

PROPOSALS MADE BY

AKHILA ILANKAI TAMIL MAHASABHA

TO BE INCLUDED IN A NEW CONSTITUTION

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Executive Summary

1. As against the existing unitary State, the Mahasabha has proposed a federal State without making use of the word “federal”.
2. The Sovereignty shall vest in the People.
3. The legislative power of the People shall be exercised at the election of Members of Parliament and at the election of members of the Regional Councils and at Referenda.
4. The executive power of the People shall be exercised by the President acting on the advice of the Cabinet of Ministers, and by the Governors of the Regions acting on the advice of the respective Board of Ministers.
5. The franchise of the People shall be exercised at the election of Members of Parliament, the election of the members of the Regional Councils, and at the election of members of local authorities, and at referenda.
6. The national flag shall be as at present, and it may be altered by resolution passed by Parliament.
7. The national anthem shall be as at present, equally valid in Sinhala and Tamil.
8. The President shall be the Head of State and the Prime Minister shall be the Head of Government. The form of Government will be Parliamentary.
9. The President shall be elected by an electoral college consisting of members of both Houses of Parliament and members of all Regional Councils and of the Capital Territory.
10. The Vice President shall be from an ethnic group different to that of the President at the time of election, and shall be elected by an electoral college consisting of members of both Houses of Parliament.
11. If a person other than a Member of Parliament or of the Senate is appointed a Minister of the Cabinet, that person would be required to acquire membership of Parliament within six months of his appointment.

12. Although Sinhala and Tamil have been declared to be the official languages of Sri Lanka, the provisions in respect of language have not been implemented due to the indifference of top officials. The language of official records in the districts of Northern and Eastern Provinces shall be Tamil, while it shall be Sinhala in the other districts. Where one of the official languages is the language of record of a Division, and, if the population that speaks the other official language is more than 10 %, the other official language shall also be a language of record in that division.
13. We have commended the inclusion of fundamental, individual and group rights incorporated in the South African Constitution, as well as certain provisions of the Constitutional Bill of 2000. We have also commended the inclusion of Section 29(2) of the South African Constitution, with suitable modifications, as a Group Right.
14. The Legislature at the Centre should be bicameral. The Parliament should continue to have 225 members, 160 members elected on the First Past the Post principle and the balance 65 on the basis of district proportional representation based on remainder votes. Since the country is going to experiment with the FPP and proportional representation based on remainder votes for the first time, the cut-off set at 5% has no rational basis. The cut-off should be natural.
15. There should be no National List in the election of Members of Parliament. At the Centre, the two major parties should strive for stability by not by appointing members from a National List, but by forming alliances with parties representing national ethnic minorities. Such action would auger well for national unity.
16. The upper house, namely, the Senate should have 45 members, at the rate of 8 per Regions (5 Regions) and 2 for the Capital Territory, and 3 nominated members. The Vice President and Chief Ministers of the Regions shall be non-voting members of the Senate. The Vice President shall preside over the Senate. The Senate will have the power to vote down Bills other than Money Bills.
17. Constitution and not the Parliament, shall be supreme. This has to be ensured by the Constitutional Court. The Constitutional Court shall be outside the normal court structure.

18. The Judicial Service Commission shall consist of the Chief Justice, the seniormost of the Chief Judges of the Regions, the Cabinet Minister in charge of the subject of Justice, two practicing attorneys and a teacher of law at a Sri Lankan University.
19. All judges other than judges of District and subordinate courts shall be appointed by the President after ascertaining the views of the JSC. Appointment of Judges of District and subordinate courts shall be made by the Governors after ascertaining the views of the Chief Judge of the respective Regions and of the Judicial Service Commission.
20. There shall be a Regional Advocate General for every Region.
21. There shall be five Regions and the Capital Territory. The Northern and Eastern Provinces minus Dehiyattakandiya Division will form one Region. The Central, Uva and Sabaragamuwa Provinces minus Moneragala District will form another Region. The North Central Province plus the Dehiyattakandiya Division and the North Western Province will form the third Region. The Southern Province plus Moneragala District will form the fourth Region. The Western Province minus the Capital Territory will be the fifth Region.
22. Only the Muslim community and the Indian Origin Tamil community will be entitled to Cultural Community Councils. If more than 100,000 persons of a particular community live in a contiguous area and that community constitute more than 50% of the population of each of the DS Divisions of that that contiguous area, then that community will qualify for a Cultural Community Council. There will be two Cultural Community Councils for Muslims and one Cultural Community Council for Indian Origin Tamils. The two Councils for the Muslims will be in Ampara and Puttalam Districts while the Council for Indian Origin Tamils will be in the Nuwara Eliya District.
23. The Constitutional Council should not consist of Members of Parliament, other than Ministers with executive authority. Otherwise the principle of separation of powers will be violated. The Constitutional Council should be renamed as the Higher Appointments Council in view of the establishment of a Constitutional Court. It should be headed by the Vice President. The appointment of Heads of Sri Lankan missions abroad should be subject to the recommendations by the Higher Appointments Council.
24. In respect of the public services, there should be All Island Services, National Public Services, Regional Public Services as well as Regional Local Government Services. The

