereof has been provided by the Republic,

Any offence under any law relating to any matter in the Reserved List,

Any offence in respect of which courts in more than one Region have jurisdiction, and International crimes.

- (5) The Regional Police Service shall consist of the Regional Police Commissioner, Regional Deputy Police Commissioners, Regional Senior Superintendents of Police, Superintendents of Police, Assistant Superintendents of Police, Chief Inspectors, Inspectors of Police, Sergeants and Constables and other ranks recruited to the Region and/or seconded to the Region.
- (6) All police officers serving in the Region shall function under the Regional Police Commissioner of that Region.
- (7) The Regional Police Commissioner shall be responsible to, and be under the control of, the Chief Minister in respect of the maintenance of public order in the Region.
- (8) The Regional Police Service shall be responsible for the prevention, detection and investigation of all offences (except the offences specified in paragraph (4) and the institution of prosecutions in the relevant courts in respect of such offences. In the discharge of these functions, the Regional Police Service shall be under the direction, control and the superintendence of the Regional Police Commission.

(9) There shall be a National Police Service headed by the National Police Commissioner, and including the National DPCs, SSPs, ASPs, and other ranks recruited at the national level.

(10) There shall be a National Police Commission consisting of the National Police Commissioner and two others appointed by the Constitutional Council.

(11) The National Police Commission shall be responsible for recruitment, transfer, promotion and disciplinary control over officers in the National Police Service and the transfer of officers of the Regional Police Service from one Region to another.

State of Emergency within a Region

26. (1) Where the President is of opinion that the security or public order in a Region threatened by armed insurrection, or grave internal disturbances, or by any action or omission of the Regional administration which presents a clear and present danger to the unity and sovereignty of the Republic, he may make a proclamation bringing the provisions of the law relating to Public Security into force in the Region.
- (2) Upon such proclamation, the President may by order deploy in aid of the civil power, the armed forces or any unit of the national police service for the purpose of restoring public order:

Provided that every such proclamation shall be revoked, as soon as the President is satisfied that public order has been restored.
- (3) Where the Chief minister seeks the assistance of the National Police Service to preserve public order within a region, the

National Police Commissioner shall deploy such personnel as are necessary for the purpose.

- (4) (a) If the President is satisfied that a situation has arisen in which the Regional administration is promoting armed rebellion or insurrection or engaging in an intentional violation of the Constitution which constitutes a clear and present danger to the unity and sovereignty of the Republic, the President may by Proclamation assume to himself all or any of the functions of the administration of the region and all or any of the powers vested in, or exercisable by, the Governor, the Chief Minister, the Board of Ministers or any body or authority in the region. The President shall also have the power to dissolve the Regional Council in these circumstances.
- (b) Any such Proclamation may be revoked or varied by a subsequent Proclamation.
- (c) Every Proclamation under this Article shall be laid before Parliament and shall, except where it is a Proclamation revoking a previous Proclamation, cease to operate at the expiration of 14 days unless, before the expiration of that period, it has been approved by a resolution of Parliament:

Provided that if any such Proclamation (not being a Proclamation revoking a previous Proclamation) is issued at a time when Parliament is dissolved or the dissolution of Parliament takes place during a period of fourteen days referred to in this subparagraph but no resolution with respect to such Proclamation has been passed by Parliament before the expiration of that period, the Proclamation shall cease to operate at the expiration of fourteen days from the date on which Parliament first sits after its reconstitution, unless before the expiration of such period of fourteen days a resolution approving the Proclamation has been passed by Parliament.

- (d) Notwithstanding anything in this Article, the President may within fourteen days of his making a Proclamation under sub-paragraph (a) and for the purposes of satisfying himself with regard to any other matter referred to in that paragraph, direct a tribunal constituted in the manner provided for in sub-paragraph (e) of this paragraph, to inquire into and report upon such matters within a period of sixty days. Upon receipt of the report of such tribunal, the President may revoke the Proclamation made under sub-paragraph (a)
- (e) The tribunal referred to in sub-paragraph (d) of this paragraph shall be constituted by the Centre and the relevant Regional Council acting in consultation with the Chief Ministers' Conference. The tribunal shall consist of a member appointed by the Centre, a member appointed by the Chief Ministers' Conference on the recommendation of the relevant Regional Council and a Chairman nominated by the members so appointed.
- Where there is no agreement on the nomination of a Chairman, the Chairman shall be nominated by the Constitutional Council.
- (f) A Proclamation under this Article shall be conclusive for all purposes and shall not be questioned in any Court, and no Court shall inquire into, or pronounce on, or in any manner call in question, such Proclamation or the grounds for making thereof.

Finance

27. (1) No tax shall be levied or collected except by or under law.
- (2) (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 Region, all funds of the Republic 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 Republic. All revenues received by a Regional Council and all loans raised by that Regional Council by the issue of Treasury bills, loans and ways and means advances, and all money received by that Council in repayment of loans shall form one consolidated fund to be called the "Consolidated Fund of the Region."

- (b) All other public money received by or on behalf of the Government of Sri Lanka or a Regional Council shall be credited to the public account of Sri Lanka or the public account of the Region as the case may be.
- (c) No money out of the Consolidated Fund of Sri Lanka or the Consolidated Fund of the Region shall be appropriated except in accordance with law statute and for the purposes and in the manner provided in this Constitution.
- (3) (a) Notwithstanding any of the provisions of this chapter, Parliament may by law create a contingency fund for the purpose of providing for urgent and unforeseen expenditure.
- (b) The Minister in charge of the subject of Finance, if satisfied, (i) that there is need for any such expenditure, and (ii) that no provision for such expenditure exists, may with the consent of the President authorize provision to be made therefore by an advance from the contingency 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) The Regional Council may by statute establish a contingency fund in the nature of an imprest to be entitled the Contingency

Fund of the Region into which shall be paid from time to time such sums as may be determined by such statute and the said fund shall be placed at the disposal of the Regional Minister in charge of the subject of Finance to enable advances to be made by him out of such fund with the consent of the Chief Minister for the purpose of meeting unforeseen expenditure pending authorization of such expenditure by the Regional Council.

- (4) (a) Such excise duties as may be prescribed by the Finance Commission shall be levied by the Government of Sri Lanka but shall be collected (i) in the case where such duties are leviable within the Capital Territory, by the Government of Sri Lanka, and (ii) in other cases by the Regions within which such duties are respectively leviable.
- (b) The proceeds of any financial year of any such duty leviable within any region shall not form part of the Consolidated Fund of Sri Lanka and shall be assigned to that region.
- (5) (a) Taxes on wholesale and retail sales (other than sales by manufacturers) shall be levied and collected by the Government of Sri Lanka but shall be assigned to the Regions in the manner provided in sub-paragraph (b).
- (b) The net proceeds in any financial year of any such tax except in so far as those proceeds represent proceeds attributable to the Capital Territory shall not form part of the Consolidated Fund of Sri Lanka but shall be assigned to the Region within which such tax is leviable in that year in accordance with such principles of apportionment as may be formulated by the Finance Commission.
- (c) The Finance Commission shall also formulate principles for determining when a sale or purchase or consignment of goods takes place in the course of inter-regional trade or commerce.

- (6) (a) Such other taxes on sales or income shall be levied and collected by the Government of Sri Lanka and be distributed between the Republic and the Region in the manner provided in subparagraph (b).
- (b) Such percentage as may be prescribed by the Finance Commission of the net proceeds in any financial year of any such tax not attributable to the Capital Territory shall not form part of the consolidated fund off Sri Lanka but shall be assigned to the Region within which tax is leviable in that year and shall be distributed amongst those Regions in such manner, and from such time, as may be prescribed by the Finance Commission.

(7) 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 Region as Parliament may determine to be in need of assistance, and different sums may be fixed for different Regions.

28. (1) The property of the Government of Sri Lanka shall, save as so far as Parliament may by law otherwise provide, be exempt from all taxes imposed by a Region.

(2) The property and income of a Region shall be exempt from taxation by the Centre.

(3) The executive power of the Region extends to domestic and international borrowing upon the security of the Consolidated Fund of the Region. International borrowing shall be subject to such criteria and limitations specified by, and would require the concurrence of, the Centre.

(4) The limits as regards domestic borrowing and the limitations and criteria as regards international borrowing by each Regional administration for each financial year will be laid down by the Minister in charge of the subject of Finance of

the Republic of Sri Lanka before the thirtieth day of September of the preceding financial year. In laying down these limits and criteria, the Minister in charge of the subject of Finance shall take into consideration the requirements of prudent fiscal policy and the demands of monetary stability as well as the repayment capacity of each Regional administration.

(5) Any agreements negotiated and entered into by Regional 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 the Parliament of the Republic.

Chief Minister's Conference

29. (1) There shall be established a Chief Ministers' Conference which will consist of the Chief Ministers of all the regions.

(2) The Chairman of the Chief Ministers' Conference shall be elected by the Chief Ministers in rotation, so however, that each Chief Minister shall hold office as Chairman for a period of 3 months. The Chairman so elected will represent the Chief Ministers' Conference on the Constitutional Council.

(3) The Conference shall have the power:

(a) to take all such actions and measures as are necessary to ensure full compliance with the provisions of this Chapter in accordance with the spirit and intention of the Constitution;

(b) to inquire into and to settle any dispute which may have arisen between regions;

(c) to investigate and discuss subjects in which some or all of the Regions have a common interest, and to make recommendations for the better co-ordination of policy and action in respect of that subject.

(4) The Conference shall endeavour to settle any dispute referred to it, in terms of sub-paragraph 3 (b) of this Article, by mediation and conciliation.

(5) Where such efforts at mediation and conciliation fail, such dispute shall be referred for adjudication to a tribunal established, in accordance with this Article, by the relevant Regional Councils.

(6) The tribunal shall consist of member each appointed by the disputant Regional Councils and a Chairman nominated by the members so appointed.

Where there is no agreement on the nomination of a Chairman, the Chairman shall be nominated by the Constitutional Council.

(7) The practices and procedures of the tribunal shall be regulated by rules framed by the Conference. Any award or determination made by such tribunal shall be binding on the parties to the dispute.

(8) The Conference shall regulate its own procedures and shall meet once every month, unless otherwise determined by the Conference.

Lists

SECOND SCHEDULE

List I

(Reserved List)

1. Defence, national security, national police, and the security forces
2. Immigration, Emigration and Citizenship
3. Foreign Affairs
4. National Census and Statistics
5. National Planning
6. Currency and Foreign Exchange, international economic relations, monetary policy
7. Public Debt of the Government of Sri Lanka
8. Foreign loans of the Government of Sri Lanka
9. Regulation of banking and other financial institutions
10. Insurance
11. Stock Exchange and futures markets
12. Audit of the Government of Sri Lanka
13. Taxes on income, capital and wealth of individuals, companies and corporations
14. Custom duties, including import and export duties, and excise duties (excluding such excise duties as may be devolved on the regions)
15. Turnover taxes and stamp duties, goods and services taxes
16. Any other taxes, duties or levies not mentioned in the Regional List
17. Pensions payable by the Government of Sri Lanka or out of the consolidated fund
18. Atomic Energy
19. Maintenance and management of the National Grid
20. Minerals and mines (regulation and development of oil fields and mineral resources, petroleum and petroleum products)

21. National rivers
22. Airports, harbours, ports with international transportation
23. Inter-regional transport and railways
24. Civil Aviation
25. Inter-regional highways linking district capitals
26. Shipping and navigation; Maritime Zones including historical waters and territorial waters, Exclusive Economic Zone and Continental Shelf
27. Elections (excluding elections to Local Authorities elections to be administered by Local Authority Election Commissions in each region)
28. Posts and telecommunications
29. National Public Service, National Public Service Commission
30. National Health Administration (inclusive of existing special purpose hospitals and teaching hospitals affiliated to national Universities; Training, coordination of education and research relating to Health; Development of National Health Standards; Administration of all special programmes)
31. Drugs, poisons and narcotics
32. Administration of Justice
33. National universities
34. National standards with regard to professions, occupations and training
35. National standards relating to research, development and training in the area of agriculture
36. Inter-regional irrigation schemes
37. Fishing beyond the territorial waters and rights relating to traditional migratory fishing
38. Management of central policy and research institutions in the field of education e.g. National Institute of Education, Management and supervision of national schools, conduct of national public certification examinations, educational training, imposition of minimum standards for such examinations, curriculum and teacher qualifications
39. Adoption of children
40. National Scientific and Industrial Research and Training
41. Regulation of activities for the enhancement of quality standards

42. Foreign trade, inter-regional trade and commerce
43. Patents, inventions, designs, copyright, trademarks and merchandise marks
44. Monopolies and mergers
45. Inter-regional food distribution
46. National media including Central Government Broadcasting and Television Institutions
47. National Archives and Museums, ancient and historical monuments, archaeological sites and records declared by law to be of national importance
48. National Environment and National Policy on Tourism
49. Specialized National Housing Programmes
50. Coordination of Specialized National Poverty Alleviation Programmes
51. Youth and Women's Affairs
52. Buddhism
53. Development of National sports administration and infrastructure
54. Intervention in instances of National (natural and environmental) disasters and epidemics
55. Labour regulation and standards
56. Surveys for the purpose of any matters enumerated in the Reserved List
57. Offences against Laws with respect to any of the matters in the List
58. Fees in respect of any of the matters in the List, but not including fees taken in any Court.
59. Public utility infrastructure development
60. National Libraries and the National Library Services Board
61. Educational publications
62. Industrial Development
63. National Lotteries



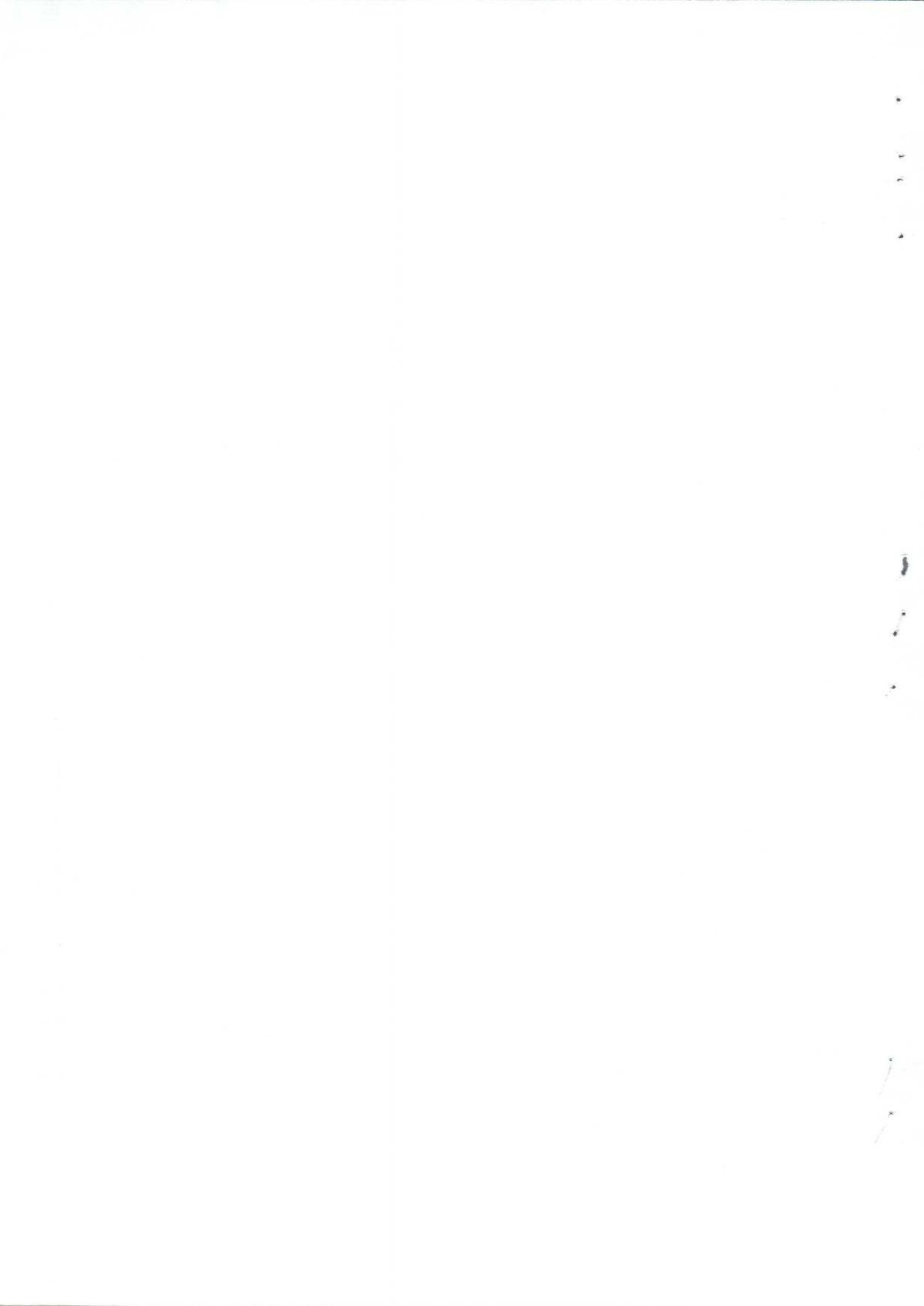
List II

The Regional List

1. Health and indigenous medicine
2. Higher Education, Education and Educational Services, excluding national schools and national universities and the setting of minimum standards for examination, curriculum and teacher qualifications and teacher training
3. Agriculture and agrarian services
4. Irrigation
5. Animal husbandry
6. Fisheries and Aquatic Resources excluding rights relating to traditional migratory fishing
7. Forestry and Protection of the Environment within a Region
8. Industries and Regional Industrial Development
9. Energy
10. Transport
11. Minor Ports and Harbours
12. Roads and Waterways
13. Housing and construction
14. Urban Planning and Public Utilities
15. Rural Development
16. Local Government
17. Co-operatives
18. Supply and distribution of food
19. Promotion of tourism
20. Regional libraries and museums, archaeological sites, ancient and historical monuments and records (excluding those sites declared by law to be of national importance) and the regulation of cultural activity, including public performances
21. Broadcasting and media, including television
22. Relief, Rehabilitation and Reconstruction
23. Social Security
24. State land and its alienation or disposal (State land within a region required for the purposes of the Centre in respect of a reserved subject may be utilized by the Centre in consultation

with the relevant Regional Council and in accordance with such procedures as may be established by law)

