

EELAM PEOPLE'S REVOLUTIONARY LIBERATION FRONT

**PROPOSAL FOR THE POLITICAL SOLUTION
TO THE ETHNIC CONFLICT IN SRI LANKA**

Submitted to Prof. Tissa Vitharana
(Chairman to the APRC)

For the Perusal of
The Members of the All Party
Representatives Committee
and
The Members of
the Constitutional Expert Committee

EPRLF - Pathmanabha

March 2007

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Foreword

EPRLF believes that the All Party Representatives Committee (APRC) is yet another historical opportunity to bring an end to this conflict that has inflicted untold damage to the progress and prosperity of the people of Sri Lanka.

EPRLF is optimistic and hopeful that the patriotic political forces in our country will rise up to the challenges of building a vibrant, strong and united Sri Lanka by recognising the multicultural and pluralistic nature of our country.

It is with this hope that we have decided to fully engage with the APRC process which has been initiated by His Excellency the President Mahinda Rajapakse. We have carefully studied the recommendations of the Expert committee and the proposal submitted by the Chairman of the APRC Hon. Tissa Vitharana. In our view these are definitive indicators that the process of forging consensus in relation to constitutional reforms is moving forward. We are also hopeful that the democratic forces in our country will not allow this process to fail.

We have had extensive discussions with members of major political parties. In this regard, I must particularly thank Hon. Minister Dew Gunasegara and Hon Minister Prof. Tissa Vitharana for extending encouragement and support for our engagement in this process. We have also consulted with and sought counsel from leading academics and activists among the Tamil community. I am sure their valuable comments and contributions have also enriched this document.

EPRLF is placed in a unique position because it has been at the helm of the first North - East Provincial Government and had continuously participated in every attempt initiated by the Government of Sri Lanka since then.

united Sri Lanka. Such political solution should be just and reasonable in the context of International norms and justice. We are also of the opinion that it is a grave mistake of the Government of Sri Lanka and also of the International community to wait for the LTTE and delay the process of working out a mechanism that meets the aspiration of the Tamils.

The approach to resolve this complex problem should take cognisance of the following:

1. The fundamental issues and the awareness of the historical background of the conflict.
2. Political objective of any process should seek to find a just solution which honestly addresses all the main issues underlying in the conflict.
3. Above all, the leaders should have the courage and determination to dispense with the secessionists whose importance can be minimized by a reasonable political solution and be able to disregard the Sinhala extremists who account for less than seven percent of the Sinhala voters.

There is also a section of political commentators who argue that the people now need peace and there is not much point in discussing about a political solution. Their justification for this view is that the people are subjected to immense hardships, so the first step should be to bring peace and hence the modalities of a political solution are irrelevant at present.

Experience shows that the ceasefire between warring parties only helped to strengthen their positions and paved the way to intensify the conflict. Permanent peace can only be achieved by a political solution which satisfies the basic aspirations of the people. Failure to address these issues will only help to strengthen the secessionists and extremists on both sides.

For the last twenty years, EPRLF has been consistent and unequivocal in our position that the so called military strength of the LTTE or its ability to perpetrate terrorist violence will never

advance the process of finding a justifiable solution to the ethnic problem; on the contrary it will only bring more death and destruction.

We must be aware of the fact that the origins of the ethnic conflict are not the LTTE terrorism. The exclusion of the Tamils in the process of constitution making, the alienation from and discrimination by the state institutions, and feeling of insecurity gradually pushed the Tamil speaking people to demand constitutional and institutional measures to ensure meaningful participation in the nation building process.

EPRLF firmly believes that a just political framework needs to be worked out and enshrined in the constitution. This should be followed by the establishment of the necessary institutional infrastructures and administrative measures. EPRLF continues to endeavour to fully participate in all the process that seeks to resolve the ethnic conflict through constitutional reform in order to build a strong united Sri Lanka.

In this context, EPRLF's participation in the North–East Provincial Council was our first attempt to realise this goal which had been thwarted by the then Premadasa led Government and the LTTE coalition.

EPRLF took active part in the consultation process of the previous All Party Conference and expressed our opinion and concerns on the Mangala Moonesinghe findings.

We have supported the initiatives taken by Mrs. Chandrika Bandaranayke in her efforts to present a proposal and pointed out our concerns relating to her draft. But, the misplaced expectation of the Government and to some extent the International Community to confine the process only to convince the LTTE stalled that initiative. The Sinhala extremist forces used the LTTE's intransigence as an excuse to prevent the passage of any constitutional change.

Consistent with our approach to fully participate in the process of working out the modalities of the political solution and also in response to His Excellency the President Mahinda Rajapaksa's initiative of appointing an All Party Representative Committee (APRC), EPRLF would like to present the details of our proposal to the APRC.

It is unfortunate that we are not represented in the present Parliament; however, we take this opportunity to thank the Chairman of the APRC for inviting other parties which are not represented in the Parliament at present to submit their proposal.

In our proposal we have outlined the main aspects after taking consideration of the following matters:

1. The basic reasons for the expansion of the ethnic conflict in Sri Lanka are that the Tamil people have been treated as a second citizens for more than six decades; the repeated anti-Tamil riots unleashed to the level of pogroms; the Tamils have been made minority and insecure in their own traditional habitats; the representatives of the Tamils have been made non-influential and alienated from the state power and the structures due to their minority status in number; and the representation of the Tamils in Armed forces, Police and the administrative institutions have been reduced near to zero level or to the negligible percentage.
2. The LTTE have, for the last twenty years, killed the Tamils in thousands and thereby, politically enslaved the whole Tamil community through its mass-terrorization. In addition, the LTTE has been consistently engaged in ethnic cleansing of Muslim people from the North-East through killings and banishing the Muslim people from their own traditional habitats. In addition, it has engaged in indiscriminate mass killings of the innocent Sinhala people inside the North-East and in adjoining Sinhala majority-districts. Such activities of the LTTE have made more and more complications in the ethnic conflict.
3. LTTE' strength of violence can be gradually brought down and its power of terrorism can be eradicated by a coordinated effort of all the democratic forces in the country, along with a reasonable and just political solution to the problems of the Tamils and Muslim people. It is equally important to address the problem arising from the misuse of the majoritarian rule. The country has witnessed and is witnessing the tragic consequences of this. Therefore, there must be provisions

and systems to accommodate reasonably sufficient representation and balancing mechanism which can prevent domination by any particular communal group over the minority in the Provincial governance as well as in the Central governance.

4. When determining the units of devolution, there must be a clear resolution to provide a special system of political authority to the Muslim people so as to satisfy their political aspirations and apprehensions. Also, the territory of the united North-East Province should be re-demarcated so that the injustice done to the Tamil people in their own historical habitats through the State-aided Sinhala Colonisation Schemes carried out for the last six decades is rectified and the Tamil people given the feeling of political security by providing them a political unit that unite them ethnically and territorially contiguous as much as possible.
5. When dividing and defining the subjects to devolve to the legislative and executive powers to the Provinces, the degree of devolution should be very clear and at high level on the following subjects:
 - i) Land and Land Development including State Land and Forestry
 - ii) Police, Law and Order
 - iii) Education system, Education Development Programmes, and Educational Institutions.
 - iv) Maintenance of number of personnel at not less than the ratio of population of minority nationalities in the Armed forces, Police forces and State administrations, not only in the Provinces but also at the Central Govt. institutions
 - v) The institutions and the funds for the Rehabilitation and Reconstruction Programmes in the North-East
 - vi) Institutions and the Programmes for the Development of Agriculture, Fisheries, Industrial, Tourism and Service sectors.

- vii) Institutions and the Development Programmes of the Essential Commodities like Food items, Cloths and dresses, Housing and Health and Medical facilities;
- viii) Institutions and the Programmes for Reconstruction and Development of Urban areas and infrastructures, Development of the Villages, and the Local Governments like Minicipal Councils, Urban Councils, Pradeshya Sabhas, Village Panchayats, etc;
- ix) Institutions and Programmes for the Development of Road and Transport Communications, Electricity, Gas and Water Supply and Telecommunications, which are imperative to the Human Resources and Social Growth;
- x) The Institutions and Programmes for the Protection and the Promotion of the matters related to the Languages, Religions and Cultures.

On the subjects listed above, the Constitutional provisions related to the devolution of powers to the Tamil-majority North-East Province (to the Muslim Province too when it is created) must be unequivocal and clearly defined so as to avoid unnecessary interference of the Central government on the functions of the Provincial governments.