classification as All Island Services should be restricted to a minimum number of services. All Government Agents, Divisional Secretaries and Grama Niladharis should form part of the regional public services. Provisions of the Provincial Councils Act No.42 of 1987 with regard to the public service with suitable modifications should be included in the new Constitution.

25. There should also be an All Island Service, the Sri Lanka Police Officers Service, consisting of officers upwards from the rank of Deputy Superintendent of Police.
26. The Power sharing is detailed in five Lists. There will be a National List, a Regional List and a Concurrent List containing a minimum of subjects. There will also be a List for Local Authorities (executive power only) and another List for Community Councils(executive power only). Further, we commend Sections 3 to 14 of the Provincial Councils Act No. 42 of 1987 be incorporated in the new Constitution with suitable changes in words.
27. There will be a single Police Force for Sri Lanka, headed by a Director General of Police. Each of the Regional Police Divisions will be headed by an Inspector General of Police.
28. The Supreme Court shall have the power to review pre-enactment review of legislation. The Constitutional Court shall undertake post-enactment judicial review of legislation.
29. Members of Parliament should not be entitled to financial allocations to be disbursed at the District Coordinating Committee meetings. This would negate the principle of devolution of powers to Regions.
30. The Secretary to the Treasury and the Governor of the Central Bank should not be members of the Finance Commission. However, they should be required to assist the Commission.
31. District Coordinating Committees should be presided over by the Chief Minister or another Minister of the Region.

32. A Bill to amend any provision of the Constitution other than a provision relating to Powers to the Regions shall be approved by two-thirds of the members (including those absent) of each House of Parliament sitting and voting separately.
33. A Bill to amend the provisions of the Constitution relating to Powers of Regions shall be approved by every Regional Council by 50% (including those absent) majority and 50 % majority of each House of Parliament (including those absent) sitting and voting separately.

1. NATURE OF THE STATE

The use of distinctive expressions, such as. unitary, federal, union of regions or provinces, among others, will be avoided. In this regard, the following shall be contained in the Constitution:

1. The name of the State shall be The Republic of Sri Lanka, historically referred to in Tamil by its ancient name, Ilankai.
2. Sri Lanka is one free, sovereign, independent and secular State consisting of the institutions of the Centre and of the Regions which shall exercise power in the manner provided for in the Constitution.
3. The territory of the Republic shall consist of the Regions, including the Capital Territory, as defined in the First Schedule, and its territorial waters and airspace and the Republic shall have all rights recognized by law, custom and usage, pertaining to such territory.
4. The State shall be obliged to safeguard the independence, sovereignty, unity and territorial integrity of the Republic and shall preserve and advance a Sri Lankan identity, recognizing the multi-lingual, multi-religious, multi-ethnic, and multi-cultural character of the Sri Lankan society.
5. A Regional Council or a Regional Government 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 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.
6. The restrictions placed in paragraph 5 shall not preclude any Regional Council or Regional Administration from altering the name of that Region after notifying the Centre, or to make

representations to the Central Government regarding the matters referred to above in 5 (a), (b) or (c).

2. FORM OF GOVERNMENT (PRESIDENTIAL/ PARLIAMENTARY)

1. Sri Lanka shall adopt a Parliamentary form of government at the Centre.
2. The executive powers of a Republic shall be exercised by the President who shall act on the advice of the Prime Minister and the Cabinet of Ministers . The President shall be the Head of State and the Prime Minister shall be the Head of the Government.
3. As a rule members of the House of Representatives or the Senate (the Parliament) shall be eligible to be appointed as Ministers and Deputy Ministers of the Republic. However, if a person other than a Member of Parliament is appointed a Minister, he would be required to acquire membership of either House of the Parliament within a period of six months.
4. The Vice President shall act as the President during any casual vacancies in the office of the President or during the absence of the President. Whenever the Vice President acts for the President he shall have all the powers of the President.
5. The Vice President shall be elected by an electoral college consisting of members of both Houses of Parliament and the elected members of the Regional Legislatures.
6. The executive powers of a Region shall be exercised by the Governor who shall act on the advice of the Chief Minister and the Board of Ministers of the Region.
7. The Governor of a Region shall be appointed by the President with the concurrence of the Chief Minister of the Region.