25. Regional Police and law and order
26. Administration of Borstal and reformatory institutions
27. Regional Public Service
28. Sports
29. Regulation of unincorporated associations and societies within the region
30. Public debt of a Region
31. Domestic and international borrowing (international borrowings shall be subject to such criteria and limitations specified by, and would require the concurrence of, the Centre)
32. The regulation and promotion of foreign direct investment, international grants and development assistance to the region
33. Regional financial and credit institutions
34. Excise duties to be specified
35. Betting taxes, and taxes on prize competitions and such other lotteries to be specified
36. Motor vehicle licence fees
37. Stamp duties on transfer of immovable properties and motor vehicles
38. Fines imposed by courts
39. Court fees, including stamp fees on documents produced in courts
40. Land revenue, including the assessment and collection of revenues, and maintenance of land records for revenue purposes
41. Taxes on mineral rights
42. Offences against laws with respect to any of the matters specified in the List
43. Fines in respect of the matters in the Regional List
44. Planning and Plan implementation at the regional level
45. Law and order to the extent provided in Chapter III.
46. Administration of Justice within a region



A
DEMOCRATIC
CONSTITUTION
FOR
SRI LANKA

Proposed by
The Movement for Constitutional
Reform

28th December, 1994

18/2, Aloe Avenue
Colombo - 3
Telephone: 576704



CHAPTER II

THE PEOPLE, THE STATE AND SOVEREIGNTY

2. Sri Lanka is a Free, Sovereign, Secular and Federal Republic and shall be known as the Federal Republic of Sri Lanka.
3. In the Republic of Sri Lanka sovereignty is in the People and is inalienable. Sovereignty includes the powers of government, fundamental rights and the franchise.
4. The Sovereignty of the People shall be exercised and enjoyed in the following manner:-
 - (a) the legislative power of the People shall be exercised by Parliament, the Regional Councils and the Provincial Council consisting of elected representatives of the People;
 - (b) the executive power of the People shall be exercised by the President of the Republic on the advice of the Cabinet of Ministers and by the Governors of the Regions on the advice of the Board of Ministers;
 - (c) the judicial power of the people shall be exercised by the courts, tribunals and institutions created and established, or recognized, by the Constitution, or created and established by law;
 - (d) the fundamental rights shall be respected, secured and advanced by all the organs of government, and shall not be abridged, restricted or denied, save in the manner and to the extent hereinafter provided; and
 - (e) the franchise shall be exercisable at the election of the Members of Parliament and of the Members of Regional Councils by every citizen who has attained the age of eighteen years, and who, being qualified to be an elector as hereinafter provided, has her/his name entered in the register of electors.
5. The territory of the Republic of Sri Lanka shall consist of the six regions the names of which are set out in the First Schedule and its territorial waters.

6. The National Flag of the Republic of Sri Lanka shall be the Flag depicted in the Second Schedule.
7. The National Anthem of the Republic of Sri Lanka shall be "Sri Lanka Matha" in the Sinhala language and "Sri Lanka Thaye" in the Tamil language the words and music of which are set out in the Third Schedule.
8. The National Day of the Republic of Sri Lanka shall be the fourth day of February.

The territory of the Republic of Sri Lanka shall consist of the six regions the names of which are set out in the First Schedule and its territorial waters.

CHAPTER XI

Regional Councils

70. (1) There shall be established six Regional Councils within the Republic of Sri Lanka one for each Region as specified in the 1st Schedule.
- (2) Each Regional Council shall be known by the name of the Region to which it belongs as given in the 1st Schedule.
- (3) The number of members to be elected to each Regional Council shall be determined by the Delimitation Commission having regard to the area and population of the Region as to be prescribed by or under law.
- (4) A Regional Council 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 Council.
71. (1) Every Regional Council established under the above provision shall be constituted upon the election of the members of such Council in accordance with the law relating to Regional Council elections.
- (2) Members of the Regional Councils shall be elected under a system of proportional representation with the Region being divided into electoral districts which shall form the constituencies for such elections.
- (3) The law relating to such election shall require each party or independent group contesting such election to submit a list of candidates in order of priority.
72. (1) Every Regional Council shall have power to make statutes over and in respect of matters specified in List II of the 5th Schedule to be applicable within the Region.
- (2) No statute passed by any Regional Council shall have application other than within such Region.
- (3) Any statute or any provision of a statute passed by a Regional Council which is inconsistent with any provisions of the Constitution shall be void and shall not have application completely or to the extent of inconsistency as the case may be.

(4) No Bill of a Regional Council shall become a Statute unless it is passed by a majority of members voting in its favour and the Chairman of the Council endorsed on it a certificate in the following form:-

"ThisBill (give the short title of the Bill) has been duly passed by the..... Regional Council."

(5) If anything contained in a Statute passed by a Regional Council is inconsistent with any provision of any law passed by Parliament in the exercise of its powers over or in respect of matters specified in List I such provision or statute shall be void and ineffective to the extent of such inconsistency.

73. (1) There shall be a Governor for each Region who shall be appointed by the President by warrant under her/his hand on the advice of the Federal Council.

(2) The Governor shall hold office for a period of five years and shall be eligible for reappointment for a second term.

(3) The Governor may by writing addressed to the President resign her/his office.

(4) The Governor may address the Regional Council and may for that purpose require the attendance of members.

(5) The Governor shall preside at ceremonial sitting of the Regional Council and make the Regional Government's Policy Statement in the Council at the commencement of each session of the Council.

(4) (a) The Regional Council may, subject to sub-paragraph (b), present an address to the President requesting the removal of the Governor on the ground of proved misbehaviour or incapacity :

Provided that no resolution for the presentation of such an address shall be entertained by the Chairman or placed on the Order Paper of the Regional Council, unless notice of such resolution is signed by not less than one-half of the total number of members of the Regional Council (including those not present) and sets out full particulars of the alleged misbehaviour or incapacity.

(b) Where a resolution as referred to in the above paragraph is passed by not less than two-thirds of the total number of members of the Regional Council (including those not present) voting in its favour, the President shall remove the Governor from his office.

(c) The Regional Council shall by statute or by Standing Orders provide for all matters relating to the presentation of such an address, including the procedure for the passing of such resolution.

(5) Every person appointed as Governor shall assume office upon taking or subscribing, the oath or making or subscribing the affirmation, set out in the Fourth Schedule, before the Chief Judge of the Regional High Court.

(6) Upon such assumption of office a Governor shall cease to hold any other office created or recognized by the Constitution, and if he is a Member of Parliament, Regional Council shall vacate his seat in Parliament or the Regional Council as the case may be. The Governor shall not hold any other office or place of profit.

(7) Parliament shall by law or resolution make provision for the salary, allowances, age of retirement and pension entitlement of holders of the office of Governor.

74. (1) The executive power of the Region extending over the matters with respect to which a Regional Council has power to make statutes shall vest in the Governor and shall be exercised by the Governor through the Chief Minister and the Ministers of the Board of Ministers of the Region in accordance with the provisions of this Article.

(2) There shall be a Board of Ministers who shall be appointed by the Governor and who shall be charged with the general direction and control of the Regional Government. The Board of Ministers shall be collectively responsible and answerable to the Regional Council.

(3) The Governor shall appoint as Chief Minister the Member of the Regional Council who is most likely to command the confidence of the Regional Council:

Provided that where more than one-half of the members elected to a Regional Council are members of one political party or of one group of parties, the Governor shall appoint the leader of that political party or the group of parties in the Council, as Chief Minister.

(4) The Chief Minister shall be the Head of the Board of Ministers.

(5) The Governor shall, in consultation with the Chief Minister, determine the number of Ministers of the Board of Ministers and the Ministries and the assignment of subjects and functions to such Ministers and appoint from among the Members of the Regional Council Ministers to be in charge of the Ministries so determined.

(6) The Governor may, from time to time, in consultation with the Chief Minister, change the assignment of subjects and functions and the composition of the Board of Ministers.

(7) A person appointed to the office of Chief Minister or as members of the Board of Ministers shall not enter upon the duties of her/his office until s/he takes and subscribes the oath, or makes and subscribes the affirmation, set out in the Fourth Schedule.

(8) The Chief Minister, a Minister of the Board of Ministers shall continue to hold office throughout the period during which the Board of Ministers continue to function unless s/he resigns her/his office by a writing under her/his hand addressed to the Governor or ceases to be a Member of the Council.

(9) On the Chief Minister ceasing to hold office by death, resignation or otherwise (such as a no-confidence motion or vote of censure being passed against the government) the Board of Ministers shall stand dissolved and if the Governor has not dissolved the Council, s/he shall appoint a Chief Minister and Ministers of the Board of Ministers in terms of paragraph 3 of this Article.

(10) The Board of Ministers functioning immediately prior to the dissolution of the Council shall notwithstanding such dissolution continue to function and shall cease to function upon the conclusion of the Election of Members of the Regional Council:

Provided that if the Board of Ministers had been dissolved prior to the dissolution of the Council, the Board of Ministers functioning prior to its dissolution shall notwithstanding its dissolution will continue to function and shall cease to function upon the conclusion of the Election of Members of the Regional Council.

75. The Governor shall always exercise the powers vested in her/him under the provisions of this Constitution save under paragraph 3 of Article 74 in accordance with the advice of the Chief Minister so long as the Board of Ministers commands the support of the majority of the Regional Council.

76. (1) The Governor may, from time to time, by Notice, summon, prorogue and dissolve the Regional Council.

(2) The Regional Council shall be summoned to meet once at least in every year.

(3) A Notice proroguing the Regional Council shall fix a date for the next session, not being more than two months after the date of the Notice:

Provided that, at any time while the Regional Council stands prorogued, the Governor may by Notice --

(a) summon the Regional Council for an earlier date, not being less than three days from the date of such Notice, or

(b) subject to the provisions of this Article dissolve the Council.

(4) All matters which, having been duly brought before the Council, have not been disposed of at the time of the prorogation of the Council, may be proceeded with during the next session.

(5) (i) A Notice dissolving the Council shall fix a date or dates for the election of Members of the Council, and shall summon the new Council to meet on a date not later than three months after the date of such Notice.

(ii) Upon the dissolution of the Council by virtue of the provisions of paragraph 4 of Article 70, the Governor shall forthwith by Notice fix a date or dates for the election of Members of the Council and shall summon the new Council to meet on a date not later than three months after the date of such Notice.

(iii) The date fixed for the first meeting of the Council by a Notice under sub-paragraph (i) or (ii) may be varied by a subsequent Notice, provided that the date so fixed by the subsequent Notice shall be a date not later than three months after the date of the original Notice.

(iv) If at any time after the dissolution of the Council, the Governor is satisfied that an emergency has arisen of such a nature that an earlier meeting of the Council is necessary, s/he may by Notice summon the Council which has been dissolved to meet on a date not less than three days from the date of such Notice and such Council shall stand dissolved upon the termination of the emergency or the conclusion of the Election of the Regional Council, whichever is earlier.

77. (1) There shall be a Regional Public Service Commission which shall consist of five persons appointed by the Governor on the recommendation of the Federal Council. The Governor shall on the recommendation of the Federal Council nominate one of the members of the Commission to be the Chairperson.

(2) No person shall be appointed or shall remain a Member of the Regional Public Service Commission if s/he is a Member of Parliament, a member of any Regional Council or a Member of the Provincial Council.

(3) Every person who immediately before her/his appointment as a Member of the Regional Public Service Commission is a public officer or judicial officer shall when such appointment takes effect cease to hold such office and shall be ineligible for further appointment as a public officer or a judicial officer.

Provided that any such person shall, until s/he ceases to be a member of the Regional Public Service Commission, or while continuing to be such a member, attains the age at which s/he would, if s/he were a public officer or a judicial officer, as the case may be, be required to retire, be deemed to be a public officer or a judicial officer, and to hold a pensionable office in the service of the State, for the purposes of any provision relating to the grant of pensions, gratuities or other allowances in respect of such service.

(4) Every member of the Regional Public Service Commission shall hold office for a period of five years from the date of her/his appointment unless s/he earlier resigns her/his office by writing under her/his hand addressed to the Governor of the Republic or on the recommendation of the Federal Council is removed by the Governor from office for cause assigned.

(6) A member of the Regional Public Service Commission shall be paid such salary as may be determined by the Regional Council. The salary payable to any such member shall be charged on the Regional Consolidated Fund and shall not be diminished during her/his term of office.

(7) There shall be a Secretary to the Regional Public Service Commission who shall be appointed by the Commission.

(8) The quorum for any meeting of the Commission shall be three members.

(9) The Regional Public Service Commission shall have power to act notwithstanding any vacancy in its membership, and no act or proceeding of the Commission shall be, or be deemed to be, invalid by reason only of any such vacancy or any defect in the appointment of a member.

78. (1) The appointment, transfer, dismissal and disciplinary control of public officers of the Region save as otherwise provided for in the Constitution, is hereby vested in the Regional Public Service Commission.

(2) Notwithstanding anything in paragraph (1) of this Article, "public officer" shall not include any officer who is required to be appointed by any specified Authority under the Constitution.

(3) The Regional Public Service Commission may by order published in the Gazette delegate to any public officer, subject to such conditions as may be specified in the Order, any other powers vested in the Commission under this Article. Any person dissatisfied with the decision made by any public officer under any power delegated aforesaid may appeal therefrom to the Commission and the decision of the Commission on such appeals shall be final.

79. Every person who, otherwise than in the course of her/his duty, directly or indirectly, by herself/himself or by any other person, in any manner

whatsoever influences or attempts to influence any decision of the Regional Public Service Commission, or of any public officer exercising any powers delegated by the Commission shall be guilty of an offence, and shall, on conviction by the High Court after trial without a jury be liable to a fine not exceeding twenty five thousand rupees or to imprisonment for a term not exceeding one year or to both such fine and such imprisonment and fine.

Provided that nothing in this Article shall prohibit any person from giving a certificate or testimonial to any applicant or candidate for any public office.

80. A person appointed to any office referred to in this Chapter shall not enter upon the duties of her/his office until s/he takes and subscribes the oath or makes and subscribes the affirmation set out in the Fourth Schedule.



CHAPTER XVII

THE DEVOLUTION COMMISSION

161. (1) There shall be a Devolution Commission (in this Chapter referred to as the "Commission") which shall consist of the following members:

The President of the Republic
The Prime Minister
The Chief Ministers of the Regions
The immediate past Chief Justice of the Supreme Court (if deceased, his immediate predecessor)
The Leader of the Opposition in the House of Representatives
The President of the Senate
The Minister in charge of the subject of Home Affairs
The Minister of Finance

(2) The President of the Republic shall be the Chairperson of the Commission.

(3) (a) It shall be the duty of the Commission to examine any issues of contention relating to the extent and scope of subjects specified in the 5th Schedule.

(b) The Commission shall have power to mediate between and resolve any disputes that may arise between the National Government and the Regions or between and among Regions.

(c) The Commission shall where coordination and liaison is required between the National Government and the Regions or between and among the Regions oversee and/or ensure the performance of such functions.

(4) The meeting of this Commission shall be convened at least once in two months:

Provided if a request for a meeting is made by not less than seven members the Chairman shall summon a meeting within two weeks of such request.

(5) In the exercise of the President's powers in this article, the provisions of article 38(1) shall not apply.



CHAPTER XVIII

PUBLIC SECURITY

162. (1) The President in consultation with the Prime Minister may issue a Proclamation declaring a state of emergency in situations where the national security and/or integrity of the nation and/or the maintenance of essential supplies are threatened.

(2) (a) Upon the making of a Proclamation under the preceding paragraph the President may, subject to the provisions of the Constitution, make emergency regulations so far as necessary to deal with such situation. Such emergency regulations shall have the legal effect of overriding, amending or suspending the operation of the provisions of any law except the provisions of the Constitution and shall be subject to international human rights norms dealing with situations of emergency.