- 6. The leader of TULF, Mr.V.Ananthasangaree has consistently expressed his opinion that the system and degree of devolution to the Tamil-majority province should be as that in the Indian Political System. Relevance and arguments underlying in his opinion should be considered.
- 7. Due to the exaggerated fear-cry of the Sinhala extremists, a sort of Federal-phobia prevails among a section of Southern political circle. At the same time, the Constitutional experts have opined that a proper devolution is not possible in so far as the constitution holds the term 'Unitary' in it. A general compromising-consensus has evolved to avoid both the terms 'Unitary' as well as the term 'Federal' when making the new constitution. For progress of the devolution

process and the support of large proportion of the Sinhala leaders and the people, it should be recognized as a better choice.

- 8. In order to ensure that the devolution of powers is meaningful, the constitutional provisions and arrangements should be made properly so that the provinces themselves can collect enough tax and non-tax revenues and also receive sufficient financial revenues and resources from the Center, to enable the Provincial governments to duly deliver results pertaining to their constitutional and political duties and responsibilities;
- 9. The constitutional provisions and arrangements should be made so as to define the powers, authorities, functions and the institutional infrastructures of both systems of governance, Central and the Provincials, to avoid any encroachment of the one on the other- particularly that of the Center on the Provinces- and to ensure that the both system of governance function smoothly and effectively without any contradiction with each other.
- 10. The world-wide experience is that no devolutionary process can take place in one gallop. Therefore, the constitution in force should have the flexibility to accommodate the progress of the political civilization and the systems for deepening the democratization towards communities and common people. In addition, the constitutional development should enhance the trust and confidence of the people who have been dragged on in the internal conflicts and faced deprivations and disasters for many decades. The immediate and essential duty of the truly nationalist and unionist Sri Lankan leaders among all communities is to establish a political system that can resolve the communal-based conflicts, that can build the confidence of and fraternity among all the people of all the communities and that can prevent the communal, chauvinistic or narrow nationalist forces which use and exploits the ignorant sentiment of the different innocent communities.

Those discerning political observers would agree that the EPRLF has never taken a populist position on issues related to socio political matters but have always addressed the issues from the interests of the ordinary people. EPRLF envisage these proposals as yet another historical attempt that would bring the communities together and help all the people to progress towards a permanent solution, which will usher in a peaceful and prosperous Sri Lanka.

The priority of the Government today is to finalise a political package that is acceptable by the main Sinhala Political Leaders, the leadership of the Tamil and Muslim communities and the International community including India and enshrine that into the constitution.

EPRLF hopes that the reasonable Sri Lankan polity would see the rationale and the relevance of our proposals to the present circumstances and give it due and careful consideration and take it forward for the betterment of the Sri Lankan people as a whole.

**EPRLF – Pathmanabha
March-2007**

POLITICAL PROPOSALS TO RESOLVE THE ETHNIC CONFLICT

Presented By EPRLF (Pathmanabha)

01. Sri Lanka should be constituted as:

The UNITED DEMOCRATIC REPUBLIC OF SRI LANKA

- **The Republic of Sri Lanka shall be constituted on the basis of the principles of Federalism, Democracy and Human Rights, in order to protect and accommodate comprehensively the aspirations of all the different sections living in this island and thereby enhance the unity and integrity of the country.**
- **The United Republic shall have a Provincial State for each Province defined in the constitution, in order to foster the particular interests and aspirations of all the citizens in the Province, to preserve peace, equality and fraternity among all the communities in the Province and protect the life and property of all the people in the Province.**
- **The Provincial States shall be made inseparable from the Republic and integrated by a Union of States, which shall have the powers and functions compatible with protecting the overall national interests, preserving unity and integrity of the country and to coordinate the general advancement of all the communities.**
- **The Constitution of the country is the supreme law that ensures the democratic and federal political system, the rule of law and the rights of the people and defines and provides the legislative and executive powers and consociates control and coordinate Union and Provincial States in the country.**

(Expectation for the immediate future is that even if the term 'Federal' is not placed, the term "**Unitary**" should be **repealed** from the present Constitution so as to provide the constitutional basics for the constitution-makers to truly 'maximize' the devolution of powers to the Provincial States)

02. No Majoritarian Hegemony in the Centre nor in the Provinces

- a. Provisions should be so enacted in the new constitution as to obviate a 'two thirds majority' control by a particular political party or a particular national community in any legislative Assembly, be it Parliament or Provincial Legislative Assembly.
- b. Either by re-delimitation of the constituencies or by a system of reserved or multi-members constituencies, the national minority communities should together comprise not less than one third of the membership in the Parliament.

03. The House of National Communities-Bicameral Parliament

All those who believe in democracy largely agree that owing to the existing politico-social formation and conditions of Sri Lanka, there is a need for a Bicameral system of Parliament constituting a Second Chamber in order to uphold and protect equality among all the National Communities and **to prevent any legislative or executive activity detrimental to the basic rights and interests of any community in the country by any governing authority.**

The Second Chamber of the Parliament may be named '**House of National Communities**' with following considerations:

- a) The main national communities in Sri Lanka are Sinhalese, Tamils, Muslims, and Upcountry Tamils.
- b) The combined strength of the representatives of all the national **minority communities should have not less than forty percent** representation in this house.
- c) Structure of representation of this house should be formulated so as to represent the Provincial Assemblies, Pradeshya Sabhas, Trade Unions, Scholars, Industrialists, Professionals and other national personalities.
- d) With the other functions of the traditional second chamber, the main function and responsibility of this house should be to protect the basic aspirations and interests of all the national communities in the country.
- e) Vice president or a person appointed by the President, such as a retired public servant who have held or holds higher office and considered suitably eminent and experienced, shall be the Chairperson of this House.
- f) If any bill or resolution tabled before the Parliament or any Provincial Legislative Assembly is not agreed to by fifty or more than fifty percent of the representatives of each national community in the Assembly, the bill should at first be amicably amended and sanctioned by this house.
- g) Any amendment to any important provisions of the Constitution related to the principles of protection of the aspirations and the interests of minority communities shall need the approval of the two third representatives of this House too.

- h) Similar Arrangements, wherever needed, should be made in the Provincial States too.

04. President of the Republic and the Prime Minister

- a. The system of Executive President, elected by the people directly, should be continued. However, the exclusive executive powers of the President should be limited by the Constitution.
- b. While President holds executive powers to determine matters related with the areas such as: (i) The National Defence and Security (ii) The Affairs of the Provincial States (iii) The External Affairs (iv) The Central Bank and the National Treasury, the Ministers for all other subjects shall be appointed or dismissed by the President only on the advice of the Prime Minister.
- c. The Central Police Department shall be under the Prime Minister's Office.
- d. The President shall discharge his/her executive powers only on the advice of the Prime Minister or the Cabinet of the Ministers on the subjects of the Central government, except those under the direct executive powers of the President.
- e. The President should also be made answerable and accountable to the Parliament.
- f. The President, the Prime Minister and the Council of Ministers should hold collective responsibility for all the Central ministries.
- g. All Agreements, Pacts and MOU with foreign countries should become legally valid only after the approval of the Parliament.

- h. As long as the Prime Minister holds majority support of the members in the parliament, the President cannot dissolve the Parliament, except for reasons specifically listed in the Constitution, before six months from the due date for its re-election.

05. Vice President

- i. The Vice President should be from a national community other than that of the President.
- ii. The Vice President can be elected jointly by the people along with the President at the same election. or by the legislators and the Pradeshya Sabha members as per the provisions in the constitution. In the event of the latter option, the representatives of the minority nationalities should be given more weightage.
- iii. **The Vice President should be the Chairperson of the Second Chamber of the Parliament and the Chairperson of the National Economic Planning and Finance Commission.**

06. Establishment of the Secular State

Sri Lanka is a multi-ethnic, multi-religious and multi-cultural country. The Constitution of Sri Lanka should in no way regard any particular religion as having pre eminence above other religions or belief systems among the people of the country. The Constitutional arrangements should pave the way for mutual trust and harmony among all the religious communities. The Government should be seen as secular and completely neutral both in spirit and practice with regard to all religious groupings. The duty of the state in this matter should be to protect the basic interests and aspirations of the people with different beliefs.

07. NORTH-EAST PROVINCE

7a. Territories of Provincial States (Unit of Devolution)

Tamil people's demand for the united North-East province is to enable them to protect their lives and the properties and to preserve their political, economical and social existence. It is the long years of discrimination and the misery created by the prolonged war that has exacerbated the feeling of insecurity of the Tamils. In our view vast majority of the Tamils aspire for a period of stability and yearning for a sense of security and this can be created only by restoring the merger which will pave the way for all the people of Sri Lanka to embark on a nation building programme for a strong and untied Sri Lanka.

However, to address the genuine apprehensions and fears of the Muslims and the Sinhalese peoples living in the North – East, the EPRLF proposes the following modalities that addresses the concerns of the Muslims and the Sinhalese People in the North- East province. It is a combination of measurers of readjustment of Provincial and District boundaries in Ampara and Trincomalee Districts and the possibility of adjoining the Ampara polling division with the Uva Province. In this context it is important to address the issues relating to the Weli Oya scheme as well.