3. BASIC STRUCTURE OF THE CONSTITUTION

1. In the Republic, Sovereignty is in its People and is inalienable.
2. Sovereignty includes the power of legislation, executive, judiciary, 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 the election of Members to Parliament and at the election of Members to the Regional Councils and at any Referendum, to the extent and in the manner provided in the Constitution;
 - (b) The executive power of the People shall be exercised by the President of the Republic of the Republic acting on the advice of the Prime Minister and the Cabinet of Ministers, and by the Governors of the Regions acting on the advice of the respective Chief Ministers and the Regional Boards of Ministers.

(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, and of the Regional Councils and of its Members, and may be exercised directly by Parliament or by the respective Regional Council 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;

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

3. The National Flag of the Republic shall be as depicted in the Second Schedule and may be altered by Parliament by resolution.

4. The National Anthem of the Republic shall be as set out in the Third Schedule, the Sinhala and Tamil versions being equally valid, and may be altered by Parliament by resolution.

[It should be noted that the National Anthem of Canada is equally valid in the English and French languages. The National Anthem of Switzerland is equally valid in all four national languages, namely, German, French, Italian and Romansch]

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

4. CITIZENSHIP, RELIGION, FUNDAMENTAL RIGHTS AND DUTIES, LANGUAGE RIGHTS, INDIVIDUAL AND GROUP RIGHTS, DIRECTIVE PRINCIPLES OF STATE POLICY

Citizenship

We recommend that the provisions of Chapter V on 'Citizenship' in the Constitution Bill of 2000 be wholly incorporated in the new Constitution.

Religion

We recommend a secular State of Sri Lanka. The foremost position given to Buddhism in the Constitution of 1972 arises from the misconception that when Ceylon came under British rule, the British rulers agreed to give Buddhism all protection and a pre-eminent place in the Kandyan

Kingdom. As it can be seen such an argument is applicable only to the surrender of the Kandyan Kingdom and not to the surrenders of the Jaffna Kingdom or the Kotte Kingdom to the Portuguese invaders. Hence, what was applicable to the Kandyan territory cannot be applied to the other two territories. It is for this reason that we recommend a secular State of Sri Lanka. We however, recommend that the following be included under this caption:

- (1) Subject to public order, morality and health, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.
- (2) Subject to public order, morality and health, every religious denomination or any section thereof shall have the right –
 - (a) to establish and maintain institutions for religious and charitable purposes;
 - (b) to manage its own affairs in matters of religion;
 - (c) to own and acquire movable and immovable property; and
 - (d) to administer such property in accordance with law.

Language Rights

1. Provisions of Chapter IV of the 1978 Constitution provides for the use of Sinhala and Tamil as the official languages of Sri Lanka. They also provide for the rights of ordinary persons in any part of the country with regard to the use of Sinhala, Tamil or English in communicating with officials of the Government and receiving responses thereto, and, for the rights of persons to give information with regard to the commission of an offence to a police or peace officer in any of the three languages.

2. It is not only the lack of staff capable of working in the Tamil language that had been the main cause of non-implementation of the provisions of the Constitution with respect to Language, but the indifference of many heads of departments that had resulted in this situation, and consequently, Tamil speaking persons (i.e. Tamils and Tamil-speaking Muslims) have been encountering difficulties in their interaction with the State.

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

4. We are however of the view that although the provisions of Chapter IV of the 2000 Constitution Bill in respect of Language is an improvement on Chapter IV of the 1978 Constitution, they also suffer from similar lack of clarity in some of the Articles. In view of this complexity, we recommend that the proposed Constitution should meet the following requirements with respect to Language, in addition to incorporating other specified provisions in the 2000 Constitution Bill:

(1) Sinhala and Tamil shall be official languages and languages of administration, while Sinhala, Tamil and English shall be the national languages, of Sri Lanka. [Articles 32, 33, 35(1) of the Constitution Bill of 2000].

(2) Sinhala and Tamil, and where expedient, English, shall be used for the maintenance of public records by national Ministries and the Head Offices of all national public institutions, irrespective of their locations, and by national and regional institutions in the Capital Territory .

(3) Sinhala shall be the language used for the maintenance of public records by national and regional institutions in all the Regions other than the North- East Region, where Tamil shall be so used.[Article 35(2) modified of the Constitution Bill of 2000].

(4) Sinhala shall also be used as a language of public records in administrative divisions of the North-East Region wherein the Sinhala-speaking population exceeds 10% of the population of the respective division, and, Tamil shall also be a language of record in administrative divisions outside the North-East Region wherein the Tamil-speaking population exceeds 10% of the population of the respective division.[Article 35(3) modified of the Constitution Bill of 2000].