(b) All Proclamations and regulations made under this Chapter shall be published forthwith in the Government Gazette and within seven days of the making of such Proclamation or Regulation in national newspapers of the national languages.

(3) Such Proclamation shall be forthwith communicated to Parliament and accordingly -

(i) if such Proclamation is issued after the dissolution of Parliament such Proclamation shall operate as a summoning of Parliament to meet on the tenth day after such Proclamation, unless the Proclamation appoints an earlier date for the meeting which shall not be less than three days from the date of the Proclamation; and the Parliament so summoned shall be kept in session until the expiry or revocation of such or any further Proclamation or until the conclusion of the General Election whichever event occurs earlier and shall thereupon stand dissolved;

(ii) if Parliament is at the date of the making of such Proclamation, separated by any such adjournment or prorogation as will not expire within ten days, a Proclamation shall be issued for the meeting of Parliament within ten days.

(4) (a) A Proclamation made under the preceding paragraph shall expire after a period of fourteen days from the date of making such Proclamation unless it is approved by a resolution of Parliament in which case it shall be in operation for a period of thirty days:

Provided that if -

(a) Parliament stands dissolved at the date of the making of such Proclamation, or

(b) Parliament is at such date separated by any such adjournment or prorogation as is referred to in paragraph 3 (ii) of this Article; or

(c) Parliament does not meet when summoned to meet as provided in paragraphs 3 (i) and 3 (ii) of this Article,

then such Proclamation shall expire at the end of ten days after the date on which Parliament shall next meet and sit, unless approved by a resolution at such meeting of Parliament.

(b) Parliament may, within fourteen days of the making of such Proclamation, by resolution, expressly revoke a Proclamation made under the preceding paragraph of this Article.

(5) Upon the revocation of a Proclamation referred to in paragraph (4) of this Article within a period of fourteen days from the date on which such Proclamation shall have come into operation or upon the expiry of such a Proclamation in accordance with the provisions of paragraph 4, no Proclamation made within thirty days next ensuing shall come into operation until the making thereof shall have been approved by a resolution of Parliament.

(6) (a) Where a Proclamation made under paragraph 1 of this Article has been in operation for a period of one hundred and eighty consecutive days or a period of one hundred and eighty days in the aggregate during twelve consecutive calendar months, no Proclamation made under paragraph 1 of this Article shall, if made at any time during the succeeding twelve calendar months, be in operation for more than ten days from the date of making such Proclamation, unless it is approved by a resolution of Parliament passed by at least two-thirds of the whole number of Members of Parliament (including those not present) voting in favour of such resolution, in which case it will continue to be in force for a period of thirty days:

Provided that if -

(a) Parliament stands dissolved at the date of the making of

such Proclamation, or

(b) Parliament is at such date separated by any such adjournment or prorogation as is referred to in paragraph 3 (ii) of this Article; or

(c) Parliament does not meet when summoned to meet as provided in paragraphs 3 (i) and 3 (ii) of this Article,

then such Proclamation shall expire at the end of ten days after the date on which Parliament shall next meet and sit, unless approved by a resolution passed by at least two-thirds of the whole number of Members of both Houses of Parliament (including those not present) voting in favour of such resolution.

(b) Parliament may, within fourteen days of the making of such Proclamation, by resolution, expressly revoke a Proclamation made under the preceding paragraph of this Article.

(7) Upon the revocation of a Proclamation referred to in paragraph (6) of this Article or the expiry of such a Proclamation in accordance with the provisions of paragraph (6) of this Article, no Proclamation made within one hundred and eighty days next ensuing shall come into operation until the making thereof shall have been approved by a resolution of Parliament passed by at least two-thirds of the whole number of Members of both Houses of Parliament (including those not present) voting in favour of such resolution.

(8) (a) If Parliament does not approve any Proclamation or if Parliament revokes any Proclamation in accordance with the preceding provisions, such Proclamation shall, immediately upon such disapproval, cease to be valid and of any force in law without prejudice to anything lawfully done thereunder.

(b) Where a Proclamation ceases to be in operation in accordance with the preceding provisions of this Article, all Regulations, Rules, Orders and By-laws made under or by virtue of such Proclamation shall immediately cease to be valid and of any force in law without prejudice to anything lawfully done thereunder.

163. (1) Upon the making of a Proclamation under the provisions of Article 162, the President may issue an Order dissolving any Regional Council in situations where the national sovereignty and/or territorial integrity of the Island is threatened:

Provided that such Order shall not come into operation unless it is approved by two-thirds of the whole number of Members of both Houses of Parliament (including those not present) voting in favour of such resolution within fourteen days of the issue of such an Order.

(2) Upon an Order coming into operation under the preceding paragraph, the legislative power of such Council shall vest in Parliament and the executive power of such Council shall be exercised by the President and the Cabinet of Ministers.

(3) An Order which comes into operation under paragraph 1 of this Article shall be in force for a period not exceeding six months.

164. (a) The Governor on the advice of the Chief Minister of the Region may make a Declaration announcing a state of emergency within the Region if it is necessary in the interests of public order and for the maintenance of supplies and services essential to the life of the community within the Region.

(b) A Declaration made under the preceding paragraph shall lapse after a period of ten days unless it is approved by a two-thirds majority of the whole number of Members of the Regional Council (including those not present).

SCHEDULE I

NAMES OF REGIONS*

Western Region - [to generally comprise of the present districts of Colombo, Kalutara Gampaha, Kegalla and Puttalam]

Central Region - [to generally comprise of the districts of Kandy, Nuwara Eliya, Matale, Kurunegala, Anuradhapura and Polonnaruwa]

Southern Region - [to comprise of the districts of Galle, Matara, Hambantota and a section of Amparai.]

Northern Region (North-Eastern Region) - [to comprise of the districts of Kilinochchi, Jaffna, Mannar, Mullaitivu, Vavuniya, Trincomalee and Batticaloa.

Eastern Region - to comprise of the Amparai district.

Uva Region - [to generally comprise of the districts of Ratnapura, Badulla, Moneragala and a section of Amparai]

* We do not set forth any specific proposals on the exact numbers or areas of devolved units as this sensitive, yet very important, issue should best be dealt with through a process of dialogue and as part of the peace process. We have however referred in our document to 6 regional units because, on the basis of the criteria set out below the best interests of democratic devolution, regional development and ethnic harmony might best be achieved by the creation of 6 regional units as set out above.

It is proposed that the Sri Lankan state be divided into regions on the following basis, taking into consideration one or more of them in defining each region:

a. the region should be large enough to sustain the greatly increased powers and responsibilities conferred on them.

- b. each region should be contiguous in order to facilitate administration of the devolved functions.
- c. each region should be, as far as possible, homogeneous in population and language and culture.
- d. each region should be so demarcated that the interests of security and law and order, which are devolved functions, are served.
- e. each region should have the potential of economic viability.
- f. regions should be demarcated so as to avoid geographical or economic asymmetry.

The Delimitation Commission should be entrusted with the task of defining the regions taking into account the above considerations and having in mind the necessity of implementing agreed political decisions. In defining new regions, the current provincial or district boundaries may be revised wherever necessary.

SCHEDULE V

List I

1. Defence and National Security
2. National Police
3. Foreign Affairs
4. Immigration and Emigration
5. Customs
6. Currency and foreign exchange
7. Stock Exchange
8. Atomic Energy
9. National Public Service
10. Post and Telecommunications
11. National Broadcasting and Telecasting
12. Census
13. Intellectual property [Patents, trademarks, copyrights and designs ?]
14. Anti Monopoly & restraint of trade ??
15. Drugs & narcotics
16. National Transport
17. National Income Tax
18. National Archives
19. National Universities
20. Inter Regional Irrigation
21. Inter Regional Rivers

22. Territorial waters and Air space
23. Ports & Harbours [subject to special arrangements]*
24. Mineral & Mines
25. Archaeological sites [subject to special arrangements]#
26. National and Regional Elections
27. Environment [subject to special arrangements]+
28. Administration of Justice.

* There shall be authorities (e.g. The Trincomalee Port and Harbour Authority) for the management, development and control of Ports and Harbours designated as National Ports and Harbours in the VIIth Schedule . The members of these Authorities shall be appointed by the President. One half of the members shall be appointed by the President in concurrence with the Chief Minister of the Region in which such Port or Harbour is situated. Profits generated by such Ports and Harbours shall be shared between the National Government, the relevant Regional Council and if necessary other Regional Councils according to principles set by the Finance Commission.

The Devolution Commission shall appoint a Committee of Experts to identify and demarcate the archaeological sites of the country which task shall be completed within one year of the enactment of the Constitution. The Devolution Commission shall thereafter determine the principles by which such sites shall be managed. Thereafter the Committee of Experts shall be convened once a year to review their decisions.

+ There shall be a National Environmental Authority which shall consist of 15 members nominated in the following manner:

a) Nine members to be appointed by the President on the recommendation of the Federal Council.

b) One nominee of each Regional Council and the Eastern Provincial Council.

The National Environmental Authority shall have the power to determine the policies with respect to the protection of the environment. The National Government and the Regional councils shall exercise their powers subject to the policies laid down by the National Environmental Authority. In the event of the National Government or a Regional Council choosing not to abide by the said policies the Prime Minister or Chief Minister, as the case may be, shall give reasons for so doing.

LIST II

1. Regional Planning
2. Regional Foreign Aid
3. Regional Police
4. Regional Roads & Highways
5. Regional Broadcasting & Telecasting
6. Law and Order [subject to special arrangements]@
7. Education and Higher Education
8. Local Government
9. Regional Public Service
10. Regional Housing
11. Social Services & Rehabilitation
12. Environment [subject to special arrangements]+
13. Agriculture
14. Irrigation
15. Regional Transport
16. Land [subject to special arrangements]\$
17. Minor Ports & Harbours
18. Fisheries
19. Regional Trade
20. Regional Waterways
21. Labour
22. Health Service

23. Industry [subject to special arrangements]^
24. All subjects and matters not specified in List I.

@ 1. The subject devolved shall be described as follows:
The maintenance of public order and the exercise of police powers within the Region, not including-

- a) National Defence;
- b) National Security; and,
- c) The use of any armed forces or any other forces under the control of the Government of Sri Lanka for the protection of national security or defence.

2. The IGP shall be the head of the Sri Lanka Police Force.

3. The Sri Lanka Police Force shall be divided into-

- a) The National Division including special units
- b) A Regional Division for each Region

4.a) There shall be a National Police Commission consisting of-

- a) The IGP
- b) The Regional Inspectors General of each Region
- c) A nominee of the Federal Council
- d) A nominee of the Public Service Commission

b) The Commission shall be responsible for -

1) the recruitment, promotion, transfer and disciplinary control of members of the National Division other than the IGP;

2) for the formulation of guidelines for the training of all police personnel in the National and Regional Divisions;

3) for the development of a uniform salary structure for the police personnel in all three Divisions.

4) for setting standards for recruitment and promotion of police personnel of all Divisions.

5. (a) There shall be a Regional Inspector General of Police who shall be appointed by the Chief Minister of the Region with the concurrence of the Federal Council and, who shall be the Head of the Regional Police Division.

(b) There shall be a Regional Police Commission for each Region consisting of -

- a) The Regional Inspector General of Police;
- b) A nominee of the Chief Minister;
- c) A nominee of the Federal Council;
- d) A nominee of the Devolution Commission;
- e) A nominee of the Regional Public Service Commission.

(c) The Regional Police Commission shall be responsible for the recruitment, transfer, promotion and disciplinary control of officers in the Regional Division except the Regional Inspector General of Police .

6. All gazetted officers of the National Division and the Regional Divisions shall be required to attain prescribed standards in at least two National Languages . All Officers of the rank of A.S.P. and above shall also be required to attain a prescribed standard in the third National Language.

7. Every recruit to the Sri Lanka Police Force shall, in order to qualify for her/his first promotion, acquire proficiency in at least two National Languages and for the next promotion s/he shall acquire a knowledge of the third National Language.

8. The following shall be investigated by the National Police Division:

- a. Offences against the State.
- b. Offences relating to the Navy, Army and Air Force.
- c. Offences relating to National and Regional Elections.
- d. Offences relating to coins, currency and government stamps.
- e. Any Offence committed against the President.
- f. Any Offence committed against a Judicial Officer, the Speaker, the Prime Minister, Members of the Judicial Service Commission, Public Service Commission, the Federal Council, a Member of Parliament, or the Secretaries General of Parliament.
- g. Any Offence relating to property belonging to the State or a State Corporation or Establishment.
- h. Any Offence prejudicial to National Security or the maintenance of essential supplies.
- i. Any Offence under any law relating to any matter in the Reserved List other than such offences as Parliament may decide to exclude.
- j. Any Offence in respect of which courts in more than one Region have jurisdiction.
- k. International crimes.

\$ Each Region shall have a Regional Land Commission the functions of which includes

- a) land alienation within the Region
- b) determination of land settlement policies
- c) the formulation of land development policies.

Each Regional Land Commission shall work in consultation with the National Environmental Authority with regards to matters which have a bearing on the environment.

Each Regional Land Commission shall consist of seven members to be nominated in the following manner:

- (a) three members to be nominated by the Chief Minister of the Region;
- (b) two members to be nominated by the Federal Council;
- (c) two members to be nominated by the National Environmental Authority.

^ There shall be a National Board of Investment which shall be responsible for regulating foreign investments in Sri Lanka and ensuring that such investments are as far as possible equitably made throughout the country.

The National Board of Investment shall consist of fifteen members to be nominated in the following manner:

- (a) three nominees of the Minister of Finance;
- (b) three nominees of the Finance Commission;
- (c) one nominee each from the Central Bank, the Chamber of Commerce and the Federal Council.

*** **

A PROPOSAL FROM BATES, WELLS & BRAITHWAITE,

Solicitors, London for International Peace Support Group

10th January, 1997

**A FRAMEWORK FOR THE CONSTITUTION
OF THE UNION OF CEYLON.**

In August 1995, the President of Sri Lanka announced proposals for the devolution of power to the country's regions with a view to resolving the present ethnic conflict, and to ending discrimination on the basis of race, religion, caste or region. As a response to those proposals, the framework, which follows is one, which it is considered will meet the present needs of the country.

It incorporates (in paragraph 1.2) certain important statements of principle contained in the Preamble to the President's proposals and adds to them principles which have been frequently declared on behalf of the Tamil people.

1. Preamble

1.1 This framework document provides the basis for a new constitution for the Union of Ceylon, which shall consist of two internally autonomous States -- one for the primarily Tamil area and the other for the area which is mainly Sinhalese. This reflects the fact there have been identifiable homelands (historical and existing) on the island for the Tamils (in the North and East provinces) and the Sinhalese (in the rest of the provinces) for over two millennia. Relations between the States will be governed in accordance with generally applicable principles of international law and justice.

1.2 This framework document is based on the following principles:

(a) promoting a vision of the Union of Ceylon where all communities can live in safety and security and their human dignity is valued and equality of treatment is an accepted norm of public life;

(b) ensuring that all communities be given the space to express their distinct identity and promote that identity including the right to enjoy their own culture, profess and practise their own religion, and conserve and nurture their own language;

(c) ensuring that all persons may fully and effectively exercise all their human rights and fundamental freedoms without any distinction and in full equality before the law.

1.3 This document further provides for recognition of the Sinhala and Tamil as official languages of the Union of Ceylon and English as a link language.

2. Basic structure of the Union of Ceylon

2.1 The Union will have a confederal structure, consisting of two States, each being internally autonomous and committed to the furtherance and maintenance of the principles and values declared in the Preamble, including in particular the protection of the fundamental human rights declared in the Constitution and the maintenance of democratic principles.

2.2 Subject to these principles, the internal autonomy of each State will extend to the adoption by each State of its own internal constitution (e.g. size and structure of the legislature, frequency of elections).

3. The Central Council of the Union:

(a) Composition

3.1 The Central Council will provide the channel of communication and coordination between the two States and it will consist of an equal number of representatives from

each State.

3.2 If the number of representatives from each State is not to be equal, there will need to be a weighted voting system.

3.3 Each State will determine the manner in which its representatives on the Central Council are selected and appointed.

3.4 Each State will be entitled to appoint substitute representatives to act when the appointed representatives are unable to do so.

3.5 The Council will appoint a President and Deputy President of the Union from amongst its own members for a period of (say) four years at a time in an agreed alternation between representatives of each State.

(b) Powers and Functions

3.6 Powers will be reserved to the Council of the Union to deal with:

(a) foreign affairs;

(b) the external defence and security of the Union;

(c) monetary policies, the maintenance of a common currency and a Central Bank;

(d) the maintenance of relations between the States and the broad coordination of their policies;

(e) the maintenance and execution of such other matters as may from time-to-time be vested in the Council by agreement of the States.

3.7 Consideration should be given to including additional matters amongst the powers reserved to the Council (for

example, international fisheries and telecommunications).

3.8 All matters not expressly reserved to the Council will be within the separate and exclusive jurisdiction of each State (for example, the Council will have no overriding powers in relation to the maintenance of law and order within a State).