7b. Political Arrangement Addressing the Concerns of the Muslim People

The Muslim people have justifiable concerns that there is no space for power sharing for them neither in the Centre nor at the provincial level that could protect the aspirations of the Muslim community. Furthermore, the atrocities and the ethnic cleansing perpetrated by the LTTE in the past

have made it imperative that any sustainable solution should address the concerns of the Muslims.

A viable formation for the Muslims has to be centered on the Muslim majority areas in the Eastern Province where the Muslim population is substantially high. This must be seen as a process to unite the communities by recognizing the mutual apprehensions and not as a measure by certain sections for bifurcation of the North-East.

EPRLF proposes the following options for the consideration of the Muslim People:

Option 1:

Redefine the Ampara District as a new Province for the Muslims – the South- Eastern Province- while the Districts of Batticaloa, Trincomalee and the Northern Province can remain as the single North- Eastern Province subject to the following considerations:

- a) Ampara Electorate) should have the option of being annexed to the Uva Province to alleviate the anxieties of the Sinhalese that they might become the minorities in that province.
- b) Ensure that the arrangements which would be proposed by the Muslim leaders for the Tamil-dominated Pradeshya Sabha divisions in the South-Eastern provinces should be reciprocated to the Muslims-dominated Pradeshya Sabha divisions in the new North-East province.

Option 2:

The said South-Eastern Province is administratively adjoined to non-contiguous Muslim Pradeshya divisions such as Kanthakudi, Eravur Town, Valaichenai Town, Kinniya,

Pondichery state in India). In such a formation, the new united North-East province shall hold similar reciprocal arrangement over the Tamil-dominated Pradeshya Sabha divisions in the new South –Eastern Province.

It is to be noted here that there are some non-contiguous Tamil Pradeshya Sabha divisions in the Amparai district.

- i. Kalmunai North (Tamil) Pradeshya Division,
- ii. Karaitivu Pradeshya Division,
- iii. Alaiyadivembu Pradeshya Division
- iv. Thambiluvil - Thirukkivil Pradeshya Division.

Option 3:

Formation of a Muslim Council within the united North-East Province having powers on a list of subjects and take care of all the Muslim-dominated Pradeshya Sabha divisions.

Muslim people in the North - East and their leaders have the right to decide on the appropriate option that addresses their concerns.

Tamil and Muslim leaders can work out the details of the mutual arrangements about the non-contiguous areas through a consultation process about the mechanism where their communities dominate. The arrangements for agricultural hinterlands that belong to one community and falling inside the other divisions may also be arrived at through this consultation process.

A re-demarcation of Provincial boundaries is essential. This is to reconcile the basic democratic aspirations and the interests of the national minority communities.

7c. Territorial Re-demarcation

Any attempt to hold a referendum in the Eastern Province to determine the future of the North and East will undoubtedly further deepen and widen the divisions and hostilities among the different communities. Such referendum will only help the extreme communal forces of all sides to stir up tensions and fears.

The Provincial boundaries are mere geographical entities drawn by the colonial rulers for administrative purposes thus they are not sacrosanct. These boundaries were given political status only in 1987 through the 13th Amendment of the constitution.

It must be noted that the Banda-Selva Pact of 1957 and the Dudley- Selva agreement of 1965 were meant to resolve the issue of state aided colonization and the resultant tensions between the communities. Had those pacts been implemented the question of merger or de - merger would not have arisen. The issue of a united North-East province is a responsive demand to counterbalance the effects of the state aided colonization.

In 1988, Mrs. Bandaranaike too promised to dismantle all the state – aided colonization implemented since 1970, in her Presidential election Manifesto, to resolve the ethnic problem.

7d. Adjoin the Amparai Polling Division with other Provinces

EPRLF proposes to separate Amparai Polling Division from the North -East Province and annex it with the Uva province which looks after the subjects of the police and the judiciary of the said division at present.

The underlying reason for this suggestion is that the majority population of the Amparai Polling Division does not have any meaningful social or political relationship with the people of the other parts of Amparai District except being used as tools to create tension and undermine the basic political existence of the Tamils and Muslims.

7e. Reformulate Weli Oya scheme

- a) The land area of the Weli Oya Scheme, falling inside the Mullaitivu and Trincomalee districts, should be reformulated so that the former Tamil villages are duly restored as they were before 1984 and the state lands are redistributed to the people according to the 1981 ethnic proportions in the respective districts.
- b) Accommodation should be worked out for a selected number of Sinhala agricultural families who have genuinely settled in the State lands and been permanently living here for more than a decade without land or house (property) in their original villages.

7f. Readjustment of Trincomalee Border Villages

The State-aided colonization had affected the ethnic composition in the Trincomalee district as well. In the 1950s entire Allai-Kanthalai area were made to become largely Sinhalese dominated area and in 1976 the Seruwawela constituency was created in Trincomalee district. In the 1960s and 70's the Sinhala settlements in the Trincomalee Town and the surrounding areas were expanded.

Despite this, EPRLF does not demand any measures that disturb the normal life of the Sinhalese people. However, in order to rectify the situation, EPRLF proposes the following:

The Sinhala dominated AGA divisions and Grama Sevaka divisions along the border of the Trincomalee and Pollanaruwa districts should be identified and annexed to the North-Central Province while ensuring such readjustments are made in a manner that does not interfere with the territorial contiguity of the North-East Province from Vavuniya to Trincomalee and Trincomalee to Batticaloa.

7g. Future of the East

The original rationale and the current need for the united North-East Province is to enable all the people living there, in particular the Tamil people, to find peace, democracy and stability in their own historical habitats. Once all the Tamils and Muslims who have been ejected are resettled and regain their confidence, the Tamil and Muslim and Sinhala leaders of the East with consultation and coordination could decide the future of the East.

7h. United North-East will strengthen the Unity of Sri Lanka.

One main thing must be kept in mind that here the political arrangements are for the protection, safety and security of the minority communities and to preserve their interests and aspirations, within a united country. So the approach to the solution should not be based on LTTE-phobia. The popular demand for the political structural solution is not meant to create a separate state or to hand over the people of the North-East to the LTTE terrorism.

EPRLF's vision is to build Sri Lanka a united multi-ethnic nation through diversified political processes that would satisfy different interests of the different sections of the people equally while preserving the unity and integrity of the country. Thus, the political solution must set up the institutions

that shall work against the conflict, undermine the war and uphold a peaceful and democratic environment for the prosperity of all the communities and the country as a whole. No political solution can at once satisfy all the groups at a time. But, finding a reasonable and just political solution and establishing it on a footing that encourages trust and the practice of doing things together would be the right way to spike the extremists on all sides.

EPRLF expect that **the Sinhala leaders, who are honestly and genuinely concerned about the interests of the Sinhala people and wish no ill to the Tamils, should prefer these arrangements.** Tamil people's expectation is that Sinhala leaders should understand the past and present and, with prudence, courage and determination, provide a fair and just political solution in the interests of all the people in Sri Lanka.

EPRLF request that **the Tamil leaders also understand the existing realities** of the socio-political development in Sri Lanka and the conditions of the Tamil people. No civilized, sensible and responsible person should help the blood-thirsty war mongers. To achieve peace and democracy, a policy of give and take, compromise and consensus along with recognizing the mutual aspirations and the apprehensions of the others are essential and inevitable.

08. Provincial Legislative Council (P.L.C)

1) Every PLC also shall have two houses –

i. Provincial Legislative Assembly, and

ii. Provincial House of National Communities

- 2) PLC shall make laws and statutes on all the subjects other than those exclusively reserved for the Parliament. With regard to the subjects listed in the concurrent list, the PLC shall make laws and statutes in compliance with the laws of the Parliament.
- 3) Provincial Legislative Councils are deemed to be and shall be treated as the essential parts of the governance of the country, not as subordinate institutions to the Parliament or the Central Govt.
- 4) The Governor may summon, dissolve and prorogue the PLC of the Province when the Chief Minister requests him in writing.

09. The Governor

- 1) The Governor is the President's representative to the Provincial State, appointed by the President for a period of five years in concurrence with the Chief Minister and the Opposition Leader of the Province.
- 2) The Governor shall not hold any position in another office of gain, be it a government or private concern, except as honorary ex-officio positions specifically provided by the laws and statutes. In the event of a serving government official is appointed to the post of the Governor his previous service is deemed to be permanently terminated by retirement and he shall never be reappointed to any post in the government, less than that to the status of a Cabinet Minister at the Center.
- 3) The Governor shall be the nominal head of the Provincial State, which includes the Provincial Legislative Council, the Provincial Government, and the Public, Police and Judicial administrations of the Province.

4) **The Governor would only be the nominal head of the executive of the Province and shall use executive powers only on the advice of the Chief Minister or the Board of Ministers of the Province.**

5) The Governor shall be a Constitutional monitor of the Province on behalf of the President and no office or person can interfere or raise question on any communication of the Governor with the President.