(5) A person in any part of Sri Lanka shall be entitled to communicate and transact business with any institution of the State in any of the national languages and to receive response to such communication in the same language. [Article 36(1)(a) modified of the Constitution Bill of 2000].

(6) A person in any part of Sri Lanka shall be entitled to give information regarding the commission of an offence to a police or peace officer in any of the national languages, and such information shall be recorded in that language. [Article 36(1) (e) modified of the Constitution Bill of 2000].

(7) A person shall be entitled to give information as regards any birth, death or marriage in any of the national languages, and to receive the original certificate of such birth, death or marriage in the language of record of the area together with a translation thereof in any national language, or, in the official language of the person's choice if both official languages are languages of record of the area, together with a translation thereof in any national language.[Article 36(1)(d) modified of the Constitution Bill of 2000].

(8) Where a document is executed by an official for the purpose of being issued to a person, that person shall be entitled to obtain such document in the language of record of the area, or the official language of the person's choice if both official languages are languages of record of the area, together with a translation thereof in any national language. [Article 36(1) (c) modified of the Constitution Bill of 2000].

(9) A person shall be entitled, if the law recognises the person's right to inspect or to obtain copies of or extracts of any register, record, publication or other document, to obtain a copy of, or an extract from, such register, record, publication or other document, together with a translation thereof in another national language. [Article 36(1) (b) modified of the Constitution Bill of 2000].

(10) Any institution of the State which maintains its records in Sinhala shall be entitled to communicate and to receive communication from and to communicate and transact business with any other institution of the State in Sinhala, if the latter maintains its records in Sinhala or both in Sinhala and Tamil. The same shall apply, *mutatis mutandis*, to an institution of the State which maintains its records in Tamil. [Article 37(1) modified of the Constitution Bill of 2000].

(11) Any institution of the State which maintains its records only in Sinhala shall communicate and receive communication from and to communicate and transact business in English with an institution of the State which maintains its records only in Tamil, and *vice versa*. [Article 37(2) modified of the Constitution Bill of 2000].

(12) A person shall be entitled to be examined through the medium of any of the national languages at any examination for the admission of persons to any national or regional service or any public institution, subject to the condition that the person may be required to acquire a sufficient knowledge of either or both of the other two national languages within a reasonable period after admission to such service or public institution where such knowledge is reasonably necessary for the discharge of duties of the person. [Article 38(1) modified of the Constitution Bill of 2000].

(13) A school imparting primary or secondary education shall ensure that a person educated through the English medium shall also have an adequate knowledge of Sinhala or Tamil, or both. [to be included as a proviso to Article 46 of the Constitution Bill of 2000].

(14) In order to facilitate better communication among the ethnic groups and to promote national integration,) Sinhala, Tamil and English languages shall be made compulsory subjects at the GCE (O/L) examination. This could be done in a staggered manner in view of resource constraints.

(15) Sinhala shall be the language of record and proceedings of all courts other than those in the North-East Region, where Tamil shall be so used. [Article 42(1) modified of the Constitution Bill of 2000].

(16) The Minister of the Cabinet of Ministers to whom the subject of Justice is assigned, may, with the concurrence of the Cabinet of Ministers, and, with the concurrence of the Chief Minister

of a Region where applicable, direct that the language of record and proceedings of any court shall also be in a national language other than the language of the court. [Article 42(3) of the Constitution Bill of 2000 appropriately modified].

(17) All three national languages shall be languages of record and proceedings of the Supreme Court and the Court of Appeal.

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

Fundamental Rights and Individual and Group Rights

1. The Constitution shall have a comprehensive Bill of Rights that guarantees not only civil and political rights but also group, social, economic, cultural and children's rights. The South African Constitution and Chapter III of the 2000 Draft Constitution are commended in this regard. The following provisions should be included in the Constitution.

2. Every person has an inherent right to life and a person shall not be arbitrarily deprived of life.

3. A person shall not be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

4. A person shall not be arrested, imprisoned or otherwise physically restrained except in accordance with procedure prescribed by law.

5. All persons are equal before the law and are entitled to the equal protection of the law.

6. No citizen shall be discriminated against on the grounds of race, ethnicity, religion, language, caste, sex, political opinion, place of birth or any one of such grounds:

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

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

7. Every person lawfully resident within the Republic is entitled to freedom of movement within the Republic and of choosing such person's residence within the Republic; every citizen shall be entitled to leave and to return to the Republic.