3.9 The Council will be entitled to undertake expenditures on the matters reserved to it within an agreed budget, the revenue to pay for such expenditure being provided by each State in such proportion as may be agreed. A Central Finance Commission comprising representatives from each state will oversee the Union budget. The number of representatives will be equal or there will be a weighted voting system.

4. Constitutional Court

4.1 A Constitutional Court will be created to interpret the Constitution of the Union and to ensure compliance by a State with the principles of the Preamble and the entrenched human rights provisions of the Union Constitution.

4.2 Any person seeking recourse to the Constitutional Court would have to exhaust local judicial procedures in his or her State before applying for leave to appeal to the Constitutional Court.

4.3 The Prime Minister of each State will have the right to seek an advisory opinion from the Constitutional Court.

4.4 Each State will have the right to appoint an equal number of Judges to the Constitutional Court. If the number is not equal, the possibility of weighted voting would have to be considered.

4.5 It would be for consideration whether appointment of Judges should be until a stated retiring age (or for life) unless removed for inability or misconduct by resolution of

the Council.

4.6 The Judges of the Constitutional Court will elect a head but he/she would not have a casting vote. The Head of the Constitutional Court could (like the President of the Union) be elected by the Judges, for a fixed period and on a basis of alternation between the States.

4.7 It would be for consideration whether in addition to the Judges appointed by each State there should be one or more Judges of international reputation appointed by the Council from outside the Union.

5. Constitutions of the States

5.1 Each State will adopt its own constitution, but each constitution would be required to endorse the principles stated in the Preamble to the Union Constitution and the common entrenched clauses protecting human rights. These clauses would exclude the possibility of discriminatory treatment of minorities and individuals wherever in the Union they are present or resident. Amendments of the Constitution of each State shall be by a two-thirds majority of the membership of the national assembly of each State including those not present.

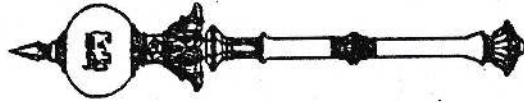
5.2 The citizens of the Union (regardless of the State in which they resided or from which they originated) would share a common nationality for the purposes of international law. The freedom of movement between the States, the freedom to reside and take up employment in either State, and related freedoms would be guaranteed to all citizens of the Union.

6. Referendum and Guarantees

6.1 At the end of four years from the commencement of the Union, each State would be entitled to modify the powers of the Union affecting that State, provided that the residents of that State, in a referendum had by a majority voted in favour

of that course of action.

6.2 The implementation and operation of the Constitution and the maintenance of peace between the States would be guaranteed by the United Nations, which would have appropriate powers of enforcement.



PARLIAMENTARY SERIES

No. 47

of

THE SECOND PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF SRI LANKA

(Fifth Session)

REPORT

from

**THE SELECT COMMITTEE APPOINTED TO RECOMMEND
WAYS AND MEANS OF ACHIEVING PEACE AND
POLITICAL STABILITY IN THE COUNTRY**
*(TOGETHER WITH THE PROCEEDINGS OF THE
COMMITTEE AND MINUTES OF EVIDENCE)*

Presented by

MR. MANGALA MOONESINGHE, M. P.

Chairman of the Committee

*Ordered by, THE PARLIAMENT OF SRI LANKA, to be printed,
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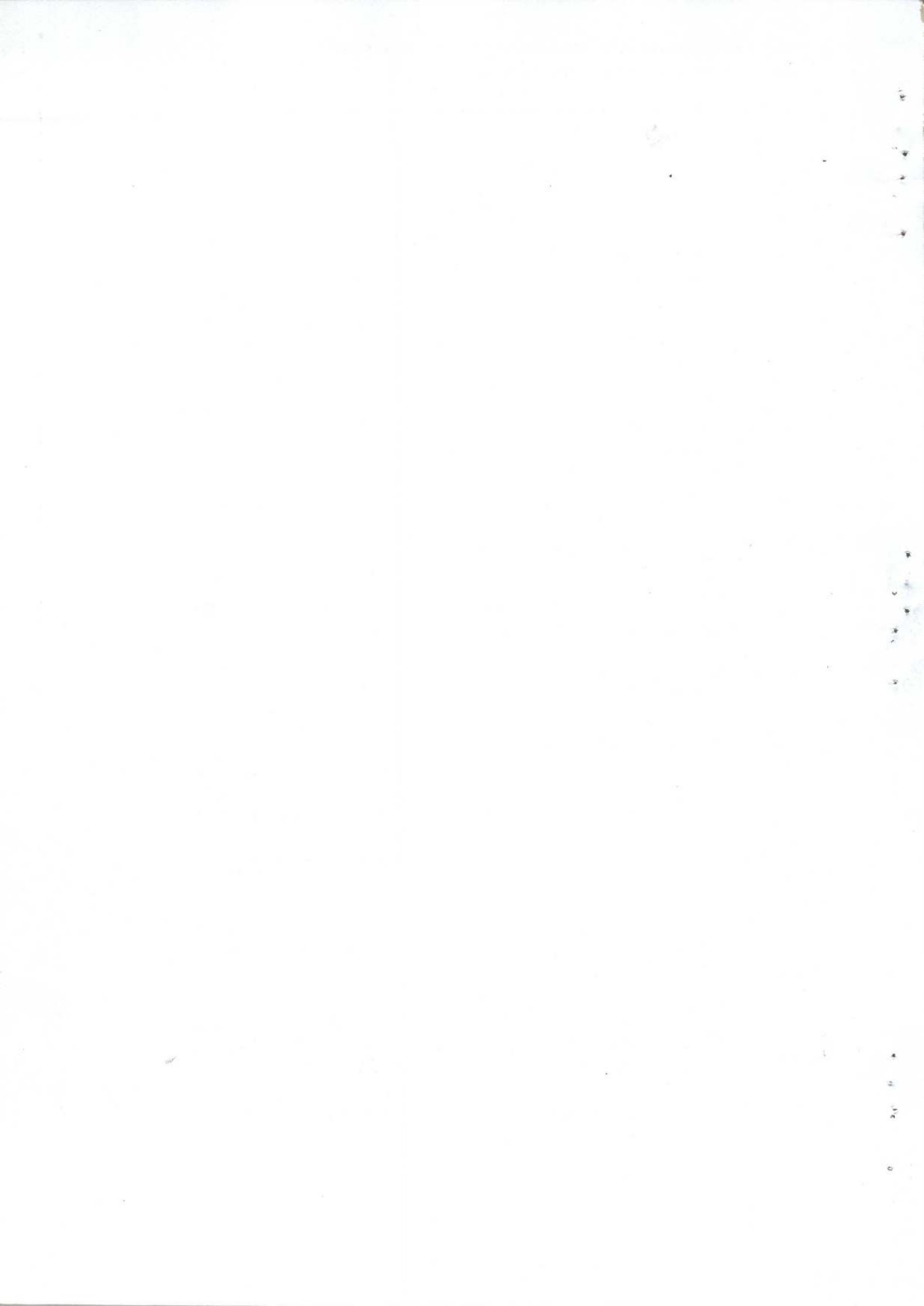
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MEANS OF ACHIEVING PEACE AND POLITICAL STABILITY IN THE
COUNTRY NOMINATED

Mr. Mangala Moonesinghe (Chairman)
Hon. Gamini Atukorale
Hon. S. Thondaman
Hon. P. Dayaratne
Hon. Festus Perera
Hon. K. D. M. C. Bandara
Hon. Abdul Razak Munsoor
Hon. Weerasinghe Mallimarachchi
Hon. Wijayapala Mendis
Hon. W. J. M. Lokubandara
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Hon. (Dr.) Wimal Wickramasinghe
Hon. A. H. M. Azwer
Hon. (Mrs.) R. M. Pulendran
Hon. M. S. Sellasamy
Mr. S. S. M. Abu Bakr
Mr. M. H. M. Ashraff
Mr. M. Haleem Ishak
Mr. K. Karunakaram
Mr. L. B. Kiriella
Mr. Buddhika Kurukularatne
Mr. Raja Collure
Mr. Dinesh Gunawardena
Mr. Lakshman Jayakody
Mr. Dharmadeva Jayasinghe
Mr. Somasara Dassanayake
Mr. Harindranath Dunuwille
Mr. Richard Pathirana - (resigned 23.04.1992)
Mr. H. R. Piyasiri
Mr. Jeyaraj Fernandopulle - (resigned 03.05.1992)
Mr. K. Premachandran
Mr. Anura Bandaranaike
Mr. K. B. Ratnayake
Mr. T. W. Rajaratnam
Mr. K. Srinivasan
Mr. Athauda Seneviratne
Mr. Mavai S. Senathirajah
Mr. Dharmasiri Senanayake - (resigned 12.03.1992)
Mr. Basheer Segudawood - (w.e.f 19.12.1991)
Mr. Hudson Samarasinghe - (w.e.f 19.12.1991)
Mr. M. K. A. D. S. Gunawardena (w.e.f 05.05.1992)
Mr. T. A. K. Thevarapperuma - (w.e.f 05.05.1992)



REPORT

Your Committee was constituted following the unanimous adoption by Parliament on 9th August, 1991 of the following motion moved by Mr. Mangala Moonesinghe and seconded by Mr. Stanley Tillekeratne:

"That this Parliament is of opinion that a Select Committee of Parliament be appointed -

- (a) to arrive at a political solution to the question involving the devolution of power to the Northern and Eastern Provinces;
- (b) to prevent -
 - (i) the disintegration of the nation;
 - (ii) the killings of innocent civilians, members of the Armed Forces and the Youths fighting for a cause;
 - (iii) the increased militarization of the culture of violence in our country; and
- (c) to achieve peace and political stability and utilize the reduced defence expenditure for rapid economic growth and national development.

That the committee shall -

- (a) have the power to fix its quorum;
- (b) have the power to summon any person to appear before it, to require any person to produce any document or record, to procure and receive all such evidence, written or oral, as the Committee may think it necessary for the fullest consideration of the matters referred to above, and
- (c) have the power to report from time to time and to sit notwithstanding any adjournment of Parliament."

While moving the Motion Mr. Moonesinghe proposed an amendment to delete the word "national" which appeared in the notice between the words "the" and "question" in paragraph (a). The House agreed to the amendment.

Hon. Speaker thereafter appointed a Committee of 45 Members representing all parties in Parliament under the Chairmanship of Mr. Mangala Moonesinghe. This is the largest Select Committee in the history of the Parliament of Sri Lanka.

At its first meeting held on 20th November, 1991 the Committee fixed its quorum at fourteen.

The Committee has held 49 meetings to date.

Your Committee at its meeting on 20th November, 1991 decided to call for written representations from the public on matters relating to its Order of Reference. This decision was advertised in the Press and given publicity through radio and television in Sinhala, Tamil and English. The closing date for such representations was fixed for 16th December, 1991. Your Committee subsequently decided that representations received up to 10th January, 1992 would be considered. Your Committee received 253 memoranda.

Memoranda were received from Members of Parliament, political parties, other organizations and individuals. Where clarification of the submissions was found to be necessary, the Committee examined the Members of Parliament, representatives of political and other organizations, and individuals. (vide Appendix I).

The Head of the International Committee of the Red Cross Delegation in Sri Lanka, Mr. Pierre Wettach, in March, 1992 confirmed in writing to the Chairman that he had met two members of the LTTE viz. Mr. G. Mahendrarajah (Mahattaya) and Mr. Balasingham who had informed him that a delegation from the Select Committee would be welcome in Jaffna. Your Committee informed Mr. Wettach that any representation from the LTTE would be welcome and that they wished this to be conveyed to the LTTE. However, the Committee notes with regret that there has been no response whatsoever from the LTTE in this regard upto date.

From the submissions, proposals and evidence, the following issues emerged for consideration:-

- (a) whether the temporarily merged Northern and Eastern Provinces should continue to be one unit with special arrangements made to safeguard the interests of the Muslims;
- (b) whether the Northern and Eastern Provinces should be separated and that each should be an independent unit of devolution;
- (c) whether the temporary North-East merger should continue except for the Sinhala populated areas to be excised and annexed to the neighbouring Provinces; and
- (d) whether the unit of devolution should be the District;
- (e) whether the provincial councils should be abolished except in the North and the East.

As your Committee continued its deliberations, it became clear that misunderstanding and mistrust prevailed on issues pertaining to colonization of lands, law and order and delays in implementation of legislation relating to devolution. The Committee decided that public servants who had access to information and specialized knowledge of the subject should be summoned to give evidence.

Public Officers were examined on the following subjects:

Colonization. - The Land Commissioner, the Secretary, Ministry of Lands, Irrigation and Mahaweli Development and the Director, Planning in the Mahaweli Development Authority were summoned to give evidence and produce documents pertaining to relevant data on land settlement in the Northern and Eastern Provinces. Their evidence related to land settlement in those Provinces since independence in 1948 together with an ethnic classification of those settled in the colonization schemes. (vide Appendix II)

Law and Order. - The Inspector-General of Police gave evidence on the relevant aspects of law and order. He explained that there were provisions in the Constitution under the 13th Amendment to establish a National Police Service and Provincial Police Services. (vide Appendix III)

Finance. - Members of the Finance Commission outlined the principles upon which financial disbursements are made to Provincial Councils for capital outlays and recurrent expenditure. The Secretary, Ministry of Finance indicated to the Committee that the objective of the Commission was to encourage the Provincial Councils to expand their revenue base and take an initiative in revenue collection in order to be financially viable.

Aid. - Your Committee also summoned the Director, External Resources who held the view that it would be useful to allow the Chief Ministers to take preliminary steps to procure foreign loans and aid to develop their respective Provinces provided that the Central Government also participated in the negotiations. (vide Appendix IV).

It was apparent from the evidence of these public servants that the devolution contemplated in the legislation relating to Provincial Councils had not been fully implemented.

A majority of Your Committee was of the view that there should be a greater devolution of power and that such devolution should be put into effect within a specified time. Your Committee was also of the view that not only should more power be devolved in conventional subjects such as health and transport, but also in matters such as foreign aid and foreign concessionary loans and that the Chief Executive of a Province must be encouraged to take the initiative in negotiating external financial assistance to develop the province provided that the Central government also participated in the negotiations.

In the course of the deliberations on the conflicting issues, a Concept Paper was tabled embodying a compromise which provided for two separate Councils and an Apex Assembly consisting of Members of the two Councils to plan common policies and co-ordinate programmes. The Paper presented a flexible framework for discussion.

The Paper was rejected by Members of the committee belonging to the Ceylon Workers' Congress and the Tamil United Liberation Front.

Subsequently an Option Paper was tabled incorporating the salient features contained in -

- (a) The Bandaranaike - Chelvanayakam Pact;
- (b) The Dudley Senanayake - Chelvanayakam Pact;
- (c) The Manifesto of the Democratic Peoples' Alliance;
- (d) The Memorandum of the Mahajana Eksath Peramuna;
- (e) The Memorandum of Mr. S. L. Gunasekera, M.P.;
- (f) The Memorandum of the Sri Lanka Muslim Congress;
- (g) The Concept Paper; and
- (h) The "Four Point Formula" of the Tamil United Liberation Front.

Your Committee, in order to expand the area of devolved subjects, examined closely the papers presented by the Ceylon Workers' Congress and the Four Point Formula of the Tamil United Liberation Front.

A majority of Your Committee agreed that the subjects in List III (Concurrent List) of the Ninth Schedule to the Thirteenth Amendment to the Constitution should be minimized or even that the list should be dispensed with.

Mr. K. Srinivasan, M. P. for the Jaffna District subsequently presented a proposal on 11th November, 1992 entitled "A Realistic Solution to the National Crisis". A majority of members of Your Committee on 11th December, 1992, agreed to adopt item 2 in that proposal namely that "the Northern and the Eastern Provinces shall each be treated as a distinct unit of devolution". The Members representing the Ceylon Workers' Congress and the Tamil United Liberation Front did not agree.

Item 1 of the proposal states -

"The Unitary nature of the Sri Lankan Constitution be converted into a federal one."

"Provided however that subject to the undertaking by the Parties to the Select Committee that they shall not canvass and/or participate, the question whether Sri Lanka should have a Federal Constitution or not may be put to the determination of the people of Sri Lanka through the democratic mechanism of a referendum".

While not accepting this item in its entirety, the majority of Your Committee agreed that the devolution of functions may be on lines similar to those found in the Indian Constitution.

The member of Your Committee representing the Mahajana Eksath Peramuna did not agree to Item 1 of the Srinivasan Proposal.

Your Committee on 6th July, 1993 summoned the Secretary, Ministry of Defence, the Army Commander, the General Officer Commanding Joint Operations Command, Major General Commanding three Divisions, the Inspector General of Police and the Army and Police support staff; in order to assess the feasibility of holding a referendum in the Eastern province in about five months time.

Although the preponderance of evidence of the armed services and the Police indicated that the security situation in the Eastern Province had improved considerably and that they could prepare the area to hold a referendum in five months time, the Committee was of the view that it was premature to recommend a referendum at the moment.