6) **Formation of Caretaker Govt.:**

Whenever the Governor dissolves the Provincial Legislative Council on the advice of the Chief Minister, **the Governor shall request the Chief Minister to continue in his office** until the re-election process is completed and the new Government is formed.

In the event of the dissolution of the Council due to the loss of majority by the elected government and there is no alternative party to hold majority, the **Governor shall be the head of the caretaker government** with the advisers appointed by the President.

7) Where the Presidential Rule is proclaimed, the President shall, for that particular period, appoint a **competent advisory body** to the Governor, at his/her pleasure, but not from the persons serving in any part of the Govt.

8) When the elected government is in office, the Governor shall have no exclusive discretionary power except that of reporting to the President.

9) The Governor shall not involve in any party politics or in any activity of any political party either during the term of office or within five years after the termination from the office.

10) A Governor may be re-appointed. However, under no circumstances shall any person hold the office of the Governor for a total of more than ten years.

10. Provincial Government (P.G)

1) The Provincial governments shall be vested **with the Executive Powers on all the subjects in which the Provincial Legislative Councils are vested with corresponding Legislative Powers.** (Note – The Union Government shall be **vested with the executive powers only on the subjects on which the Parliament has exclusive legislative powers.** This will remove the confusion and complications about the legislative and executive powers on the subjects listed in the ‘Concurrent List’, if such list is in the Constitution. Interpreting the **concurrent list as a ‘Joint List’ would be a disguised enlargement of the Union** powers to subordinate the Provincial governments.

2) The Chief Minister (C.M) of the Provincial State shall be appointed by the President and take oath of office before the President.

3) Upon the request of the C.M., each member of the Council of Ministers of the Provincial Government shall be appointed or dismissed by the Governor.

4) The C.M. and the Council of Ministers are collectively responsible, answerable and accountable to their PLC.

5) The C.M. of the Provincial Government shall continue to hold office as long as he/she carries majority support of the house. Such support could be tested by vote on the floor of the House alone.

11. Proclamation of Presidential Rule in a Province Suspension, Dissolution and Dismissal

- Where the President could objectively demonstrate by specified criteria that the Chief Minister and the Board of Ministers as a whole or the Provincial Legislative Council are misusing the office in a manner that endangers the unity and integrity of the Republic, the **President shall use his/her power, with the concurrence of the Cabinet of the Centre** as provided in the Constitution, to suspend the Provincial Govt. or the Provincial Legislative Council or both. The **proclamation of this kind shall be referred to a higher Tribunal specially formed by the President within fourteen days** of the proclamation to adjudicate on whether the Provincial Govt. needs to be dismissed or the Provincial Legislative Council be dissolved or both and only then could the **Parliament finalize the decision of dismissal and the dissolution by a special resolution** that is supported by a majority of three fifths the total members of the Parliament.
- If the Proclamation of suspension is revoked by the President or the Tribunal or the Parliament, the elected Provincial Legislative Council and the **Provincial Govt. shall be allowed to continue for their due period**, not including the period of suspension.
- Every extension of the Proclamation of Governor's rule beyond six months **shall need the approval of two third of the members** of the Parliament.

12. Preservation of Provincial Governing System

- After the first North-East Provincial Council was dissolved in 1990, the provincial powers and functions were surreptitiously withdrawn back to Colombo. Central Ministers and the bureaucrats expropriated such powers discharging them directly from Colombo. Due to this, the relevant Constitutional provisions have been weakened and violated. By such practices and interpretations, once the Provincial Council is dissolved, the Provincial State is made virtually defunct except the retaining of a nominal Governor and some administrators with powerless offices. This practice also makes the public servants feel vulnerable when working under a Provincial system. When the first North- East Provincial Council was established with all difficulties and odds, very talented and experienced Tamil Public Servants joined and served boldly and enthusiastically.
- If any attempt is made again to build the Provincial State in the same manner as earlier, it would be very difficult for the Tamil leaders to convince the administrators to trust the system. Therefore, **the Constitution should provide the guaranties explicitly and the Central Govt. with the administrative declarations of assurances** to the senior public servants so as to eradicate the apprehension and fear to serve in the Provincial governing system.
- Those who argue that this is how the Indian constitution provides power to the Centre to dissolve the Provincial States and dismiss the Provincial governments, they must understand the fact that the practices of governance in India have not been followed by the Central Govt. of

Sri Lanka for the last sixteen years in the case of the North East Provincial Council. In fact, **there is a need of strong initiative to correct the wrong legacy established by the late President Premadasa.**

- Therefore, the Constitutional arrangements for the future should be made with open, clear, direct and transparent provisions that cannot be interpreted in any other way.
- A Provincial Legislative Council may be suspended or dissolved and a Provincial Govt. may be suspended or dismissed according to the provisions in the Constitution. But **under no circumstances should the Provincial governing system be suspended or dissolved as long as the Constitution maintains the system.**
- It shall be contrary to the Constitution that upholds the Provincial Governing System if any Central Minister exercises any executive power or function, fully or partly, devolved to the Provincial Government. Only the legislative powers devolved to the Provincial council shall be exercised by the parliament during this period.
- It shall be **the duty and responsibility of the Central Government to protect every Provincial Governing System and to ensure that the Government of every Province** is carried on in accordance with the provisions of the Constitution. In fact, the Central Govt. should strengthen the Provincial governing system so that it could deal with the problems it faces and discharge its obligations and responsibilities as provided in the Constitution. If it is weakened for any reason then that shall in turn alienate and isolate the people of the Province not only from the Provincial State but also from the entire National Establishment.

13. Public Administration of the Provincial State

- 1) On the advice of the Chief Minister, the Governor of that Province shall appoint **the Chief Secretary, Ministerial Secretaries, Heads of Departments / Boards, and Heads of Districts** from the National Administrative Service officers in the Provincial administration.
- 2) Appointments of the **executive head of the professional or the technical departments shall be made by the Board of Ministers** from among personnel of the relevant services of the Province, in accordance with the laws made by the PLC.
- 3) All other appointments to the Provincial public administration shall be made by the Board of Ministers of the Province from the National Services or Provincial Services in compliance with the law of the PLC.
- 4) **The Provincial Public Service Commission and the Provincial Police Service Commission** shall function as advisory and subordinate parts of the Provincial Government, in the matters of recruitment, appointments, regularizations, promotions, etc. of Provincial State service personnel.

14. Provincial Administration of Justice

- 1) Provincial Govt. shall constitute and administer the Pradeshya Divisional Courts in accordance with the laws made by the PLC.
- 2) There shall be a **Provincial Judicial Service Commission (PJSC)** in each Province. This Commission shall function as an advisory and

consultative body to the Provincial Government on the matters of the administration of justice in the Province.

- 3) **Judges to such Pradeshya Divisional Courts** shall be appointed by the governor on the recommendations of the PJSC.
- 4) This commission shall be appointed by the Governor on the advice of the Board of Ministers.
- 5) There shall be a '**Rural Juries Board**' constituted and regulated by the PJSC, in accordance with the laws made by the PLC, to every Grama Division for settling the disputes at local level itself.
- 6) The Governor shall appoint or dismiss the **Justices of Peace** in the Province with the concurrence of the PJSC.

15. **The Provincial Attorney General / Advocate General**

- 1) There shall be an Attorney General for every Provincial State, as there is an Attorney General for the Union.
- 2) Functions and responsibilities of the Provincial Attorney General shall parallel with the Attorney General of the Union.
- 3) The Governor shall appoint the Provincial Attorney General on the advice of the Chief Minister.
- 4) **The Attorney General of the Province is the chief advocate of the Provincial Government.**
- 5) All the matters related with the Attorney General shall be determined by the PLC.

16. **Basic Rights of the Provincial Legislative Council**

- 1) **The Provincial Legislative Councils (PLCs) shall make laws and statutes on all the subjects not reserved exclusively to the Parliament in the Constitution.**
- 2) The PLCs shall make laws and statutes or pass resolutions and recommendations without violating the conditions as laid in the Constitution.
- 3) The PLCs and its members should have the immunities and the privileges as much as those provided to the Parliament and its Members.
- 4) **Legislative Powers of the PLCs shall be transferred when the particular Provincial State is under the President's Rule. However, the executive powers of the Provincial Govt. shall not be transferable at any moment.** In the event of suspension or dissolution of the PLC under specific Emergency Regulations, the Governor shall exercise all the executive powers directly through the Secretaries of the Ministries.

17. **Provincial Constitution**

- 1) The PLCs may make their own Constitution by two third majority, in compliance with the Constitution of the Republic. Such Constitution may be suspended by the President when the PLC is dissolved under the "emergency". However, the revocation of such Constitution. Constitutionality of such Provincial Provincial Constitution. Constitutionality of such

Provincial Constitution, in full or part thereof may be determined by the Supreme Court alone, as and when it is sought.