8. Every person has the right to respect for such person's private and family life, home, correspondence and communications and shall not be subjected to unlawful attacks on such person's honour and reputation.
9. Every person is entitled to freedom of thought, conscience and religion including the freedom to hold opinions and to have or to adopt a religion or belief of the person's choice.
10. Every person is entitled to the freedom of speech and expression including publication and this right shall include the freedom to express opinions and to seek, receive and impart information and ideas either orally, in writing, in print, in the form of art, or through any other medium.
11. Every person is entitled to the freedom of peaceful assembly.
12. Every person is entitled to the freedom of association.
13. Every citizen is entitled alone or in association with others to enjoy and promote such citizen's own culture and to use such citizen's own language.
14. Every citizen is entitled to the freedom to engage alone or in association with others in any lawful occupation, profession, trade, business or enterprise.
15. Every citizen is entitled to own property alone or in association with others subject to the preservation and protection of the environment and the rights of the community.
16. Pregnant and lactating women shall be provided special care by the society.
17. Every child has the right to be protected from maltreatment, neglect, abuse or degradation; to family care or parental care or to appropriate alternative care when removed from the family environment; and, to basic nutrition, shelter, basic health care services and social services.
18. Every child between the ages of five and fourteen years shall have access to free education provided by the State.
19. A child shall not be employed in any hazardous activity.
20. A person shall not be required to perform forced labour.
21. Every person has the right to safe conditions of work.
22. Every citizen has the right to have access to health-care services including emergency medical treatment; sufficient food and water; and appropriate social assistance.
23. A person shall not be evicted from the person's home or have the home demolished, except as permitted by law.

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

25. The National Human Rights Commission shall be recognized by the Constitution. In addition, and without prejudice to the powers of the National Human Rights Commission, Regions may have their own human rights mechanisms.

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

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

28. Parliament or a Regional Legislature shall not enact any law which shall-

(a) prohibit or restrict the free exercise of any religion; or

(b) make persons of any group, community or religion liable to disabilities or restrictions to which persons of other groups, communities or religions are not made liable; or

(c) confer on persons of any group, community or religion any privilege or advantage which is not conferred on persons of other groups, 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 a religious body is incorporated by law, no such alteration shall be made except at the request of the governing authority of that body:

provided, however, the preceding provisions shall not apply to any law making provision for, relating to, or connected with, the election of members of Parliament or a Regional Council or a local authority, to represent a disadvantaged group.

[This provision contains the substance of Section 29(2) of the Soulbury Constitution].

29. Where a Proclamation has been duly made under the law on Public Security, derogation from the exercise and operation of these fundamental rights, of individuals, to the extent strictly required by the exigencies of the situation and necessary in a democratic society, provided that such measures do not involve discrimination solely on the grounds of language, religion, race, ethnicity, class, gender, sex, caste, national or social origin, is permitted.

Directive Principles of State Policy and Fundamental Duties

1. We commend the substance of Articles 52 and 53 of the Constitution Bill of 2000 on the above subject be incorporated in the Constitution.

2. Article 54 of the Constitution Bill of 2000 be amended to read as:

“The provisions of this Section shall not be enforceable by any Court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.”

5. LEGISLATURE (UNICAMERAL/ BICAMERAL)

1. Parliament shall be bicameral, consisting of a House of Representatives and a second or Upper House, called the Senate.

2. In view of the fact that there will be a Senate, we are of the view that the number of members in the House of Representatives should not exceed 225, which is the current number. Of these, 160 should be elected from the 22 electoral districts through the First Past the Post (FPP) system. The number to be elected on district basis will be 65, on PR system within the electoral districts on the basis of remainder votes.

3. The Consultative Committees of Parliament shall be replaced by Steering Committees .

4. The Chairman of the Senate (the Vice President) shall be the Chairman of the Higher Appointments Committee (currently, the Constitutional Council).

5. A Second Chamber comprising representatives from the Regions would engender in the Regions a strong feeling that they too have a distinct role to play in the national legislature. This would also act as an in-built mechanism against hasty legislation and legislation that may have an adverse effect on the Regions. Such a Second Chamber is found in almost every country where there is substantial devolution of power. A Second Chamber of Parliament should be considered a unifying mechanism.

6. The Second Chamber would also function as a mechanism to rectify possible imbalances of representation in the Lower House. This institution could also facilitate consensus building amongst interest groups.

7. The members of the Second Chamber shall be elected by the respective regional legislatures. The election shall be according to the principle of proportional representation with each regional legislator having one transferable vote. This will facilitate the representation of the different ethnic groups of the Region and small political parties. A similar procedure was used for the election of Senators under the Soulbury Constitution.

8. In determining the size of the Second Chamber we are mindful of the need to maintain a fair

balance between the Upper and Lower Houses. We recommend a ratio of 1:5 between the membership of the Upper House and that of the Lower House. We recommend that the Senate is made up of 42 elected members, at the rate of 8 members representing each of the Regions (5 Regions) and 2 members to represent the Capital Territory, and, 3 members nominated to represent small parties that have not had the opportunity to get elected. Regions which have Cultural Community Councils, will be entitled to elect only 6 members directly to the Senate , setting apart 2 members to be elected by the Community Council.