Your Committee, however, decided that it would be suitable to commence preparation to hold local election wherever the security situation permitted. In coming to this conclusion the committee was of the opinion that elections had not been held in the Eastern Province for over six years and that it would be useful to prepare the people to participate in the electoral process. It would also provide them with an opportunity to elect their representatives to govern their habitats such as the Pradeshiya Sabas, Town Councils, Urban Councils etc. and elect a political leadership of their choice.

Matters agreed upon by a majority of the Members - (1) On 11th December, 1992, Members of Your Committee representing the United National Party, Sri Lanka Freedom party, Sri Lanka Muslim Congress, the Communist Party, Lanka Sama Samaja Party as well as the independent Members, Mr. K. Srinivasan, Member for Jaffna District and Mr. Basheer Segudawood, Member for Batticaloa District, reached agreement -

- (a) on the establishment of two separate units of administration for the Northern and the Eastern Provinces.;
- (b) to adopt a scheme of devolution on lines similar to those obtaining in the Indian Constitution; and
- (c) to devolve more subjects that are in List III (Concurrent List) or to dispense with the List.

(2) On 21st July, 1993 Members of Your Committee agreed that wherever the security situation permitted, preparations to hold local elections in the Eastern Province should commence.

Mr. Mangala Moonesinghe (Chairman)	Sgd.
Hon. Ranil Wickramasinghe
Hon. Gamini Atukorale	Sgd.
Hon. S. Thondaman
Hon. P. Dayaratne	Sgd.
Hon. Festus Perera	Sgd.
Hon. E. P. Paul Perera	Sgd.
Hon. Tyronne Fernando	Sgd.
Hon. K. D. M. C. Bandara	Sgd.
Hon. Abdul Razak Munscoor	Sgd.
Hon. Weerasinghe Mallimarachchi	Sgd.
Hon. Wijayapala Mendis	Sgd.
Hon. W. J. M. Lokubandara	Sgd.
Hon. (Dr.) Wimal Wickramasinghe	Sgd.
Hon. A. C. S. Hameed	Sgd.
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Hon. Harindranath Dunuwille	Sgd.
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Hon. (Mrs.) R. M. Pulendran	Sgd.
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Mr. Athauda Seneviratne
Mr. Basheer Segudawood
Mr. Mavai S. Senathirajah

The Chairman,
Parliamentary Select Committee.

Dear Mr. Chairman,

I am sending herewith the response of the Tamil United Liberation Front to the "Draft Interim Report", submitted by you to the Select Committee.

I request that this response be part of the documents that will be presented along with the Final Report to Parliament.

Yours sincerely,

MAVAI S. SENATHIRAJAH. M.P., Member, PSC.

(A) OBJECTIVE : The objective of this presentation is to explain -

- (a) to the people of Sri Lanka and the International Community why the T.U.L.F. or the Tamil peoples cannot accept the so called "CONSENSUS" resolution presented by the Parliamentary Select Committee;
- (b) that there is no political will among the two principal Sinhala Political Parties - U. N. P. and S.L.F.P. - to solve the Tamil National question; and
- (c) the rationale of our fundamental demand -
 - (i) an unbifurcated North-East Province; in
 - (ii) a Federal System of Government.

(b) *Historical Background.*- No sooner than Sri Lanka (Ceylon) received Independence, the Tamil people began to experience what they had always feared would happen under a predominantly Sinhala Buddhist Government. The Plantation Tamil peoples were disfranchised in 1948 - 49; they lost Parliamentary representation in areas where they had been voters prior to Independence. The writing on the wall was clear and Mr. S. J. V. Chelvanayakam dissociated himself with this immoral political fraud and announced the formation of the *Illankai Tamil Arasu Kadchi* (Federal Party.) It was clear to him, and the Tamil people who supported him, that only in a Federal set-up could a minority national group, such as that of the Tamils, expect a fair deal; and democratic environment to live in. It was evident that after the fate that befell the Plantation Tamils the axe would fall next on the other Minority national groups, especially the Tamils from the North and East.

The next scene in this continuing tragedy in post independent Sri Lanka unfolded itself with the enactment of the more withering "SINHALA ONLY" Act which rendered the Tamil people virtually illiterate and reduced them to a position of unequals placing the Sinhalese people in a distinctively superior position; this notwithstanding the resolution passed in the State Council on 25.05.'44 that Sinhalese and Tamil shall become the Official Languages of Ceylon with Messrs. D. S. Senanayake, S.W. R. D. Bandaranaike, J. R. Jayewardene among others voting for it.

Evidently the Sri Lankan Government had begun to depend on a purely Sinhalese Electorate and dismissed the rest of the people in the Island as unnecessary beings living on sufferance.

A pointer to this attitude, had been made manifest in the State Council prior to Independence when a Pan-Sinhala Board of Ministers was insensitively constituted to administer a really pluralistic multi-ethnic population.

The passage thereafter of the "Sinhala Only Act" in 1956 also introduced with it a new phenomenon, the use of violence to coerce and subordinate a minority which merely articulated a desire to be considered as equal citizens. This phenomenon of using majoritarian violence to render minorities submissive later on became recurrent; and not merely the Tamils from the North and East but even the Plantation Tamils and the Muslims too became grist to the mill of such progressively worsening Sinhalese Violence. For Instance, the Tamils were victims of predatory violence in 1958, 1961, 1977, 1979, 1981 and 1983. The Plantation Tamils were unfortunately victims of every orgy of Sinhalese racial violence, but more so particularly in 1979 when they were driven to seek sanctuary in the Vanni and Trincomalee Districts. A Muslim people also suffered long after the pre-independence 1915 riots from recent Sinhalese racist assaults in Gampola (1975), in Puttalam (1976), Galle, and Beruwala (1992).

Since 1977, sadly, enough, ruthless violence was organised and let loose on the Tamils by the Sinhala State through its own instrument that should actually protect the civilians - the Security Forces. Not only nonviolent protest by Tamils against discriminatory legislation and administration were suppressed by such Sinhala terrorism but also even without any apparent excuse, there have been rabid and wanton Sinhala onslaughts. Notwithstanding the loss of life, property and the sufferings wrought on the humiliated Tamils, the Tamil Political Leadership hopefully and tenaciously struggled on to reach a peaceful solution to these problems of inequality and discrimination with dignity and justice, by entering into discussions with ruling Sri Lanka Government. Alas : all these negotiations however ended in nought.

The first was the Bandaranaike-chelvanayakam pact of 1957 which held out some promise of allaying a few of the fears of the Tamil people in regard to their political status. But this pact was torn up following the intolerance and threat posed by some of the Sinhalese extremists comprising a few members of the buddhisr clergy and opposition political leaders. The next betrayal of trust occurred when the Dudley-Chelvanayakam Pact of 1965 met with the same aboritive fate owing to the intolerance and opposition mounted by extremist elements within and without the ranks of the government.

(c) The Situation in the Seventies: Increasing Discrimination Against the Minorities.
In the nineteen seventies it became quite clear to the Tamil people, and their leadership, that they cannot place their faith anymore in the Sinhalese state . The seventies ushered in a period which heaped upon the Tamils more and more discrimination and further repeated regular sufferings:

- (a) discrimination against Tamil students and in contrast a favoured treatment for sinhala students in making admissions to the Universities;
- (b) drafting and adopting a Constitution neither with the legitimate participation of the Representatives of the Tamils nor with any sensitivity to the aspirations of the Tamil people;
- (c) removal of Articles 29 of the 1947 Constitution and abolition of the senate both of which had afforded some semblance of deterrance to the enactment of discriminatory legislation injuring racial and religious minorities;
- (d) enshrinement of Buddhism as the foremost religion of a multi- religious hitherto secular country;
- (e) embodying Sinhala as the only Official Language in the Constitution itself;
- (f) politicisation and greater sinhalisation of the public service to the disadvantage of the minorities in particular the Tamils ; and
- (g) declaration of the state as Unitary thereby pre - emptying the possibility of power sharing with the minorities in a multi-ethnic society.

As a result of all these invidiously discriminatory and partisan actions, the Tamil people lost confidence in the Sinhala state; the Tamil Youth, in particular withdrew their trust in parliamentary processes and sought other ways and means of gaining redress to their grievances which already had been demonstrated by discontented Sinhala Youth in the JVP uprising in 1971.

In 1974 , the discontent and distrust of the Tamil Youth got incurably exacerbated because of the unjust, suppressive and brutal handling by the Government authorities of the peaceful International Tamil Cultural and Research conference held in Jaffna in 1974 . The removal of Article 29 and abolition of the senate do not constitute mere constitutional amendments but are unilateral acts of retraction from a solemn understanding or compact that formed the bedrock on which the British commended for acceptance the Constitution of 1947 to the minorities. The Tamil leadership being prudently apprehensive of the fragile and vulnerable position of the minorities under a permanent Sinhala majority rule following the transfer of power had lobbied for "balanced representation." As feared, since 1972 the distinctively eminent place accorded to Buddhism coupled with the constitutional entrenchment of Sinhala as the Official Language destroyed the secular character of a multi religious and multi lingual polity ; and instead elevated the Sinhala Buddhists to a superordinate status resulting in making the minorities unequal to them, permanently relegated to an inferior level with no prospects of sharing power as equal citizens in a national polity.

Politicising of the Public Service in the context of Sinhala being the Language of Government and Administration resulted in the almost total marginalisation of the Tamil public servants who were not proficient in Sinhalese , a Language unfamiliar to them, and drastically reduced the chances of entry of the Tamil speaking people into the public sector.

The declaration of Sri Lanka as an "Unitary State" was a deliberate and malicious ploy to foreclose any ways and means of responding constructively to the aspirations of the Tamil people who saw in a Federal set-up alone, the possibility of peaceful co-existence as equals in a united country. It is not to our surprise that in this stipulation lay the seeds of the later notorious sixth amendment of 1983 which viciously excluded from office the elected representatives of the Tamil people who refused to subscribe to the concept of an Unitary State .

RESPONSE OF THE TAMIL LEADERSHIP TO THE INEQUITIES PILED ON THE TAMIL MINORITY IN THE SEVENTIES.— The cumulative effects of the degradation that the Tamil people had to suffer since Independence in the fields of public and national life and driven the Tamil leadership to take two cardinal steps:-

- (a) the leader of the Tamil people, Mr. S.J.V. Chelvanayakam, resigned his seat on parliament and challenged the Government to have him contested at a by-election on the issue of the acceptance or rejection by the Tamil people of the 1972 Constitution; and
- (b) having won the by-election by a convincing majority and thereby having received a mandate to reject the Constitution of 1972, he declared that there was no alternative now but for the Tamil people to strive to regain their lost sovereignty.

— Mr. S.J.V. Chelvanayakam's declaration was duly endorsed by the T.U.L.F at its Vaddukkoddai convention of 1976 .

The end of the term of the S.L.F.P's regime in 1977 left the Tamil people in a hopeless state without any solution in sight whatsoever to any of their severe problems. The discontented Tamil youth in particular saw no hope of gaining any remedy of their grievances through the parliamentary process and began to place ever increasing faith in extra-legislative measures ; the Tamil people in general were dissatisfied and remained sullen and despondent faced with the aggrandisement of the Sri Lanka - Buddhist community in every sphere of public and national life.

(E) *THE POST 1977 POSITION :- HOPES BELIED AND THE CRISIS WORSENS.* Having experienced an era of alienation, suppression and silencing of them through an escalating use of state terrorism, the Tamil people, yet saw some flickering light of hope in the promises that were held out in the U. N.P.'s Election Manifesto of 1977. This Manifesto diagnosed the plight of the Tamils and acknowledged that several grievances compelled the Tamil people to demand a Tamil state so as to live as citizens of the island in peace and dignity. Consequently the U.N.P. promised to convene a round-table conference to seek solutions to the pressing problems of the Tamil people.

Nevertheless, the post election 1978 Constitution only stifled any hope, and on the contrary subordinated the Tamil people to the Sinhala state still further, while elevating the Sinhala Buddhists as the dominant group; and the round-table

conference was conveniently forgotten. The constitutional status of unitariness was even more strongly reinforced by making it wellnigh impossible to change that status without recourse to a referendum in a country where the Sinhala Buddhists remain an overwhelming preponderant permanent majority, and the inevitable foregone one sided result of such a referendum will offer no help whatever to meet the Tamil minority's hope and legitimate aspiration.

The status of Buddhism was constitutionally given a more favoured position by making it incumbent on the state to foster and further the faith. As an earnest of this four Bo- leaves were introduced into the Sri Lankan Flag, the original design of which itself had already hurt the sentiments of the minorities. Representation accorded to the Tamil people in parliament was further diminished by allotting an equal number of territorial seats to all provinces, regardless of their extent while the disfranchisement of the plantation Tamils already had decreased representation of the Tamil people, what had been provided in an earlier prescription for distributing seats as a safeguard for the minorities was now contrarily perverted to enhance Sinhala representation resulting in 74% of the Sinhala people being able to enjoy 82% of the representation in the Legislature.

The grafting of an highly centralised Executive presidency on a Parliamentary Democracy, as was done, has not only contributed to the devaluation of status of parliament but also rendered it well-nigh impossible for the Tamil people to realise their aspiration to share political power through the means of devolution and federalism.

Sgd. As outlined above, diverse forms of discrimination and outlawing from the polity were perpetrated through the enactment of a new and the use and misuse of that constitution.

In addition, administrative actions continued to be taken so as to discriminate further against the Tamils and alienate them, while the might of the security forces was deployed to ensure the fulfilment of these unjust objectives by suppressing the peaceful protest of the Tamil people of the North and East.

(f) THE DIRE ILL - EFFECTS ON THE TAMIL PEOPLE OF THE POST 1977 DISPENSATION :-
To the people of the North and East, land is an indispensably invaluable resource; it also provides the essential base that sustains their culture. Yet successive Sri Lankan Governments, since the days of the State Councils, have pursued a process of State sponsored and aided colonisation with Sinhalese people and the settlement of Sinhalese people in the North and East thereby. Beside the state has encouraged the usurpation of lands by the Sinhalese people mostly in the Eastern Province. As a result :-

- (a) a vibrant self-reliant Tamil peasantry has got impoverished and is left devoid of cultivable land;
- (b) the linguistic, cultural and occupational homogeneity of the Tamil people in the North and East has been fractured;
- (c) the territorial contiguity of the North and East and the cultural commonality of the Tamil people have been ruptured;

(d) the peace and harmonious existence of a people welded together by a common language and heritage has been seriously shattered by the interspersing among them of linguistically and culturally different peoples;

(e) the demographic composition and pattern of the Eastern Province have been significantly and substantially change ; and

e.g.

Year	Total Population	Tamil Population	%	Muslim Population	%	Sinhalese Population	%
1946	279,112	136,059	48.74	109,024	39.06	27,556	9.87
1953	354,410	167,898	47.37	135,322	38.18	46,470	13.11
1963	546,130	246,120	45.06	186,750	34.19	108,690	19.90
1971	717,571	315,566	43.97	248,567	34.64	148,572	20.70
1981	976,475	411,451	42.13	315,021	32.27	243,358	24.92

(f) the elective power and representation of the Tamil people have been adversely reduced while those of the Sinhala people have in turn got even more enhanced.

On the one hand, while our land resources thus was largely utilised to cater to serve the interests of the Sinhala People, on the other hand no serious attempt was made to advance the social and economic well-being of the Tamil People:

- * No worthwhile or fruitful industrial development has been initiated by the State for over three decades. In the field of the fishing industry too the State left the Tamil fishing community virtually neglected.
- * In the allocation of financial resources , both local and foreign, the North and East were superciliously ignored.
- * Infra-structural development such as in the form of schools, hospitals, roads, electricity, transport and communication has received only scant if any attention.
- * Employment opportunities of the Tamil people in the State Sector were depleted, Simultaneously facilities to set themselves up in self-employment too were denied.

Thus the socio-economic position of the Tamil deteriorated deplorably so much so that it is now at rather low ebb; and the Tamils drift around aimlessly or survive in helpless misery.

The threat to the safety and security of the Tamils, their lives and properties had first arisen from the mayhem, murder and looting begun by Sinhala hoodlums in 1956 and has been continued time and again on the pretext of protecting the Sinhala Language (and Buddhism) whenever there was a non violent protest staged against discrimination and inequity by the Tamils.

In all civilised countries, the onus of protecting every citizen, irrespective of difference in race, religion and language, lies with the security forces of the countries. In Sri Lanka too initial protection to the minorities was afforded by the Island's Security Forces, principally because there also was a fair number of Tamils, Malays/Muslims and Burghers in the Police and the Armed Services along with a large number of Sinhalese. Moreover, the attitudes inculcated among the cadres then made them think and act in an impartial manner.

However, over the years, the composition of the Police and the Armed Forces was purposefully changed to make these units almost exclusively Sinhala Buddhist; and successive Governments since 1956 have used the Police and the Armed Services as an instrument for terrorising and subduing the Tamils who were clamouring for their legitimate rights into submission.