- 2) The Constitution may bind the PLC and Provincial Govt. from acting detrimentally to the unity and integrity of the country. But they should have the right to make representation with suggestions, proposals and recommendations to the Union Govt. on any matter where the power of final decision and implementation is vested with the Parliament and the Central Government.

18. Formation of the Provincial Government

18a: Formation of Board of Ministers:

Formation of the Board of ministers for the Province should be the prerogative of the leader of the Party or a coalition which commands the majority in the PLC following an election.

There has been a strong view expressed since the Constitutional Reform proposals presented by the former President Chandrika Kumaratunga, that the appropriate form of governance should have (1) an Executive Ministerial Committees representing all the parties elected to the PLC and (2) the formation of the Board of Ministers comprising all the parties represented in the Provincial Legislative Assembly according to their proportion of representation.

This is inappropriate for the following reasons:

- 1) The Tamils' demand cannot be simplified to a demand for an administrative reform. It is a demand for a sharing political power.

- 2) Democratic aspirations of the people of the Province have to be allowed to evolve on its own.
- 3) Even if there is a specific need for an interim arrangement for a particular prevailing situation, it should not be made a permanent arrangement that may impair long term purposes and be a hindrance to all positive political developments.
- 4) **Where a Govt. is constituted by an appointment of Ministers from all Parties, irrespective of their ability to identify with a united political program, the head of the particular Govt. and other ministers cannot be bound by the conventional democratic norms or the Constitutional duty and obligation of collective responsibility, answerability and accountability to the house of representatives of the people of the Province. Furthermore, this form of a Govt. would pave the way for inefficiency and ineffectiveness in its functions and commitments that would, in turn, make the people become isolated and frustrated. Formation of the Board of Ministers must, therefore, be continuously allowed to be the prerogative power and authority and responsibility of the Chief Minister who belongs to a particular Party or to an alliance that commands majority of the House.**

By the executive committee form of ministries, the posts of Chief Ministers of the Provinces are made mere nominal. The Chief Minister has no prerogative power in appointing Ministers or assigning Ministers. So, the Chief Minister shall become simply a convener and figure-head chairman of the Board of Ministers.

Suppose by any reason, the Central political leaders feels that this collective form of Govt. formation is a good form of democracy or essential for the country, the application and practice of such system should be commenced at the Centre. **Let the Provincial councilors and governments follow and learn from the Parliament in the formation of their committees and in establishing customs and conventions in their own functions and procedures and codes of conduct for conducting their business.**

18b. Number of Ministers in the Provincial Cabinet

The number of Ministers on the Board of Ministers should not be fixed by specific designations in the Constitution. However, **limitations of the maximum and minimum number of Minister Posts in the government (including that at the Centre) can be made by provisions of principle guidelines in the Constitution.** For example, the number in the Board of Ministers for the Centre or a Province should not be less than five persons and not more than fifteen percent (15%) of the total membership of the House.

It is essential that the Constitution have provisions to comply the Center and the Provinces to have Ministers so as to represent the population ratio of communities in their territory of jurisdiction.

19. Financial Devolution

The Provincial State must have sources to receive or obtain sufficient revenue to discharge its duties and responsibilities and implement its development programmes without excessive dependence on the Centre. Accordingly, **the constitution should devolve the financial sources**

sufficiently and have clear provisions for the mandatory allocation from the Central revenue to the Provincial States.

It will take time to develop a proper 'Revenue Collection' machinery at Provincial level. It is the duty and responsibility of the Central Govt. to assist the Provincial State to develop such a machinery. Until the permanent revenue collection set up is built fully, **a transitional arrangement can be provided by the Central govt. in concurrence with the relevant Provincial Govt..** The devolution of financial power, not simply the financial distribution, is imperative to make the other devolution of powers meaningful. **The centralization of financial powers not only erodes the good relations between the Centre and the Provinces but also undermines the basic norms of democracy** since partisan politics of a party at the Centre can destabilize the Provincial system at any point of time when that is ruled by another Party. Therefore without any ambiguity and distortions, all the legislative powers for the Provincial revenues and the revenue collection machineries should be devolved to the Provincial States.

19a. Finance of the Province

It should be generally understood that the devolution of financial powers to the Provincial States should be more than those provided in the 13th Amendment to the 1978 Constitution. **In addition to the fund provided by the National Finance Commission from the revenue of the Union Govt., the following Financial Powers should be devolved and vested with the Provinces as the minimum:**

- a) Taxes on Wholesale and Retail sales within the Province, including the power for Value Added Taxation, since VAT is a reformation of the Sales taxes.

- b) Service taxes.
- c) Taxes on capital and wealth of trading individuals, companies and corporations.
- d) Betting taxes and taxes on prize competitions and lotteries.
- e) Fees and taxes on the possession, transport and sale of intoxicating liquors, including excise taxes on productions and toddy tapping and selling license fees, liquor bar and tavern license fees.
- f) Excise taxes on items of productions and manufactures except those excluded by the Parliament (in this matter the Parliament can devolve the powers on the basis of the size of the industries as if the Provincial Govt. shall have power of taxing excise taxes on productions and manufactures made by factories / industries of less than 50 workers).
- g) Motor vehicle registration and license fees.
- h) Dealership license fees and taxes on drugs and other chemicals.
- i) Duties and Taxes on transfer of movable and immovable properties within the Province.
- j) Toll collections.
- k) Taxes on agricultural and farm incomes.
- l) Fees and fines charged under any act or ordinance related with the matters excluding those in the Central List.
- m) Fees and fines imposed by Courts including stamp fees on documents produced in court.
- n) Regulatory fees and charges on Weights and Measures.
- o) All kinds of land revenues.
- p) Taxes on movable and immovable private properties.
- q) Taxes and license fees on mines and minerals other than those declared by the Parliament law as the source for national income.
- r) Estate duties and taxes on plantation excluding those of tea, rubber and coconut.
- s) Taxes on goods entering into or exiting from the Province.
- t) All types of road taxes.
- u) Taxes on entertainments and amusements.
- v) Aids, Grants and Loans meant for programs and projects of the Provincial Govt. from foreign individuals, private organizations, foreign countries and international donor organizations.
- w) Public debts and grants from Sri Lankans abroad to the Provincial Govt. fund.
- x) Funds and gifts collected from any individual or organization within the country and public contributions collected from the people of the Province for the programs or projects of the Provincial Govt.
- y) Net proceeds of taxes collected by the Centre and transferred to the Province.
- z) Taxes and fees on items other than those not mentioned in either list of devolution.

19b. Finance of the Centre

The following list reserves the sources of the Finance of the Central Govt.:

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

The number of items for the financial income of the Centre may seem to be comparatively less than those in the Provincial List. But, in fact, the total capacity of the revenue receipts of the Central government is much larger than the total sum of all the revenue receipts of all the Provincial governments. This is because the three major sources of Govt. income, 'Taxes on Income', 'Custom Duties' and 'Excise Taxes' (taxes on manufactures), are still retained by the Centre. A major share of the Central income should therefore be distributed to the Provinces according to the approved Development Planning and the annual distribution formula made by a National Economic Planning & Finance Commission.

- Until the Provincial system is geared up to function fully and effectively, taking the extraordinary situation also into consideration, it is the responsibility of the Central Govt. to provide sufficient financial support to the Provincial States.
- There may be an opinion that some of the important taxes must have uniformity through out the country. In such cases the Union Govt. can make upper and lower limits to the Provincial determinations.

19c. National Economic Planning and Finance

Commission (NEPFC)

A National Economic Planning and Finance Commission (NEPFC) should be formed and headed by the Vice President as its ex-officio Chairperson and an eminent person, with the status of a Cabinet Minister, can be appointed by the President as the Deputy Chairperson.

A provision must be enacted in the constitution so that a **minimum of not less than 75% of the revenue from the income taxes, 50% of the revenue from the custom duties and 90% of the Social Security taxes should be distributed to the Provincial States** without any conditions. The formula for distribution of these revenues among the Provincial States shall be determined by the NEPFC after annual discussions with the Provincial governments.

To determine the distribution formula, the NEPFC should consider the population size, the poverty rate and backwardness of the Provinces, the need for the on-going development programmes, etc. However, the year to year variation in ratio of distribution should not be so large as it would affect the management of recurring revenue expenditures.

The NEPFC shall recommend the basics and specifics for grants and credits to the Provincial States from the net revenue of the Union State.

The NEPFC shall also **coordinate all the economic planning of the Union and the Provincial governments and prepare the National Economic Planning and Policies.** This commission shall be the coordinator and monitor of the implementation of the plans and make recommendations to the Union and the Provincial governments on matters related to the plan implementations.