9. The term of office of members of the Senate shall be six years. One-third of the total number of Senators shall vacate office every two years. The Senators of the first Senate who shall be required to vacate at the end of two years, and, at the end of four years, shall be decided by drawing lots.

10. The Senate shall be presided over by the Vice-President of the Republic who shall not have a right to vote but would nonetheless be entitled to a casting vote.

11. The Chief Ministers of the Regions shall be ex-officio Senators, and, like the Vice President who is the President of the Senate, will not have voting rights.

12. The Senate shall not have the power to initiate Bills, but shall have the power to vote down Bills, other than a Money Bill.

13. The Senate shall have the power to pass all Bills referred to it from the House of Representative, with the power, if the members of the Senate so decide, to refer the Bill back to the House within a period of 90 days, with a request for it to be reconsidered or amended.

14. The Senate shall sit in a joint session with the House of Representatives to debate, whenever that House proposes an amendment to the Constitution. However the voting will be done separately and 2/3 of the total number in each chamber should support an amendment before it could be accepted.

15. The Senate, jointly with the House of Representatives, shall have the authority to appoint Tribunals to arbitrate any dispute that may arise between the Centre and the Regions and the Regions inter se.

6. SUPREMACY OF THE CONSTITUTION OR PARLIAMENT

1. The supremacy of the Constitution shall be recognized and protected by a Constitutional Court which shall be a part of the existing Court structure but separate from the Supreme Court. All acts of commission or omission of the Centre and of the Regions inconsistent with the Constitution shall be void.

2. The holder of the office of President of the Republic shall have personal immunity for any executive action taken by him as long as he holds office. However, all executive actions of the President shall be subject to judicial review.

7. SEPARATION OF POWERS

In order to ensure separation of powers, the following are necessary ingredients in the Constitution:

1. Legislative power is vested in Parliament and in the Regional Legislatures. The President or the Governors can make Ordinances of an urgent nature only when Parliament is in recess or when Regional Councils have been dissolved. However, such Ordinances have to be placed before Parliament or the Regional Legislatures for approval as soon as Parliament or the Regional legislatures become functional.

2. Executive Power is vested in the President acting on the advice of the Cabinet of Ministers and in the Governors acting on the advice of the respective Boards of Ministers of the Regions. Neither the President nor the Governors exercise executive power on their own discretion., unless provided by the Constitution

3. Administration of justice shall be through Courts established by law of Parliament. However, judges of the Supreme Court, the Court of Appeal and the Constitutional Court, who are appointed by the President cannot be removed except by motions passed by Parliament.

4. The judicial powers of the courts shall not be exercised by the President or the Governors, even during periods of states of emergency.

5. In the event of ‘errors’ committed by the executive, organs of Parliament such as the Petitions Committee could give directives to the Executive to correct the errors. But such directives cannot be mandatory.

6. For a proper separation of powers, Members of Parliament who may be classified as ‘pure legislators’ shall not be members of the Higher Appointments Council. Only Ministers could be members of such Council.

8. INDEPENDENCE OF THE JUDICIARY AND THE COURT STRUCTURE

1. The institutions administering justice shall be the Supreme Court, the Court of Appeal, Regional High Courts and other courts, tribunals and other institutions established by the Constitution and by law.

2. The Constitutional Court shall be a specialized court headed by a President.

3. The Court of Appeal shall sit in the Capital Territory and the Regions. The present appellate, revisionary and writ jurisdiction of the Provincial High Courts shall be transferred to the Court of

Appeal and shall be exercised by the Court of Appeal sitting in the relevant Region. It will also have a fundamental rights jurisdiction in respect of alleged violations by Regional authorities. The Court of Appeal will have Divisions, holding sessions in each Regional capital and such other places as may be decided by the Chief Justice of the Supreme Court.

4. Appointments to the Supreme Courts and the Court of Appeal shall be from among Judges, unofficial and official bars and from academia. Appointments shall be upon merit, based on a demonstrable knowledge of the law and known ability to contribute to the laws and legal development of Sri Lanka. The Supreme Court and the Court of Appeal should reflect the pluralistic character of Sri Lanka.

5. The Supreme Court shall consist of the Chief Justice and not less than ten and not more than sixteen other judges appointed in accordance with the Constitution.

6. The Court of Appeal shall consist of its President and not less than thirty and not more than thirty five judges who shall be appointed in accordance with the Constitution.

7. There shall be a single Court of Appeal sitting in each of the five Regions and Capital Territory with an all Island Jurisdiction.