The Tamils have had to endure since recent times indiscriminate bombing, shelling from the sea, artillery assaults from army camp which are strategically interspersed in the North - East province, loss of civilian lives and destruction of religious and civilian property, pillage and plunder of civilian possession; and almost permanent embargo on basis and essential food and medical items, and harassment and humiliation at numerous check-points enroute to the North and East and back. In no civilized country have such predatory measures, particularly bombing from the air and an embargo on indispensable civilian necessities, ever been carried out by its army against its own citizens. What is declare to be a move to combat militancy has in practice become a general ruthless onslaught on Tamil civilians in the North and East.

In furtherance of the policy of Sinhalisation of the North and East generally in the vicinity of camps Sinhala settlements are established under the aegis of the armed forces, and also places of Buddhist worship are created then.

It is the order of the day that, in the North and East, civilian administration gets subordinated to Military Governments and the people have to suffer the ill consequences of such martial rule, particularly because of a military that now treats the Tamils as enemies and cannot understand or converse with them owing to a lack of a knowledge of Tamil. And often even the State media has portrayed the Tamils as national enemies while exhorting the Sinhala Forces to battle militancy.

(g) *The Eighties.- Broken Promises and Greater Mystery to the Tamil.* - Because of the aforesaid acts of escalated discrimination, and despite efforts at military suppression, expression of Tamil discontent and the militancy of the Tamil youth grew more intensified. In such a context, District Development Councils (DDC) were set up in 1981 for tiding over the compulsion on the Sinhalese Government by the pressure created by diverse quarters demanding the grant of autonomy. In spite of the evident inadequacy of this DDC scheme to meet the demands of the Tamil people, the Tamil leadership nevertheless agreed to work this scheme as an earnest of their sincerity in endeavouring to seek a peaceful solution which is always at the core of their indefatigable efforts to solve the Tamil problems; and indeed the Tamil leadership negotiated with the President of the country for one long year to give substance to this

Scheme. But *ab unity* the Government blocked the operation of this exercise, and finally scuttled it.

When the negotiating process to arrive at a peaceful solution ended inconclusively, and the Tamil opposed the extension of the life of Parliament through a referendum since it was undemocratic to do so, the State engineered the "Pogram" of July, 1983. Then international attention and concern got more seriously focused on the Tamil question in Sri Lanka.

Neighbouring India, in particular, incensed by the horrendous happenings in Sri Lanka, offered her good offices to help in finding a just and equitable solution to the Tamil problem. Unsurprisingly, in this context, President Jayewardene having agreed to place before an All Party Conference (APC) of 1984 the proposals, contained in the document now known as Annexure-C, instead substituted a different set of proposals through another document, Annexure-B. Also a Conference of only recognised Political Parties was deliberately converted into an motley amalgam of disparate groups. Following nearly an year mostly of fruitless and sometimes inane discussion, the President abruptly wound up the Conference, and yet announced that Consensus has been reached".

Nevertheless, little later another Conference of only Political Parties (PPC) of June 25, 1986 was convened by President Jayewardene which too ended in futility and an evasion of the principal issue the Tamil question.

While the state was ostensibly engaging itself in such purposeless time consuming conferences, simultaneously, the Armed Services were being directed to continue their military offensive against the people of the North and East "to a finish" which caused innumerable civilian killings and fearful arbitrary arrests and detention of innocent civilians, other flagrant violations of human rights, and the harmful destruction of the very means of the livelihood of the Tamil people.

This conduct of the Sri Lankan Government caused considerable concern among aid donors, other nations, and Human rights activists. India, specially with her close cultural affinity and historical ties with the peoples of the Island, relatively strove more actively to bring about a political resolution of this protracted and ever worsening problems.

Following intensive diplomatic interaction, an Indo-Sri Lanka Agreement was entered into in July, 29, 1987 between President Jayewardene of Sri Lanka and Prime Minister Rajiv Gandhi of India. Among the noteworthy features of this Agreement are: -

- (a) an acknowledgement of Sri Lanka as a multi-ethnic, multi-lingual, plural society;
- (b) a recognition that each ethnic group as a distinct cultural and linguistic identity which is to be carefully nurtured, and

(c) that the Northern and Eastern Provinces have been areas of historical habitation of Sri Lankan Tamil speaking peoples who have at all times hitherto lived together in this territory with her ethnic groups.

Further, it was resolved that the Northern and Eastern Provinces, as then constituted, shall compose together one administrative unit with one elected Provincial Council, one Governor, one Chief Minister and one Board of Ministers until a Referendum in the Eastern Province decided otherwise. Also, it was agreed that matters on which concurrence had been reached between May and December, 1986 will be implemented; and that residual matters that have not been finalised at the time of the Agreement shall be resolved between India and Sri Lanka within six weeks. Moreover, India was to Co-operate directly with the Sri Lankan Government in their implementation.

After the Agreement, the 13th Amendment to the Constitution and the Provincial Councils Act were enacted but without any resolution of the residual matters. However, in November, 1987 President Jayewardene agreed with the Government of India to effect improvements to the scheme of devolution in respect of those unresolved areas (residual) in an early second stage of Constitutional reform. This assurance, nevertheless, was never honoured, and remains unhonoured.

This apart, the 13th Amendment to the Constitution and the Provincial Councils Act (1987) did not even satisfactorily or exhaustively provide for the matters already agreed upon. Although Tamil was accorded the Status of an Official Language in the 13th Amendment, and in terms of the Indo-Sri Lanka Agreement, the subsequent 16th Amendment whittled down the Position by making in practice Tamil only a Provincial Language. And worse, there has been no genuine attempt made to implement even this decimated provision.

The North-East Provincial Council was constituted in November, 1988. From the very inception, the Government did not demonstrate the political will to implement honestly the scheme of devolution which was evident from a failure to transfer powers to the devolved unit in respect of significant subjects such as Land, and Law and Order. Instead there continued an erosion of the devolved powers in relation to Agrarian Services, Education, Transport and Irrigation.

Staff of different levels required for the effective functioning of the Council were neither posted nor was the Council given facilities to recruit necessary officers.

Neither was a reasonable quantum of funds allocated by the Centre no was the Council enabled to raise their own revenues thereby relegating the Provincial Council to an ineffectual unit of devolution thus undermining its very credibility.

Later, having dissolved the North-East Provincial Council during the first half of 1990, the Government made no effort to hold elections for constituting a new Council. But the Administration of the North-East Provincial Council, on the contrary, was taken control of by the Centre through the President exercising sole and unfettered

authority via the medium of the Governor, solely the President's appointee. Therefore, all the steps taken in this exercise in devolution for resolving the, Tamil problem naturally have ended in failure.

(h) *The Post 1989 Period - The All Party's Conference and the Select Committee - Hope and Disappointment* :- In the meantime, an All Party's Conference was convened under the Chairmanship of President Ranasinghe Premadasa with an impressive agenda included the Tamil problems. But the Conference soon lost its All Party's character when the main Opposition Party - the SLFP-withdrew. It then became patently clear that the Tamil problem could not be seriously considered in the Conference.

At this juncture, a Parliamentary Select Committee chaired by Mr. Mangala Moonasinghe, MP, took over the task of finding a solution to the Tamil problems. The TULF was apprehensive that this exercise too could be yet another exercise of procrastination ending in futility, but nonetheless decided to participate in it as the search for peace remains a central article of their faith.

We regret, however, that from the outset neither responsibility nor commitment was manifest in the working of the Committee. Most Committee meetings were poorly attended and often had difficulty in commanding a quorum. The major political parties - the UNP, and the SLFP -did not submit their proposals for a solution. Further, the Member of the Committee received little or no political direction from the leadership of the major political parties, and often aimlessly drifted.

Also, individual proposal submitted by the TULF and the Tamil Parties were ignored, and not discussed.

Therefore, the seven Tamil Political parties and the Ceylon Workers Congress (CWC) jointly submitted the proposal known as the Four point formula which embodied the following :-

- (1) an Unified Politico-Administrative entity for the permanently merged North-Eastern Provinces;
- (2) substantial devolution of power ensuring meaningful autonomy to that unified unity;
- (3) an institutional arrangement within the large framework of the unbifurcated North-East Province, for the Muslim Peoples for ensuring their cultural identity and security;
- (4) the Sinhalese people to enjoy all the right that other minorities have in the rest of the country.

The Chairman disregarding even this 4 point formula of the Tamil parties presented what were termed as a "Concept Paper" and an "Option Paper" respectively, which however too were not deliberated upon.

Then suddenly the "Srinivasan Proposal" was conjured and trust upon the Meeting of the Committee. Among the ten proposals were :-

- (1) "the Unitary nature of the Sri Lankan constitution be converted into a Federal One."
- (2) "the Northern and the Eastern Provinces shall each be treated as a distinct unit of devolution" ; and
- (3) "having distributed land in the Amparai District in accordance with the District ethnic ratio, the remaining part of the former Amparai Electorate to be attached to the Moneragala District.

Before the Committee even could consider these proposals, Minister A.C.S. Hameed UNP delegate to the Select Committee, hurriedly got all the Muslim Members of Parliament within the Committee to concur with these Srinivasan Proposals."

Thereafter jettisoning every other proposal the Chairman of the Select Committee on 26th November, 1992 took up this proposal alone announcing that the Leader of the SLFP, Mrs. Sirimavo Bandaranaike, has communicated to him, her acceptance of the "Srinivasan Proposal" in too. Soon after, Minister Hameed declared that if that was the position of the SLFP then he, on behalf of the UNP, was prepared to say that the UNP also accepts the "Srinivasan Proposals."

By that very evening, however, Mrs. Bandaranaike informed foreign news reporters that she did not accept the Federal System of Government (Proposed by Srinivasan). At the next Meeting of the Committee on 3rd December, 1992, when questioned on the UNP's Commitment to Federalism, Minister Hameed replied that Federalism was only a "deal" if the Tamils were prepared to abandon their demand for the permanent merger of the North and East. Such was the "Seriousness" with which the concept of Federalism had been viewed-as a pawn on a chess board!

Then owing to pressure from the Members of the Tamil Parties at this point, the 4 point formula was taken up for discussion, although reluctantly, and even then the consideration of the Unit of Devolution suggested in it was laid by. On two successive occasions, thereafter only the subjects of Land, and Law and Order were nonchalantly considered, and peremptorily put off.

On 11th December, 1992 instead of, as earlier agreed, taking up for discussion point of the 4 point formula of the Tamil parties which spelt but a single Unit of devolution for the unified North-East Province, the Chairman arbitrarily picked up point 2 of the "Srinivasan Proposal" which delineated two distinct units (North and East) of devolution. Then, with no discussion whatsoever, the Chairman asked from those 31 members present for a "YES" or "NO" answer to this proposal, and the members from the Tamil parties who were present rejected two distinct unit proposal. Clearly, there was no consensus whatsoever reached in regard to this question.

At this stage, the Members of the TULF and the EPRLF sought from the UNP and the SLFP confirmation of their earlier position where they accepted federalism as contained in the Srinivasan Proposals. Minister Hameed replied that there is no need for federalism, that it is not possible in the present context and not a reality and that they (the UNP) would give the powers enjoyed by states in India. The SLFP too accepted this view. Immediately, thereafter the Chairman announcing that he would submit an Interim Report very soon before the PSC brought the session to an end. "The Powers enjoyed by states in India "was never elaborated upon or defined; it was a casual response to a vital problem.

But the Chairman of the Select Committee, without the knowledge of the Members of the Committee, then wrote to Mr. Speaker informing him that the Committee had "Explored all avenues to find a solution" acceptable to all parties concerned, which is not at all borne out by the proceedings, as indicated earlier. He informed that a majority of the Committee had agreed on the establishment of two separate Councils for the North and East Provinces treating them as two distinct provinces, and on a scheme of devolution similar to that in India in regard to the Administration of the States there. He added further that "the two members representing the six Tamil Political Parties and the Members representing the CWC did not agree with the above conclusion."

(i) *The Parliamentary Select Committee's Proposals and the Disillusionment of the TULF* :- At this point, the Parliamentary Select Committee's recommendation to allocate powers enjoyed by the Indian States to the Units of devolutions in Sri Lanka merits closer scrutiny:

- (a) While India is really a Union of States, Sri Lanka is avowedly a unitary State;
- (b) In the Indian Constitution there are no Articles corresponding to the entrenched Articles 2,3,4,75,76 found in the Sri Lanka Constitution which impede and emasculate devolution;
- (c) Vital subjects like Land, and Law and Order are exclusive State subjects in the Indian system but they are not in the Sri Lanka Scheme of devolution.

Nevertheless, the Indian States themselves have been dissatisfied over the years with the powers enjoyed by them in several spheres. Besides, the Indian Union Government's power to dissolve State Assemblies, dismiss State Government and impose President's Rule are strongly objected to. The whole question of State Powers, subjects and relations with the Centre hence are under review in India, and no finality on the contentions advanced by the States has been reached as yet.

Therefore, the idea of giving powers enjoyed by the States in India surely will not satisfy the aspirations of the Tamil people in the island. It will fall far short of being the core of a resolution to the national question.

(j) *The Response of the TULF* :— For many long years, the Tamil people of the North-East, through their representative Leader, have been demanding that Northern and Eastern Provinces should comprise a single Political and Administrative Unit. Consequently, the majoritarian view that there should be two distinct Units has provoked only asence of very strong disapproval among the Tamil people in both the East and the North.

Throughout the ages, the people of the North and East have spoken a common language, namely Tamil and shared a common culture, customs, tradition values and practices. Over the centuries there has been continuing social interaction and affinity between the people of the North and East.

The population of the North-East is mostly homogeneous in lanuage, culture and heritage, and this territory has been the historical habitation of the Tamil people over centuries. Moreover, the territory being contiguous facilitates devolved administration more economically and in practice.

This region has provided sanctuary to all Tamil People in times of recurrent threats to their lives. Moreover, the violent assaults of 1977 and 1983 have further reinforced their resolve to gain a territory ample enough to ensure to them safety, security nay survival itself.

The deprivation of resources, the deliberate neglect, and alienation of the Nothern and Eastern provinces coupled with wanton destruction of private and public Property within them and the meagre infrastructure provided therein makes it strictly necessary to pool all the resoureses human, capital and material-of this region to provide the basis of development. Furthermore, there is the immediate and imperative compulsion to resettle and rehabilitate in the region several lakhs of impoverished and destitute Tamil speaking people.

Only an unified North-East Province can provide the potential of economic viability which will definitely ensure the well-being of its inhabitants and obviate any economic asymmetry vis-a-vis the other provinces.

The region comprising a merged North-East will alone be large enough to sustain enhanced powers and responsibilities and to have a smooth administration in a devolved set-up.

The expression of a fear that a merged North-East province in a Federal set-up will be the first step to Eelam is irrational and can be excoriated from the mindest of those who articulate this apprehension. It is the failure to resolve grievances and problems in an acceptable manner that drives a community of people to resort to extreme remedial measures. The demand for Eelam arose out of a strong sence of frustration owing to no heed whatsoever bieng paid to provide for political accomodation and not as a further step because of or from either a merger or a Federal arrangement.

In Canada, for instance, people of Quebec have asked for special distinct status and other rights but have rejected separatism on the other hand. Also, in the case of Australia, although once West Australia wanted to separate, because it felt neglected, the true application of Federalism in spirit and fact made it later to continue satisfied as a part of Federal Australia.

The changes in the USSR and Yugoslavia do not prove that federalism leads to separation; in both countries although theoretically there was a Federal System, in practice it was wholly centralised and regimented under the strict command and control of a single party - in essence it was the failure to practice Federalism that drove the units there to break up.

Canada and Switzerland, among several others, on the other hand, illustrate that only in a truly Federal set-up can disparate National groups live and work together without no real prejudice to territorial integrity.

Again, it is often alleged that the merger of the Northern and Eastern Provinces will "give away" to the Tamils 1/3rd of the land mass and 2/3rd of the sea coast. This is factually incorrect.

Out of the total land mass of Sri Lanka which amounts to 65,610 sq.km, the Northern and Eastern Provinces total up 18,880 sq.km which is only 28.7%. Even out of this 18,880sq.km of land 5,000 sq. km of land comprise the AGA Divisions of -

Damana	
Dehiattakandiya	
Lahugala	
Mahaoya	
NamaOya (Ampara Town)	
Padiyathalawa	
Uhana in the Ampara District	
Padavi Siripura	} (In the Trincomalee District)
Gomarankadawela	
Morawewa	
Kanthalai	
Seruwila	
Vavunia South (Sinhala)- (In the Vavunia District)	

The above Divisions are almost exclusively people by the Sinhalese. These recent Sinhalese settlers in the East who have increased their number from 27,556 and had comprised 9.87% in 1946, to 243,358 and now comprise 25% in 1981 enjoy the use of 4,700 sq.km of land out of 9,996 sq.km which is 50% of the land mass.

The coastline of the North and East really amounts to 55% and not 66% of the entire coast. The resources of this North East coast are not utilised by Tamil and Muslim fishermen alone but also by Sinhala fishermen from the Southern and Western Coasts, while the rest of the sea coast of the Island is exclusively exploited by only the Sinhalese fishermen.