20. Ethnic Proportion in the State Establishments

The Constitution should establish the principle that at least a minimum of the ethnic proportion of the minority communities in the country shall be maintained in the state establishments.

- 1) The National Defense and Central Security Forces.
- 2) The Central police Forces.
- 3) The Central government Service, and
- 4) The Semi Government Service

Correspondingly, every Provincial State should also establish the maintenance of the ethnic proportion at provincial level in providing employment and other opportunities in their respective Provinces.

The national minority communities have been placed at very minimal percentages in the above sectors. Successive Governments, which have made many promises in resolving ethnic conflict, have not initiated any corrective measure on this aspect. In order to rectify the prevailing imbalances, the Government should while **making necessary provisions in the Constitutional proposal, take steps immediately to formulate and implement an urgent program to fill the prevailing huge gap in the State sectors.**

20a. To Build Real 'National Security Force'

Unless the Sri Lankan armed forces are transformed from the present status of being 'Sinhala armed forces' to a real 'National (nationally representing) Security Forces', building of a real united Sri Lanka will be impossible by mere Constitutional reforms or some concessions. **Sri Lankan Armed Forces establishment should intake youths of all communities in substantial proportions and made to interact with each other cohesively and effectively. It is only then it would be able to function impartially with regard to the interests of all the communities in Sri Lanka; it is then only the minority nationalities also will begin to feel that the State Armed Forces are 'their forces'.**

It may be argued that achieving the said goal is not possible in the short run. However, the Government should accept the need for the change in principle and actively work towards it by constantly involving the leaders of minority communities. It may take time. However, it can and needs to be achieved.

Due to the existing terror situation, allowing the Tamil parties who accept electoral politics to have arms and armed cadres is inevitable for their self-defence and protection mainly from LTTE. A few hundred members of different Tamil groups may work along with the armed forces in the North-East. But this cannot be considered as an alternative to induction of the minority communities in the Armed forces. Further more, this practice have only increased the alienation of these groups politically and socially from their own communities.

The building up of Sri Lankan Armed forces reflecting and representing the nation's diversity is a basic need for the country's long-term objectives and stability and that alone will enable the armed forces to deal effectively and easily with any extreme anti - people and anti - social forces.

There may be an apprehension that the LTTE may attempt to infiltrate and implant its informants and cadres into the establishment of the armed forces. Preventing or hesitating to recruit the Tamil youths into the Armed forces because of this is not correct. The checks and balances should be applied in common and discreetly since the past experiences show that among the recruits from Sinhala youths too, there were infiltrators and deserters. Keeping Tamil youths away from the armed forces will continue to alienate the Tamils thereby immensely helping the LTTE and the Sinhala extremists. It will further keep the Tamil masses away from any attempt at integrating the different communities in the country.

EPRLF, therefore, emphasize a large scale induction of Tamil youths into the Sri Lankan Armed forces is very essential by all considerations.

20b. Ethnic Proportion in the Civil and other Services

Civil administrative and other services also have such heavy imbalances, mainly at higher level, due to the war situation lasting now more than 15 years and systematic and discreet manipulations of earlier Governments and the bureaucracy. No effective attempt has taken to remove this discrepancy. **The quantum of ethnic imbalance in all the services should be identified clearly and fully and measures of rectification must be initiated genuinely and decisively with a will and determination.**

Normal procedures and processes, in an extra-ordinary situation and condition, do not allow the Government to achieve these goals. Therefore, the Government should pay special attention and implement programmes to reach the targets in time.

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Annexure - I**Union List****The Subjects on which Legislative Powers exclusively rest with the Parliament****National Security Affairs**

01. National Defense Forces:

- a) Defense of Sri Lanka and every part thereof, including preparation for defense and all such acts as may be conductive in times of war to its prosecution and after its prosecution and after its termination of effective demobilization.
- b) Naval , military and air forces; any other armed forces of the Government of Sri Lanka.
- c) Deployment of any armed force of the Government of Sri Lanka or any other force subject to the control of the Government of Sri Lanka or any contingent or unit thereof in any Province in aid of the civil power, jurisdiction, privileges and liabilities of the members of such development.
- d) Delimitation of cantonment areas and control and regulation within such areas.
- e) Naval, military and air force works, and
- f) National Security Commission.

02. The Central Police :

- a) The Central Police forces, their establishments, maintenance, administration, deployments and functions.
- b) Central intelligence and Central Department of Investigations.

- c) Protection of railway, air services and the industries established by the Centre.
- d) Preventive detention for reasons connected with National Security and foreign affairs.
- e) Central Police Commission.

03. Arms, Ammunitions and Explosives

National Financial Affairs

04. Currency, coinage, notes, other kinds of money, legal tender and foreign exchange.
05. Bills of exchange, promissory notes.
06. Fiscal policy and measures.
07. Central Bank of Sri Lanka.
08. Regulations and control of Commercial banking, insurance and other financial institutions.
09. Regulations of stock exchange and futures markets.
10. Central Budget.
11. Taxations in compliance with the Financial powers devolved by the Constitution
12. Public Grants and Debts of the Central Govt.
13. Foreign Aid and Foreign Investment program of the Central Govt. and the National policy making on Foreign Aid and Foreign Investment.
14. Lotteries organized on country wide basis.
15. Properties of the Central Govt. and Revenue there from.

External Affairs

16. All matters which bring Sri Lanka into relation with any foreign country and the International Organisations.

17. Offences against the law of the nations committed on the high seas or in the air.
18. Adoption of children by foreigners.
19. Citizenship, Naturalisation and Aliens.

Economic Affairs

20. Regulation and Control of Trade and Commerce with other countries.
21. Regulation in maintaining and enhancing quality standards on productions to be exported.
22. Regulating Inter- Provincial Supply and Distribution of specified Essential Items such as Wheat flour, Sugar, Tea, Salt, Coconut, Fertilizers, Cement and Paper.
23. Any Activity beyond Territorial Waters.
24. Tea plantation.
25. Incorporation, regulation and judicial winding up of corporations, whether trading or non-trading.
26. Establishment of National Standard on Weights and Measures.
27. Copy Rights, Patents on Inventions and Designs, Trade Marks and Merchandise Marks.

Transport, Roads and Communications

28. Civil Aviation, Air Ways and Aerodromes.
29. Train Transports, Railways and Railway stations.
30. Harbours and Ports with international trade and transportation.
31. Regulation of Shipping and Navigation.
32. Light house, light ships, beacons and buoys.

33. National Highways (super grade highways connecting District Capitals) and bridges and ferries thereon.
34. Postal and Telecommunications.
35. National Media including Central Broad Casting and Television.

Energy

36. Generation of Atomic Energy and Hydro power.
37. Maintenance and Management of Central Power Grid.
38. Regulations and Development of Fuel Oil Fields, Petroleum and Petroleum products and Mines and Mineral resources specifically listed by the Parliament.

Human Resources Development

39. Education :-
 - a) Schools funded and administered by the Central Govt.
 - b) Universities funded and administered by the Central Govt.
 - c) Establishing and managing institutes on education, technologies, fisheries, business management and industrial research and training etc.
 - d) Examinations for National General Certifications.
 - e) National Education Commission, comprised of representative of the Centre and the Provinces and entrusted with the following functions:-
 - (i) Formulating basic standards of Central Govt.'s Secondary schools and universities and identifying them from each Province in concurrence with the relevant Chief Minister; stipulating criteria for admission into these schools and universities and supervising them.

- (ii) Setting minimum standards for the secondary school teachers training, education, curriculum and recruitment, and
 - (iii) Providing guidelines to maintain a common national standard relating to the Professional educations and trainings.
40. Development of Sports and Sports Infrastructure at National level.
41. Central health administration:-
- a) Existing special purpose hospitals.
 - b) Teaching hospitals affiliated to the Universities administered by the Central Government.
 - c) General regulation on production and distribution of medicines.
42. Regulation and Control on Drugs, Poisons and Narcotics.
43. Labour Welfare :-
- a) National Policy on labour welfare and labour disputes.
 - b) Regulation of labour safety in health hazardous and physically dangerous industries.
 - c) Industrial disputes concerning employees of the Central Govt. and its public sector undertakings.
44. Specially planned Housing program and National Poverty Alleviation program, formulated and planned in consultation with the Chief Ministers and funded by the Centre.

- a) Programs organized on country wide basis.
- b) Determination of and distribution to the beneficiaries shall be made by the concerned Provincial Govt.
- c) Execution of these programs within the Province shall be done by the concerned Provincial Govt.