8. The Court of Appeal shall rank immediately below the Supreme Court.

9. All judges of the Court of Appeal shall rank with equal status and shall be chosen by the President of the Court of Appeal to sit in different Regions for different periods of time.

10. The Court of Appeal shall sit in benches comprising of at least two judges, and shall replace the Provincial Civil Appellate High Court.

11. The Court of Appeal shall hear and determine appeals and matters in Revision arising out of decisions made by the High Courts and the District Courts of the Regions, while Appeals and Revisions from Magistrates' courts and other tribunals shall continue to be heard by the Regional High Courts.

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

13. All provisions of the 1978 Constitution which are applicable to the Jurisdiction of the Supreme Court and to the Court of Appeal which do not conflict with the provisions contained in this part of the document, shall continue.

14. There shall be a National Judicial Service Commission consisting of-

- (a) the Chief Justice of Sri Lanka who shall preside at meetings of the Commission;
- (b) the President of the Constitutional Court;

- (c) the seniormost of the Chief Judges of the Regions;
- (d) the Cabinet Minister responsible for the administration of justice, or an alternate designated by that Cabinet Minister;
- (e) two practicing attorneys-at-law nominated by the Bar Association and appointed by the President;
- (f) one teacher of law designated by teachers of law of Sri Lankan universities.

15. All judges, other than judges of District and subordinate courts shall be appointed by the President after ascertaining the views of the National Judicial Service Commission.

16. Judges of District courts and subordinate courts shall be appointed by the respective Governor after ascertaining the views of the Chief Judge of the Region and the views of the Regional Judicial Service Commission.

9. CONSTITUTIONAL COURT

1. There shall be established a Constitutional Court, as a specialized court, to adjudicate on constitutional matters. The Court shall consist of eminent members of the legal community and of others who have specialized knowledge in governance. The Constitutional Court shall be outside the hierarchy of courts set out in the Constitution, in that it would not be a Court to which judges of other courts could expect to be appointed by promotion. However, judges of other Courts having specialized knowledge in constitutional law would be eligible for appointment to the Court. Members of the Court shall be appointed by the President on the recommendation of the National Higher Appointments Council. The Court shall reflect the pluralistic character of the Sri Lankan people. There shall also be a Panel of Experts to assist the Court on specialized subjects, at the discretion of the Court.

2. Where a question of the interpretation of the Constitution or inconsistency of a law, a Regional statute or an emergency regulation with the provisions of the Constitution, or the constitutionality of an act of the President, arises in any proceedings in any court or tribunal, such question shall be referred by such court or tribunal to the Constitutional Court.

3. The Jurisdiction of the Constitutional Court shall be :

(a) To hear and determine appeals arising out of decisions rendered by the Supreme Court on questions that raise matters pertaining to Constitutional Law.

(b) If at any time it appears to the President of the Republic or to the Speaker of the Parliament or to the President of the Senate that a question of law or fact has arisen or is likely to arise which is of such nature and of such public importance that it is expedient to obtain the opinion of the Constitutional Court upon it, they may, at their discretion refer that question to the Court for consideration and the Court may, after such hearing as it thinks fit, within the period specified in

such reference or within such time as may be extended by the President of the Republic, Speaker or the President of the Senate, report to the President its opinion, thereon.

4. The Constitutional Court shall not have original jurisdiction in any matter whatsoever.
5. Appeals to the Constitutional Court shall be made with leave from both the Supreme Court and from the Constitutional Court, or, with leave only from the Constitutional Court where the Supreme Court had declined an application for leave to appeal to that court.
6. The Court shall be constituted with the appointment of not more than 12 judges, of whom one of them shall be appointed as the President of the Court.
7. When the Court has a full complement of 12 judges, the Court shall sit in three separate chambers, at all times, where each will be presided by three judges; so that there will be a group of three judges always not sitting and always making themselves available to write judgments required to be delivered by them.
8. Provided that where the Court for some reason had not been constituted with its full complement of 12 members, the President of the Court has the power to decide upon the number of chambers of the court that would sit at any one time, so as to provide the litigants with the most effective and timely relief.
- 9.. Depending on the availability of suitable persons for appointment, the Constitutional Court may be constituted whenever it becomes necessary with a lesser number of judges.
10. The provisions of Article 107, 110 (2), 110 (3) of the 1978 Constitution shall apply to the judges of the Constitutional Court in the same manner as they would apply to the Judges of the Supreme Court, and the Court of Appeal as if they had been expressly there mentioned and included in the contents of those three Articles.
11. Articles 118, 119 and 120 in particular, and any other relevant Article of the 1978 Constitution shall apply with suitable amendments so as to accommodate the Constitutional Court as the Apex Court in all matters, raising points of Constitutional law of "exceptional importance", which is to be determined ultimately by the Constitutional Court itself.
12. A judge of the Constitutional Court or the Court itself may be required by the President of the Republic to perform or discharge any other duties or functions suitable and appropriate to the role of a judge of that Court, or appropriate to the standing of the Court, which role the Court and its judges are deemed to play under the Constitution.
13. Judges of the Constitutional Court shall be appointed initially for seven years and shall be eligible for re-appointment for the full period of seven years or for a portion of that period as is deemed fit and suitable by the Higher Appointments Council.