Additionally, in a Federal arrangement no land is ever "given away" to any unit, while in accordance with International Law, the territorial waters do belong to the entire country. Federalism does not imply expelling community of peoples, they continue to be citizens of the country and live in it.

Moreover, the North and East lie the dry zone receiving relatively less rain fall. This land is also comparatively less productive. And the vastness or otherwise of territory is never the criterion of deciding on the unit of a Federal State as can be evidence in the case of many other Federal Countries.

The present transient strained relationship between the Tamils and Tamil speaking Muslims in the North and East is no insurmountable obstacle to the merger of the North and East because they have been throughout the centuries living in amity and cordiality. The Tamils have been and are always willing to recognise and work out with the Muslims of the North and East a political arrangement which will ensure to them a due rightful place.

In the present context, the Tamil people duly appreciate the need for institutional arrangements and constitutional guarantees for the Muslim people in a merged North-East Province.

The merged North-East should be a unit in a Federal Sri Lanka. In our multi-ethnic and multi-religious society with developed identities based on both ethnicity and religion the only kind of political structure which can meet the aspirations of all groups is one that is federal in form, substance and practice.

Indeed, as early as in 1926, Mr. S. W. R. D. Bandaranaike foresaw the futility of a centralised Government in a non-homogenous country like Ceylon and advocated "Some form of Federalism."

The essence of Federalism is a combination of self rule with shared rule. Furthermore, in a multi-ethnic society federalism will prevent one ethnic group from monopolising political power, and will accord autonomy to the constituent units of the policy. Also, the premise of federalism is to establish unity in diversity and to bring divided societies together. The present trend, the world over, is to create a Federal framework in order to assuage the fears of and eradicate discrimination against groups within a country, and thereby prevent disintegration of countries.

The tragedy of Sri Lanka is that diverse groups have been denied the room to give expression to their distinctiveness, owing to the constraints imposed on them by the unitarist and centralised framework of the State.

(k) *Conclusion.*-Forty five years of rigorously centralised rule by a permanent Sinhalese majority has bequeathed to the country in general and to the Tamil in particular, discord, violence and misery and left the people in a State of dire consternation and utter despondency.

To pull the country and the people out of this quagmire, the TULF contends that the least the Sinhalese Leadership should do even at this late stage is to establish a Federal System of Government with the North-East forming a single Unit in it.

Finally, the TULF are reluctantly and regretfully compelled to release this recount and analysis of disappointment and disillusionment in view of the fact that the Parliamentary Select Committee, set up with laudable objectives, has now sadly manifested its importance and lack of political will to attain those aims.

The "Interim Report" of the Committee has shown abysmal failure to :-

- (a) forge a political solution to the national question, involving the devolution of power to the Northern and Eastern Province;
- (b) prevent, we fear, the disintegration of the nation, owing to the absence of any positive and constructive measures, the massacre of innocent civilian's members of the Armed forces and youths fighting for a cause and to deter the increasing militarisation within the already prevalent culture of violence ; and
- (c) to achieve peace and political stability, and thereby utilise the reduced defence expenditure for rapid economic growth and national development. Actually, violence has become endemic and worsened so as to gain the character of civil war and military expenditure has sky rocketed retarding thereby development.

There was no consensus in the Select Committee on any matter relating to the national question, although a consensus was to afford the basis on which the President promised to announce a solution to the national question. On the contrary, much to the utter dismay of the TULF and the Tamil people the Chairman's interim Report informs us that in three matters, a majority of the members had reached agreement on :-

- (a) the dismemberment of the presently merged North-East province;
- (b) adopting a scheme of devolution on lines similar to those obtaining in the Indian Constitution ; and
- (c) the devolution of more subjects from the concurrent list.

In regard to (a) any step in this direction will totally frustrate the aspirations of the Tamil people and their leadership and totally negate their will.

In respect of (b) we have already shown that devolution based on the Indian pattern, as it presently is, will be wholly unsatisfactory, and moreover, any real devolution in Sri Lanka is impossible to be executed in view of the rigidly centralised unitary Sri Lankan System with its omnipotent Executive Presidency.

Regarding (c) it has been made patent, time and again, that there is no will even to devolve the subjects which already should have been devolved such as land, and law and order. Moreover, what have been grudgingly devolved have been withdrawn, indicating that what is given by the right hand is taken away by the left hand, using the ingenious device of defining such subjects as matters of national policy from 1993, furthermore, the creation of Divisional Secretariats and Divisional Secretaries makes it explicitly evident that devolution has been displaced by de-concentration with the central command being well in control over matters of the periphery subject to the orders of the Executive Presidency and his Cabinet's line Ministries.

MAVAI S. SENATHIRAJH, M. P.

23rd March, 1993.

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CONCEPT PAPER

Submitted by the Chairman, for the consideration of the Parliamentary Select Committee

Based on the evidence submitted before the Select Committee and the subsequent perceptions of members, the following is placed before the Committee, as a starting point for discussions on a very general concept of a political and administrative structure for examination and analysis.

Two Councils

The focus of the deliberations should consistently also be on the overarching prerequisite of attaining peace in the region and simultaneously intergrating the Nation with the objective of developing it as a harmonious multi ethnic and multi religious model. Bearing in mind the above perspective, consideration may be given on electing two separate Councils, one for the Northern Province and another for the Eastern Province. The demographic composition of the two provinces are:-

Northern Province almost 98% Tamil and in the Eastern Province, almost 43% Tamils, 33% Muslims, 21% Sinhalese and others 2%.

Apex Assembly

The two councils would after election of members to the respective Councils, have a joint meeting of the elected members in order to elect an Apex Assembly from amongst them, to plan common policies for both Councils, and co-ordinator programmes relevant to the two councils etc. The administration of all matters pertaining to the Northern Province should be attended by the Northern Council while the administration of all matters pertaining to the Eastern province should be performed by the Eastern Council. Each Council will apply its own provincial ethnic ratio for relevant work within its own provincial administration. The proposal also envisages more meaningful devolution of power and the rectification of all grievances projected by the communities.

Implementing Institutions

A separate institution should be established to supervise the immediate implementation, smooth functioning and monitoring of all devolved powers. The composition of the institution could be discussed by the Select Committee.

National Chamber

A National Chamber should be established, consisting of the Chief Ministers to meet monthly with the President, Cabinet Ministers, and representatives of opposition parties in Parliament. The main functions of the Chamber would be to establish harmony and co-ordination between the Centre and the Peripheral Units with a view to integrating the Nation more firmly.

Task of Select Committee

The Select Committee may discuss the proposed model framework and improve, modify, or recommend structural alterations. In the alternative the Committee could propose other political models for deliberations.

The Select Committee may, thereafter, if it deems necessary, appoint a Sub Committee to study the various proposals placed before the Select Committee by the Members. The Sub Committee could examine them and recommend the adoption of any one proposal in its original or modified form, or a synthesized model or a completely new one.

Implementation

If the Parliamentary Select Committee arrives at a consensual decision on an acceptable political package, then the stage of implementing the decisions should be examined and worked out in detail.

Phase II could consist of appointing an Interim Administration for the North and the Eastern Provinces. The political parties both within and outside Parliament could appoint members to execute the civil administration in the North and East, and to perform the task of reconstruction and rehabilitation. The appointed members of the Interim Administration could oversee the work in different areas of the region, which will bring them in close touch with the people. The political package leading to a step by step peace process may totally transform the charged atmosphere and generate much development assistance from both bilateral and multilateral aid agencies. The Appointed Members will have to be provided with the necessary resources and equipment to perform their functions. Their presence and mobility in the areas is bound to create a sense of security in the minds of the villagers and may help to bring about a gradual peace in the region.

The Interim Administration should be replaced by democratically elected bodies as soon as it is physically possible to do so.

The Parliamentary Select Committee is playing an important role in that all parties in Parliament are deliberating with a sense of responsibility and commitment to secure a permanent peace in the country. Therefore if an Interim Administration is established, the Committee may consider the possibility of structuring itself to be a monitoring and mediating body.

The Option Paper submitted by the Chairman for the consideration of the Parliamentary Select Committee

The framework and proposals embodied in this paper are based on the following considerations:

- i. The question of the merger or non-merger of Northern and Eastern Provinces is a major contentious issue in the negotiations. Therefore, a solution acceptable to all parties without endangering the aspirations of all ethnic communities living in the two provinces, needs to be worked out. The framework proposed in this paper represents such a compromise.
- ii. The proposed framework also embodies the possibility of further strengthening of devolution in the sense that it envisages devolution within the devolved unit.
- iii. It also envisions ethnic integration through co-operation and consultation within the North-East region while further strengthening devolution.

The Framework and Proposals

- i. There shall be two separate Provincial Councils for the Northern and the Eastern Provinces. The two Councils shall be elected on the basis of an electoral list agreed upon by all political parties.
- ii. Each Provincial Council shall be headed by an Executive Minister. The Executive Minister shall also be the head of the Board of Ministers of the Province.
- iii. There shall be a Regional Council for the entire North-East region, and the Regional Council shall be constituted by the two elected Provincial Councils.
- iv. When the two Provincial councils meet together on matters pertaining to the entire region, they shall constitute themselves as the regional Council.
- v. The Regional Council shall be headed by a Chief Minister for the entire North-East region. The two Executive Ministers shall each year alternately function as the Chief Minister of the Region. When one Executive Minister is the Chief Minister, the other may function as the Deputy Chief Minister.
- vi. When the two Provincial Boards of Ministers meet on matters relating to the entire region, they shall constitute the Regional Board of Ministers.

- vii. Legislative functions shall be jointly and separately exercised by the two Provincial Councils. When the two Councils meet in joint session to exercise legislative functions jointly, they shall do so as a single legislative body for the entire region, constituted as the Regional Council. When the Councils meet separately, they shall do so for the respective Province.
- viii. For the purposes of legislative and executive action, there shall be a Regional List and a Provincial List.
- ix. The Provincial Councils shall have legislative power in respect of matters (such as land, finance, and law and order) specified in the Provincial list and the Regional Council of matters (such as planning, economic development) specified in the regional list.
- x. In the case of subjects specified as regional subjects, legislation passed by the Regional Council and having a direct bearing on a given Province shall not be operative until it is approved by the relevant Provincial Council. (This measure will in effect safeguard the rights of minority communities, particularly in the Eastern Province.)
- xi. There shall be one Governor for the entire Region.
- xii. In each Province, the rights of ethnic and religious minorities shall be guaranteed by Constitutional arrangements.

Broader Issues Concerning Devolution

To strengthen devolution, for better center-province relations and for the promotion of national integration, the following measures relating to the national polity are proposed.

- i. The creation of an Upper House of Parliament at the Center, consisting of 50 members. Each province shall elect three members to the Upper House. The province shall be the constituency for such elections. Of the remaining 23 seats, some will be nominated by the political parties represented in the Lower House in proportion to their numerical strength while the remaining seat some shall be reserved for distinguished citizens (such as professionals, academics and developmental specialists) to be appointed by the President with the concurrence of the Leader of the Opposition.
- ii. The establishment of a devolution Commission to co-ordinate and mediate in matters relating to centre-province relations. The Commission shall consist of nominees of the central government and provincial councils.
- iii. The establishment of an independent Finance Commission consisting of members nominated by both the central government and provincial councils.

Oluvil declaration proclaims advent of Muslim thesam

By D. B. S. Jeyaraj

Muslim politics in this country underwent a defining moment on January 29 this year. Around 30 to 35, 000 Muslim people mainly consisting of youths

students, undergraduates, teachers and Moulavis - were involved in an impressive demonstration at Oluvil in the Amparai District of the Eastern Province. It was organised as a student demonstration upsurge (Maanavar Samuga Eluchchip Perani) with the student body of the predominantly Muslim South Eastern University taking the lead. While the bulk of participants were from the Muslim coastal regions of the Amparai District, a sizeable number did come from Muslim areas in other parts of the country too.

Most Muslim majority areas in the east bore a festive air with green (the Muslim colour) decorations in abundance. All businesses, schools, offices, banks, transport, etc., came to a halt in the Muslim areas. The mood was militantly buoyant. Two processions commenced from Palamunai and Attappalam around 9 a.m. Cries of "Allaho Akbar" (God is Great) rent the air. The processions converged in front of the university at Oluvil at about 10.30 a.m. Thereafter, a mass rally was held. Very important resolutions were passed unanimously. Unified political demands were raised. The essence of these demands were codified as part of a public proclamation to be known hereafter as the "Oluvil Declaration."

Five principles

The quintessence of the Oluvil Declaration outlines five assertive principles. Firstly, it emphasises that the Muslims of the north - east are a separate nationality or nation with its distinct identity of religion and culture; Secondly, the north - east is the traditional homeland of the Muslims; Thirdly, the north - eastern Muslims have the right of self-determination to charter their own destiny; Fourthly, Muslims must be guaranteed an autonomous, self-governing political unit linking all Muslim majority areas of the north and east; Fifthly, the social, economic, political and cultural

rights of fellow Muslims living in a scattered state in areas outside the north - east must be ensured.

The Oluvil Declaration also proclaimed five demands requiring immediate redress. One - Muslim autonomy must be ensured in any federal solution; Two - Muslims are entitled to their equitable share in all resources for development. Three - The Muslim political leadership must unite. Four - Muslims must be represented as a separate entity at peace talks. Five - The final political settlement must have the consent of the Muslims.

The highlight of the Oluvil Declaration was that Muslims being a distinct nationality living in an identifiable homeland were entitled to self-determination. This right was to be exercised in the form of self-rule for Muslim majority areas in the north - east. This unit was described as a "Muslim Thesam" or Muslim country.

As expected, Eastern Tamil sentiments were troubled by the Oluvil demonstration and declaration very much akin to the series of 'Pongu Thamil' (Tamil upsurge) demonstrations organised by the Tamil students in various parts of the north - east. These demonstrations stressing "Samaadhaanam" (peace) and "Suyanirnayam" (self-determination) had a profound impact in influencing the course of Tamil politics in recent times. Likewise, the Muslim demonstration too is of tremendous importance.

Autonomous self-governing unit

The Sinhala hawks as usual responded in confusion. The Muslim demand for a 'Muslim Thesam' on the basis of nationality, homeland and self-determination was welcome as far as it undermined or thwarted Tamil aspirations. The notion of each ethnicity asserting its exclusivity and demanding separate arrangements was worrisome. The concept of a territorially non-contiguous devolution unit was upsetting because once accepted, the same principle could be applied in the south too with other communities clamouring for it as well.

Another response to the Oluvil Declaration was to treat it lightly as just one more event of little political significance. Interestingly, a Tamil newspaper had a piece on it with the opening paragraph emphasising that the 'Muslim Thesam' proclamation will not have any political impact whatsoever. This appeared to be wishful thinking and reminded one of the apathy and

antipathy shown by the Sinhala polity towards the Tamils when they first began mobilising on the basis of self-determination.

The Oluvil Declaration evokes a strong sense of déjà vu with the Tamil United Liberation Front's (TULF) Vaddukkoddai declaration of May 14, 1976, which demanded a sovereign, socialist and secular state of Tamil Eelam for the north - eastern Tamils. The Oluvil Declaration however, differs from Vaddukkoddai in three important respects. Territorially, the Muslims do not demand the entire north - east as one unit, but only want Muslim areas to be linked together. More importantly, unlike Tamil Eelam, the Muslim Thesam demand is not secessionary. It is a demand for an autonomous self-governing unit of devolution within the north - east. Thirdly, the Oluvil declaration has not been formulated by acknowledged political parties, but by committed student and youth activists.

The third point is crucial here. The Oluvil Declaration is primarily the handywork of students, youths and younger intelligentsia among Muslims. Established Muslim politicians may have been helpful in the background, but have certainly not hogged the limelight. So there is a legitimate poser here. What level of importance should one attach to this demonstration and declaration? Is this a mere student sideshow without any real impact?

The answer to that in simple terms is don't underestimate or underrate it. Its importance and significance will grow in time to come. The younger Muslim generation possessing a degree of idealism lacking in the elder politicians have taken the lead. Helped no doubt by the intellectual resources available at the South - Eastern University a political programme has been evolved. A concrete form has been given to the vague demands articulated by different shades of Muslim political opinion before. What will therefore happen is that all Eastern Muslim leaders and any future aspirants to leadership will follow the parameters set by the Oluvil Declaration. A broad political agenda has been set. Perhaps irreversibly!

Compelled to fill the vacuum

The Muslim youths have been compelled to fill a vacuum because Muslim political leaders are hopelessly divided and shamelessly fragmented. The on going peace talks are aimed at re-structuring the country. The objective is equitable power sharing for all communities in a united and undivided Sri Lanka. Past exercises of this type have excluded the Muslim community. So a unified and powerful Muslim voice is necessary at this juncture.

Unfortunately, the leadership of Rauf Hakeem was weakened at a time when the community should have rallied strongly behind him.