Inter-Provincial Affairs

45. National Economic Planning and Finance Commission (NEPFC).
46. Provision of regulation on inter- Provincial Transport:-
- a) On carriage of passengers or goods between Colombo and other Provinces, and
47. On carriage of passengers or goods beyond adjoining Provinces
48. Projects on the Inter- Provincial Rivers :-
- a) Setting a formula for water and power distribution from the concerned projects, among the Provinces.
 - b) Planning and construction of dam projects in concurrence with the relevant Chief ministers of the Provinces through which the river flows.
 - c) Mediating on water resources disputes between the Provinces and providing a fair solution.
- ### Law and the Courts
49. The Supreme Court and the High Courts.
50. Criminal law including all matters included in the penal code but excluding offences against laws with respect to any of the matters specified in the Provincial list.

51. Criminal procedures.
52. Civil laws and Civil procedures
53. Contempt of Courts
54. Bankruptcy and insolvency

Public Administration

55. Administrative System of the Union Government to implement the matters in this list.
56. Sri Lankan Administrative Service (SLAS) and Sri Lankan Police Service (SLPS)
57. Central Public Services and the Central Public Service Commission and determination of cadres to the All Sri Lanka Services and the Central Services.
58. Public Sector Undertakings of the Central Govt.
59. Salaries and Allowances of Members, and the Speaker and Deputy Speaker of the Parliament.
60. Powers, Privileges and Immunities of the Parliament and the Members and the Committees of Parliament; Enforcement of attendance of persons for giving evidence or producing documents before Committees of the Parliament or Commissions appointed by the Parliament.
61. Emoluments, allowances, Privileges and Rights in respect of Leave of absence, of the President and the Governors; Salaries and Allowances of the Ministers of the Central Govt; the Salaries and Allowances and Rights in respect of leave of absence and other conditions of service of the Chief Justice, the Commissioner General of Elections and the Chief of Auditor Generals.

62. Pensions payable by the Central Govt. or out of its Consolidated Fund.

Others

63. National Census and Statistics.
64. Audit of the Union and Provincial States.
65. Commissioner General of Elections and Elections other than those mentioned in the Provincial list.
66. National Archives and National Museums and Archaeological Sites declared by the Parliament to be of National Importance.
67. Assistance and intervention in instances of Natural Calamities or Environmental Disasters and Epidemics.
68. National Surveys and Surveys for the purpose of any matter in this List.
69. National Organisations for the Astronomical and the Meteorological Observations.

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Annexure - II

Provincial List

Subjects on which the Legislative powers exclusively vested with the Provincial Legislative Council

01. Provincial Public Administration:

- a) Formation constitution, organisation and reorganisation and regulation of the
 - 1) Ministerial Secretariats of the Provincial Govt.
 - 2) Departmental Secretariats of the Ministries.
 - 3) District Secretariats and Provincial line Ministries, organisations at district level below down to the Grama service sub-divisions.
- b) Appointments, Postings, Transfers and Disciplinary control of administrators of the administrations serving anywhere under the Provincial Govt. whether of the Sri Lankan Service or Provincial Service.
- c) Re-demarcation of boundaries of the existing districts, AGA divisions and Grama sub-division according to convenience of administration of the Province.
- d) Creating and naming new districts in concurrence with the National Economic Planning and Finance Commission.
- e) Creating and naming or renaming any A.G.A. division or Grama sub-division.

02. Provincial Services, Provincial Public Service Commission (P.P.S.C) and determination of cadres to the Provincial services.

03. Law and Public order and Provincial Police:-

- a) Formation, constitution, organisation, administration, regulation and control of Provincial police forces consisting of Provincial Civil Police, Provincial Special Armed Police, Provincial Volunteer Force, Provincial bureau of investigations, Provincial intelligence bureau and other institutions for enforcing the laws and the public order in the Province.

- b) Preservation of public order within the Province and prevention, detection, investigation and Institution of prosecution in the relevant Courts in respect of all offences except the offences specified below:-

- 1) Offences against the President, the Prime Minister, Speaker and Deputy Speaker of Parliament and any Minister of the Centre.
- 2) Offences against any higher level Public officer specified by the Parliament.
- 3) Offences committed against coinage currency, and government stamps.
- 4) Offences against the defense forces.
- 5) International crimes.

Provincial Police Commission.

- d) Administer and control of the personnel of the Central forces made available and placed under the C.M when assistance of the Central Police Forces or of the Armed Forces or both to preserve the public order within the Province have been sought.
- e) Determination of number of cadres and provision of all facilities and necessities excluding fire arms and ammunitions to the Provincial police forces.
- f) Prisons, Reformatories and other institutions of like nature, excluding the prisons of the Central Govt.

04. Development Planning of the Province, including:

- a) Planning and Implementation of Provincial socio-economic development plans and programs.
- b) Formulation of plan strategies and appraisal of the implementations.
- c) Directing and controlling the progress of plans.
- d) Monitoring progress of public and private sector investments in the Province and evaluation of the performance of institutions and enterprises engaged in economic activities in the Province.

05. Land and Land Development, Acquisition, Requisition, Alienation and Settlement:-

Land, that is to say, rights over land, land tenure, land contracts, alienation of land, acquisition and requisition of land, land use, land settlement and land improvement and development, including :

- 1) Registrations, records and administration of all land within the Province.

- 2) All state lands within the Province shall be vested with the Provincial Govt.
- 3) The Provincial Govt. shall administer, control and utilise state land within the Province for its purposes.
- 4) Land may be disposed of by the Provincial authorities in accordance with the relevant laws and statutes made by the Provincial Legislative Council.
- 5) State land within the Province required by the Govt. of the Centre in respect of the reserved subjects shall be utilised by the Centre with the concurrence of the Provincial Govt.. However, for the purposes of National Defense and Security, if there is no compromise between the Centre and the Provincial Governments, it may immediately be resolved by a special decree/order by the President after hearing both the parties and the President, within fourteen days of his order, shall establish a Tribunal to finalise all the details related with the disputes.
- 6) Where ethnic demographic imbalance have been created through schemes of Land settlement since 1970, priority in future land allocations in those areas shall be given to correcting such imbalances and restoring the status quo ante with regard to the ethnic demographic proportions of the Districts in the North-East Province.
- 7) Any State -Aided land settlement scheme pertaining to settlement of Sinhalese in the North-East implemented after 1981, shall be dismantled.

06. Irrigation, Irrigation Canals and Distributaries within the Province:-

- 1) Planning, designing, implementation, supervision and maintenance of irrigation schemes and project works within the Province, other than planning, designing and construction of dam projects on projects on inter-Provincial rivers.
- 2) Regulation and Control of Irrigation and Construction and Administration of all Irrigation Canals and Distributaries within the Province.
- 3) Water storage and management, drainage and embankment and flood protection and planning and implementation of increasing and improvement of water resources.

07. Agriculture and Agrarian Services:-

- 1) Agriculture, including agricultural extension, promotion and education for provincial purposes and agricultural services.
- 2) Promotion, planning and implementation of the agricultural development plan of the tanks and ponds within the Province.
- 3) Establishment and promotion of agro - linked industries.
- 4) Agricultural research and training institutions within the Province.
- 5) Agricultural farms and nurseries.
- 6) Soil conservation.

- 7) Promotion and development of new and improved agricultural engineering and technology.
- 8) Plant pests.
- 9) Regulation and control on use of pesticides and insecticides within the Province.

08. Forests, Forestry and Environmental Protection within the Province in conformity with the National policy of the Central Govt. on maintenance of Ecological and Environmental balance.

09. Animal Husbandry, Veterinary Services and Veterinary Hospitals and Dispensaries and Prevention of Cruelty to the Animals.

10. Fisheries within the Territorial Water including regulation and control on Migratory Fishing.

11. Internal Harbours and Ports.

12. Education and Educational Services, including:

A) Matters related with all schools within the Province, other than the schools of the Central Govt.:-

Establishment, management, supervision and provision of facilities to the Govt. schools.

Regulation control and supervision of all pre-schools and any private school.

Recruitment, appointment, transfer and disciplinary control of educational personnel within the

Province, i.e, teachers, principals and education officers and subordinate staffs.

- 4) Training of teachers including conducting in-service training program to the educational personnel.
- 5) Preparation and implementation of educational development plan of the Province.
- 6) Regulation, construction and maintenance of all educational building, libraries and play grounds and other infra-structural facilities of the govt. schools.
- 7) Procurement and distribution of teaching aids, visual aids and audio visual materials, science laboratory equipment and necessaries, furniture and other needs of the government schools.
- 8) Production of purchasing and distribution or permitting school text books.
- 9) Scholarship and educational awards.

B) Examinations:-

- 1) Conducting of examinations for the Provincial General Certificates.
- 2) Providing field organisation to conduct examinations for the National General Certificates.
- 3) Formulation of curricula in keeping with the guidelines made available by the National Education Commission.
- 4) Implementation of adult and non- formal education.

13. Higher Education, including:

- 1) Universities other than the Universities of the Centre.

- 2) Degree awarding institutes of professional, education, agriculture, fisheries, technologies, co-operatives, industrial research and training etc.at Provincial level.
- 3) Existing technical colleges and those of newly established by the Provincial Govt.
- 4) School for training Auxiliary Medical Personnel.
- 5) Planning and implementation of Distant Education.
- 6) Motor Vehicles and Motor Traffic. including a) Rules and Regulations, b) Provincial registration, c) License to the vehicles and for driving or riding and d) Taxes to be levied on them.

14. Local Governments :-

Information and constitution of all forms of Local governments within the Province, powers and functions of authorities of such governments and supervision and control over them.

1) Selection for the Local Governments

2) Limitation of cities, towns and villages.

3) Planning and construction of new towns and villages.

4) Renaming and renaming of towns, villages and all roads excluding the National highways.

5) Housing and Construction, including:

1) Planning of Provincial Housing Programs.

2) Initiating, coordinating, supervising and executing all housing programs and projects of Provincial Govt. as well as the Central Govt. in the Province.

- 3) Determining the distribution of the houses constructed by the Govt. including the houses built under the specialised housing program of the Central Govt..
- 4) Regulation and control of all the housing construction within the Province.
- 5) Aided self help housing and housing loans.
- 6) Regulation and control of all mines and quarries of building and construction materials.
- 7) Protection of tenants and determination of rent.

16. Urban Development :-

- 1) Promotion of integrated planning of economic, social and physical development of urban areas.
- 2) Designing and implementation of expansion and extension, improvement and new plans of cities, towns and other urban agglomerations within the Province.
- 3) Control and regulation of all constructions within the Province.

17. Administration of Health:-

- 1) Establishment, administration and maintenance of all public hospitals, rural hospitals, maternity homes dispensaries (other than the hospitals attached with the Universities of the Central Govt. and the existing special purpose hospitals).
- 2) Public health services, health education, nutrition, family health, maternity and child health.

- 3) Formulation and execution of Health Development Plan for the Province.
- 4) Medicines including indigenous medicines.
- 5) Medical services and medical institutions, including supervision of private medical care and control of nursing homes and of diagnostic facilities, within the Province.
- 6) Establishment and promotion and regulation and control of Ayurvedic and other Oriental Medical dispensaries and Hospitals.
- 7) Awarding of scholarships for in-service education including Post-Graduate education for the personnel of the Provincial Medical Service.
- 8) Maintenance and procurement of medicines and medical stock.

18. Public Health and Sanitation, including:

- 1) Drinking water supply.
- 2) Sewerages.
- 3) Preventive health activities.
- 4) Health care regulations and control.
- 5) Food sanitation and environment health.
- 6) Promotion of health and hygienic awareness.

19. Roads (excluding National Highways as specified in the Central List) and Internal Water Ways. Bridges and ferries thereon and regulation and control of Carriage of Passengers and Goods on all kinds of Roads within the Province.

20. Surface Transport Services excluding those of Railway within the Province.

21. All the matters related with Electricity and other Energy excluding those mentioned in the Central List.

22. Industries and industrial Development of the Province, including:

- 1) Promotion of industrial development of the Province.
- 2) Formulating and implementing industrial development plan of the Province.
- 3) Promotion and Regulation of Foreign Investments in the Province with the concurrence of the Central Government's policy and in compliance with the related law of the parliament.
- 4) Regulating, controlling, supervising and monitoring all the industries and the public sector units of the Provincial state.
- 5) Promoting industrial education, research and training.

23. Mines and Minerals excluding those specifically declared by the Parliament.

24. Rural Development, including Rural Development Programs aided by the International Organisations.

25. Employment:

- 1) Employment planning and implementation at Provincial level.

- 2) Special Employment Programs related to the Province.

- 3) Promotion of Youth employment activities relating to the Province.

- 4) Technical manpower development program in relation to the Province.

26. Relief, Rehabilitation and Reconstruction and Social Services:-

- 1) Restoration, reconstruction, and rehabilitation of towns, villages, public institutions and their properties destroyed or damaged..

- 2) Granting of compensation or relief to persons or institutions who have sustained loss or damage;

- 3) Relief, rehabilitation and resettlement of displaced and disabled persons.

- 4) Relief of distress due to war, cyclone, epidemics or other exceptional causes and of those affected.

- 5) Probation and child care services.

- 6) Rehabilitation of destitute families.

- 7) Welfare of physically, mentally and socially handicapped persons.

- 8) Social Insurance and other Basic Social Securities.

- 9) Care of unemployed.

27. Promotion, Development and Regulation of Tourism in the Province in accordance with the National policy made by the Parliament.

28. Lagoons, Bays and Beaches within the Province.
29. Hotels, Motels, Inns and all Circuit Bungalows and Rest houses.
30. Promotion and Development of Arts, Literature and Cultural Activities within the Province.
31. Co-operatives and all the matters related with Co-operative Banks and Co-operative societies and Elections to them.
32. Maintenance, Supply, Distribution, Procurement and Rationing and Rationing of Food and Food Stock within the Province.
33. Markets and Fairs in the Province.
34. Regulation and control on Wholesale and Retail business places, Warehouses and Go-downs.
35. Surveys relating to the matters enumerated in this list.
36. Incorporation, Regulation and Judicial winding up of Corporations, Companies whether Trading or Non-Trading, with objectives to have Establishments and Business within the Province.
37. Women and Youth Affairs in accordance with the National Policy made by the Parliament.
38. Trade Union Activities, Welfare of the Laborers and Labour Disputes within the Province, excluding Labourers of factories and other Institutions administered by the Central Government.

39. Broadcasting and Media, including Television, in compliance with the regulations made by the Parliament.
40. Provinces and Religious Places within the Province;-
 - 1) Maintenance of historical places and their sacred environment.
 - 2) Upholding equal rights on different worships and beliefs.
 - 3) Preserving peace and tranquility between different religious life.
 - 4) Promotion and regulation of festivals and exhibitions.
41. Recreations, including:
 - 1) Regulation and control on cinema halls and theaters of entertainments and other amusements.
 - 2) Encouragement and development of holiday retreats and resorts.
 - 3) Establishment and development of recreational parks and grounds.
 - 4) Promotion and regulation of festivals and exhibitions.
42. Sports and sports infrastructure within the Province.
43. Archaeology:-

Archaeological activities including survey and excavations of archaeological sites within the Province in cooperation with the National

Archaeological Society and maintaining and preserving archaeological sites and remains, other than those declared by Parliament to be preserved by the Central Govt..

- 44. Promotion and Development of Libraries and Establishment and Administration of Public Libraries and the Provincial Library Service.**
- 45. Provincial Archives, Museums and Monuments within the Province, excluding the National Museum and National War Memorials.**
- 46. Development and Regulation of Printing and Publications excluding Daily and Weekly Newspapers and printings and publications of the Central Govt.**
- 47. Regulation of unincorporated Non-Trading Literary organizations.**
- 48. Domestic and International borrowings by the Provincial Government within the conditions specified by the Central Govt.**
- 49. The Regulation and Promotion of Foreign Aid and Foreign Direct Investment to the Province.**
- 50. Provincial Financial and Credit Institutions in accordance with the Regulations of the Centre.**
- 51. Provincial Budget.**
- 52. Provincial Census and Statistics.**
- 53. Price Control and Regulations on Goods other than those specified by the Parliament for the Central Govt. to control.**

54. Direct Investments and Economic Activities, including

- 1) Provincial public sector undertakings.
- 2) Export and Import activities under the regulations of the parliament.
- 3) Establishing business undertakings of banking, insurance, shipping and so on in accordance with the rules and regulations of the Centre.

55. Regulation and Control on Pawn Brokers and Informal Money lending and Money Lenders.

56. Production, Possession, Transport, Purchase and Sale of Intoxicating Liquors and all the other related matters.

57. Determination and Collection of Taxes, Duties and Fees and other Revenue of the Provincial Govt.

58. Pensions payable by the Govt. of the Province out of the Consolidated Fund of the Province.

59. Salaries and Allowances of the Members, the Speaker and Deputy Speaker of the Provincial Legislative Council.

60. Powers, Privileges and Immunities of the Provincial Legislative Council and of the Members and the Committees of the Council; Enforcement of Attendance of Persons for giving evidences or producing documents before Committees of the Council or Commissions appointed by the Council.

61. **Emoluments, Allowances, Privileges and Rights of the Chief Minister and other Minister of the Govt. of the Province; Emoluments, Allowances and Rights in respect of leave of absence and other conditions of Service of the Public Servants who are recruited and appointed by the Govt. of the Province.**
62. **Internal Audit of the Accounts of the Provincial Government.**
63. **Registration of Births, Marriages and Deaths.**
64. **Marriage or Divorce, Infants and Minors, Adoption, Wills, Intestacy and Succession, and Personal Law in accordance with the Laws made by the Parliament.**
65. **Transfer of Property, Registration of Deeds and Documents within the Province.**

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