Rising aspirations

Muslim aspirations, particularly those of the north - east were raised to a high level by the advent of M. H. M. Ashraff and the rise of the Sri Lanka Muslim Congress (SLMC). In the aftermath of his demise, these aspirations remain unfulfilled. In recent times, a strong element of grievance has been added. Muslim insecurity in the face of perceived Liberation Tigers of Tamil Eelam (LTTE) ascendancy in the east is a crucial factor in the post-ceasefire scenario. The problem has been further compounded by the divisions within the Muslim community particularly the SLMC.

Today, the position of Rauf Hakeem as the Muslim 'thesiya thalaiver' (national leader) is very much eroded. The SLMC has fragmented into four factions. Hakeem along with Basheer Segu Dawood and Thowfeek lead the main SLMC; A. H. M. Athaullah, Hafrath and Mohideen Abdul Cader lead a strong dissident group; Anver Ismail and Haris form a third group seemingly independent of both Hakeem and Athaullah. There is a fourth SLMC faction now known as the National Unity Alliance (NUA) comprising Ferial Ashraff, Hizbullah and Segu Issadeen. In addition, there are the PA Muslim sections with people like Najib Abdul Majeed and UNP Muslims like Ali Zaheer Moulana, Myown Mustapha, Sinna Maharroof, etc.

This lack of unity is definitely a great setback for Muslims at this juncture. This is the time when the Muslims need to unite and make their impact at the peace talks. Sadly, the SLMC is undergoing divisive convulsions. Hakeem's leadership and political clout is severely undermined. The Oluvil Declaration has taken due note of this and prioritises the unity of Muslim political leaders. There is no doubt that in the weeks to come, this question will receive full attention.

The underlying regional consciousness as articulated in the Oluvil Declaration makes one wonder whether the north - eastern Muslims will in the future accept leadership from outside. At the same time, the quality of prevailing north - eastern leaders leave much to be desired. While each of them is a lion in their parochial den, none seem acceptable at a wider level like Ashraff. Despite shortcomings, Rauf Hakeem stands head and shoulders above other eastern leaders. Yet, it seems an uphill task for

Hakeem, a Central Province Muslim, to establish authoritative leadership over the north - east. This applies to Ferial Ashraff too.

Muslim divide

On the other hand, it is unlikely that Muslims of the Central, Western and Southern Provinces will accept overall leaders to emerge from the north - east. Although feelings of brotherhood and fraternity were expressed at Oluvil, we may be very well seeing the beginning of a divide between the Muslims of the Tamil and Sinhala regions. It is also useful to recall some comments made by Professor Emeritus Karthigesu Sivathamby in a recent newspaper interview where he pinpointed the "drift" between Sinhala educated Muslims of the south and Tamil educated north - eastern Muslims.

The mood in Oluvil was for a distinct north - East consciousness. Moreover, the Muslim claim of a traditional homeland, nationhood and self-determination in the north - east will be de-legitimised greatly if the emphasis is on an all island identity as opposed to a regional one.

In that context, it is difficult to envisage overwhelming support for the 'Muslim Thesam' concept among non-north-eastern Muslims. They would be broadly supportive, but with some exceptions, will not plunge in zestfully on this. It would be something of the approach up country Tamils displayed towards the Tamil Eelam demand of the Sri Lankan Tamils. If the north - eastern Tamils oppose these demands, then the southern Muslims are likely to pay more than lip service to this position. On the other hand, the southern Muslims will not be enthusiastic if the Sinhala majority in the south opposes it. The silence then could be deafening.

Youth to the fore

Given the growing disillusionment with Muslim political leaders, there is an increasing feeling that the Muslim intelligentsia should take up the mantle of leadership particularly at negotiations. This feeling was acknowledged to some extent by Hakeem when he was accompanied by some Muslim intellectuals at the last round of talks. Anti-Hakeem dissidents however, want Hakeem to be replaced by a team of intellectuals. This seems rather improbable. Nevertheless, the initiative displayed by Muslim youths and students shows that a 'new' leadership could very well emerge.

This new leadership could at the early stages play a supplementary role to the existing hierarchy. It could soon seek to replace and even eliminate the old leadership. A repetition of what transpired in Tamil politics could happen here without the scale of violence. The recent leadership squabbles have undermined the image of most Muslim leaders. If the Muslim youths could project an image of selfless, dedicated service, they could very well become the new leaders. The appeal of the Muslim cause against the backdrop of LTTE politics is very high to Muslim masses. Muslim youths could ride the crest of a wave.

A similar situation prevailed in the Indian states of Tamil Nadu and Assam at different times. Youths were at the forefront in Tamil Nadu during the 'anti-Hindu' agitation of 1965. The DMK cleverly cooped the youth movement within its ranks and subsumed it. Thus, the DMK with a generous proportion of erstwhile student leaders, swept the polls in 1967. In Assam, the students were in the vanguard of 'anti-foreigner' agitation in the '80s. The student movement assumed a greater political role and evolved into a political party, Gana Parishad which won conclusively in 1985. In that context, the future of youth power demonstrated at Oluvil could either be harnessed by the SLMC or take a more decisive supplanting role.

Explosive situation

Whatever course Muslim politics may take in the future, the Oluvil Declaration unambiguously proves that Tamil - Muslim relations have hit an all time low. If the Tamil assertion of identity was against perceived Sinhala hegemony, the Muslim assertion is against perceived Tamil domination. The long cherished Tamil political goal of a north - eastern unit faces the danger of being undermined. Moreover, Sinhala supremacists will exploit these sentiments further. The situation is quite explosive.

Those claiming to represent Tamils must act with great tact and understanding. The justice of the Muslim cause has to be recognised and accepted. The problem should be approached in a spirit of goodwill and amity seeking a compromise between two 'rights' rather than between 'right and wrong.' Equitable arrangements for sharing power and resources should be evolved. Appropriate devolutionary models should be examined. If Tamils require 'autonomy' for the north - east vis a vis Colombo, the Muslims need 'autonomy' for the south - east vis a vis Jaffna. A confrontational mode should be abandoned and the issue must be addressed through dialogue and discussion. The conduct of the LTTE, the

self-styled 'sole' representatives in the sphere of Tamil - Muslim relations has been found wanting in the past. Hopefully, the Tigers may handle the issue efficiently and equitably in the future.

The Oluvil Declaration demonstrates clearly that the north - eastern Muslims have reached a significant milestone in their political evolution. The massive anti-standardisation demonstration in Jaffna by students in 1970 was the forerunner of emerging Tamil youth power. Radicalisation of Tamil politics began then and the process is yet to cease. Likewise, the Oluvil demonstration and declaration is a watershed in Muslim politics. The Muslim body politic in the north - east will never be the same again.

9th February 2003

The Vaddukoddai Resolution (1976)

THE RESOLUTION Unanimously adopted at the First National Convention of the TAMIL UNITED LIBERATION FRONT held at Vaddukoddai on May 14, 1976 Chairman S.J.V. Chelvanayakam Q.C., M.P. (K.K.S)

Whereas, throughout the centuries from the dawn of history, the Sinhalese and Tamil nations have divided between themselves the possession of Ceylon, the Sinhalese inhabiting the interior of the country in its Southern and Western parts from the river Walawe to that of Chilaw and the Tamils possessing the Northern and Eastern districts; And,

Whereas, the Tamil Kingdom was overthrown in war and conquered by the Portuguese in 1619, and from them by the Dutch and the British in turn, independent of the Sinhalese Kingdoms; And,

Whereas, the British Colonists, who ruled the territories of the Sinhalese and Tamil Kingdoms separately, joined under compulsion the territories of the Sinhalese and the Tamil Kingdoms for purposes of administrative convenience on the recommendation of the Colebrooke Commission in 1833; And,

Whereas, the Tamil Leaders were in the forefront of the Freedom movement to rid Ceylon of colonial bondage which ultimately led to the grant of independence to Ceylon in 1948; And,

Whereas, the foregoing facts of history were completely overlooked, and power over the entire country was transferred to the Sinhalese nation on the basis of a numerical majority, thereby reducing the Tamil nation to the position of subject people; And,

Whereas, successive Sinhalese governments since independence have always encouraged and fostered the aggressive nationalism of the Sinhalese people and have used their political power to the detriment of the Tamils by-

- (a) Depriving one half of the Tamil people of their citizenship and franchise rights thereby reducing Tamil representation in Parliament,
- (b) Making serious inroads into the territories of the former Tamil Kingdom by a system of planned and state-aided Sinhalese colonization and large scale regularization of recently encouraged Sinhalese encroachments, calculated to make the Tamils a minority in their own homeland,
- (c) Making Sinhala the only official language throughout Ceylon thereby placing the stamp of inferiority on the Tamils and the Tamil Language,
- (d) Giving the foremost place to Buddhism under the Republican constitution thereby reducing the Hindus, Christians, and Muslims to second class status in this Country,
- (e) Denying to the Tamils equality of opportunity in the spheres of employment, education, land alienation and economic life in general and starving Tamil areas of large scale industries and development schemes thereby seriously endangering their very existence in Ceylon,
- (f) Systematically cutting them off from the main-stream of Tamil cultures in South India while denying them opportunities of developing their language and culture in Ceylon, thereby working inexorably towards the cultural genocide of the Tamils,
- (g) Permitting and unleashing communal violence and intimidation against the Tamil speaking people as happened in Amparai and

Colombo in 1956; all over the country in 1958; army reign of terror in the Northern and Eastern Provinces in 1961; police violence at the International Tamil Research Conference in 1974 resulting in the death of nine persons in Jaffna; police and communal violence against Tamil speaking Muslims at Puttalam and various other parts of Ceylon in 1976 - all these calculated to instill terror in the minds of the Tamil speaking people, thereby breaking their spirit and the will to resist injustices heaped on them,

(h) By terrorizing, torturing, and imprisoning Tamil youths without trial for long periods on the flimsiest grounds,

(i) Capping it all by imposing on the Tamil Nation a constitution drafted, under conditions of emergency without opportunities for free discussion, by a Constituent Assembly elected on the basis of the Soulbury Constitution distorted by the Citizenship laws resulting in weightage in representation to the Sinhalese majority, thereby depriving the Tamils of even the remnants of safeguards they had under the earlier constitution, And,

Whereas, all attempts by the various Tamil political parties to win their rights, by co-operating with the governments, by parliamentary and extra-parliamentary agitations, by entering into pacts and understandings with successive Prime Ministers, in order to achieve the bare minimum of political rights consistent with the self-respect of the Tamil people have proved to be futile; And,

Whereas, the efforts of the All Ceylon Tamil Congress to ensure non-domination of the minorities by the majority by the adoption of a scheme of balanced representation in a Unitary Constitution have failed and even the meagre safeguards provided in article 29 of the Soulbury Constitution

against discriminatory legislation have been removed by the Republican Constitution; And,

Whereas, the proposals submitted to the Constituent Assembly by the Ilankai Tamil Arasu Kadchi for maintaining the unity of the country while preserving the integrity of the Tamil people by the establishment of an autonomous Tamil State within the framework of a Federal Republic of Ceylon were summarily and totally rejected without even the courtesy of a consideration of its merits; And,

Whereas, the amendments to the basic resolutions, intended to ensure the minimum of safeguards to the Tamil people moved on the basis of the nine point demands formulated at the conference of all Tamil Political parties at Valvettithurai on 7th February 1971 and by individual parties and Tamil members of Parliament including those now in the government party, were rejected in toto by the government and Constituent Assembly; And,

Whereas, even amendments to the draft proposals relating to language, religion, and fundamental-rights including one calculated to ensure that at least the provisions of the Tamil Language (Special Provisions) Regulations of 1956 be included in the Constitution, were defeated, resulting in the boycott of the Constituent Assembly by a large majority of the Tamil members of Parliament; And,

Whereas, the Tamil United Liberation Front, after rejecting the Republican Constitution adopted on the 22nd of May, 1972, presented a six point demand to the Prime Minister and the Government on 25th June, 1972, and gave three months time within which the Government was called upon to take meaningful steps to amend the Constitution so as to meet the aspirations of the Tamil Nation on the basis of the six points, and informed the Government that if it failed to do so the Tamil United Liberation Front would launch a non-violent direct action against the Government in order to

win the freedom and the rights of the Tamil Nation on the basis of the right of self-determination; And,

Whereas, this last attempt by the Tamil United Liberation Front to win Constitutional recognition of the rights of the Tamil Nation without jeopardizing the unity of the country was callously ignored by the Prime Minister and the Government; And,

Whereas, the opportunity provided by the Tamil United Liberation leader to vindicate the Government's contention that their constitution had the backing of the Tamil people, by resigning from his membership of the National State Assembly and creating a by-election was deliberately put off for over two years in utter disregard of the democratic right of the Tamil voters of Kankesanthurai, and,

Whereas, in the by-election held on the 6th February 1975, the voters of Kankesanthurai by a preponderant majority not only rejected the Republican Constitution imposed on them by the Sinhalese Government, but also gave a mandate to Mr. S.J.V. Chelvanayakam, Q.C. and through him to the Tamil United Liberation Front for the restoration and reconstitution of the Free Sovereign, Secular, Socialist State of TAMIL EELAM.

The first National Convention of the Tamil United Liberation Front meeting at Pannakam (Vaddukoddai Constituency) on the 14th day of May, 1976, hereby declares that the Tamils of Ceylon by virtue of their great language, their religions, their separate culture and heritage, their history of independent existence as a separate state over a distinct territory for several centuries till they were conquered by the armed might of the European invaders and above all by their will to exist as a separate entity ruling themselves in their own territory, are a nation distinct and apart from Sinhalese and this Convention announces to the world that the Republican Constitution of 1972 has made the Tamils a slave nation ruled by the new

colonial masters, the Sinhalese, who are using the power they have wrongly usurped to deprive the Tamil Nation of its territory, language citizenship, economic life, opportunities of employment and education, thereby destroying all the attributes of nationhood of the Tamil people.

And, while taking note of the reservations in relation to its commitment to the setting up of a separated state of TAMIL EELAM expressed by the Ceylon Workers Congress as a Trade Union of the Plantation Workers, the majority of whom live and work outside the Northern and Eastern areas,

This convention resolves that restoration and reconstitution of the Free, Sovereign, Secular, Socialist State of TAMIL EELAM, based on the right of self determination inherent to every nation, has become inevitable in order to safeguard the very existence of the Tamil Nation in this Country.

This Convention further declares -

a) that the State of TAMIL EELAM shall consist of the people of the Northern and Eastern provinces and shall also ensure full and equal rights of citizenship of the State of TAMIL EELAM to all Tamil speaking people living in any part of Ceylon and to Tamils of EELAM origin living in any part of the world who may opt for citizenship of TAMIL EELAM. that the constitution of TAMIL EELAM shall be based on the principle of democratic decentralization so as to ensure the non-domination of any religious or territorial community of TAMIL EELAM by any other section.

b) that in the state of Tamil Eelam caste shall be abolished and the observance of the pernicious practice of untouchability or inequality of any type based on birth shall be totally eradicated and its observance in any form punished by law.

c) that TAMIL EELAM shall be a secular state giving equal protection and assistance to all religions to which the people of the state may belong.

d) that Tamil shall be the language of the State, but the rights of Sinhalese speaking minorities in Tamil Eelam to education and transaction of business in their language shall be protected on a reciprocal basis with the Tamil speaking minorities in the Sinhala State.

e) that Tamil Eelam shall be a Socialist State wherein the exploitation of man by man shall be forbidden, the dignity of labor shall be recognized, the means of production and distribution shall be subject to public ownership and control while permitting private enterprise in these branches within limit prescribed by law, economic development shall be on the basis of socialist planning and there shall be a ceiling on the total wealth that any individual of family may acquire.

This Convention directs the Action Committee of the TAMIL UNITED LIBERATION FRONT to formulate a plan of action and launch without undue delay the struggle for winning the sovereignty and freedom of the Tamil Nation;

And this Convention calls upon the Tamil Nation in general and the Tamil youth in particular to come forward to throw themselves fully into the sacred fight for freedom and to flinch not till the goal of a sovereign state of TAMIL EELAM is reached.

(This is a translation of the Resolution Unanimously Adopted at the 1st National Convention of the Tamil United Liberation Front, held at Pannakam (Vaddukoddai Constituency) on May 15 1976, Presided over by Mr. Chelvanayakam, Q.C, M.P. The TULF went to polls in 1977 with this

and received an overwhelming mandate from the Tamil electorate. This was the last time Tamils of Eelam were able to express their wish freely at a democratically conducted poll.)

Excerpt from Constitution of Ceylon - 1947

Protection afforded to minorities

29. (1) Subject to the provisions of this order. Parliament shall have power to make laws for the peace, order and good government of the Island.

(2) No such law shall –

(a) prohibit or restrict the free exercise of any religion

or

(b) make persons of any community or religion liable to disabilities or restrictions to which persons of other communities or religions are not made liable

or

(c) confer on persons of any community or any religion any privilege or advantage which is not conferred on persons of other communities or religions

or

(d) alter the constitution of any religious body except with the consent of the governing authority of that body, so, however that in any case where such a religious body is incorporated by law, no such alterations shall be made except at the request of the governing authority of that body.

(3) Any law made in contravention of subsection (2) of this section shall, to the extent of such contraventions, be void.