14. There shall be no age limit for appointment or for holding office as a judge of the Constitutional Court other than the appointees' mental and physical ability to perform the tasks required of him in his capacity as a member of that Court.

15. A judge of a Constitutional Court may be removed under the procedure laid down in Article 107 of the Constitution.

10. POWER SHARING, DEVOLUTION AND LOCAL GOVERNMENT

Units of Devolution

1. Power shall be shared between the Centre and the Regions as laid down in the Constitution. We are of the view that there should only be five Regions and one Capital Territory. The boundaries of the Regions and Capital Territory are given in the First Schedule.

Cultural Community Councils

2. In addition to the Regions and the Capital Territory, we are proposing three Cultural Community Councils for the Indian Origin Tamils and Muslims within three Regions. The Cultural Community Councils are considered only for minorities within a Region where the majority are of a different group. The criteria we have used with respect to the Indian origin Tamils and Moors (Muslims) is that, for an area to be considered for a Cultural Community Council, there must at least be 100,000 persons of the particular community living in a contiguous area, in addition to that community being more than 50% of the population of each of the Divisions constituting that area.

3. We are not in favour of any non-contiguous areas being attached to these CCCs. Non-contiguous areas with less than 100,000 persons of a community will create serious administrative problems.

4. Indian Origin Tamils are a minority community in the proposed Central Region. However, this community in the Nuwara Eliya and Ambagamuwa Divisions in the Central Region occupy a contiguous area and have a total Tamil population exceeding 300,000. In addition, they form more than 50% of the total population of each of the two divisions. We recommend a Community Cultural Council for the Indian Origin Tamils in the contiguous area of **Nuwara Eliya and Ambagamuwa Divisions**.

5. With regard to the Muslims, more than 60% live outside the North-Eastern Region while the balance live in the North-Eastern Region, but concentrated in the southern part of the Eastern Province. They are a minority in the proposed North-Eastern Region. The Muslims live in concentrations in the Kalmunai, Sammanturai and Pottuvil polling divisions of the Ampara

District. But, unfortunately, of the total Tamil population of 112,750 who live in the Ampara District, 112,400 of them also live within the above-mentioned Kalmunai, Sammanturai and Pottuvil polling divisions. Hence a proposal to satisfy the aspirations of the Muslims by establishing a CCC comprising the entire polling divisions of Kalmunai, Sammanturai and Pottuvil will be at the expense of 99% of the Tamils of Ampara District.

6. As a reasonable alternative, we are proposing the establishment of a CCC for the Muslims in the contiguous area comprising the Muslim-majority Divisions of Akkaraipattu, Addalaichchenai, Nintavur, Irakkamam, Sammanturai, Sainthamaruthu, Kalmunai (Muslim).

7. This area will be the home of 240,000 of the 283,000 Muslims of the Ampara District. This Muslim population will also satisfy the other criterion of the community being more than 50% of the total population of each of the Divisions comprising the area. We therefore propose the establishment of a CCC for the Muslims in the contiguous area comprising the **Akkaraipattu, Addalaicchenai, Nintavur, Irakkamam, Sammanturai, Sainthamaruthu and Kalmunai (M) Divisions.**

8. There is another area of Sri Lanka which satisfies the criteria for establishing a CCC for the Muslims. It is the contiguous area comprising the Puttalam Division and Kalpitiya Division in the Puttalam District. The population of Muslims in this area has just reached 100,000. In addition, the Muslim population in each of the Divisions of the area exceeds 50% of the total population of each of the two Divisions. We therefore recommend the establishment of a Muslim-majority CCC in this area, comprising the **Puttalam and Kalpitiya Divisions.**

9. Although the Tamil population of the Colombo District exceeds 258,000 out of the total population of over 2,300,000, such a population does not live in a contiguous area and do not form at least 50% of the total population of any Division. Hence, there cannot be a claim for the Tamil minority to claim a CCC in Colombo District.

10. The membership of the CCC will consist of all Regional Council members within the CCC area together with the Chairmen of all local authorities within the CCC area. The members will elect their own Head of Executive. He will appoint four other executive councilors to manage the work of the Council. A CCC will oversee the work of all local authorities within its purview. The relevant Regional Council will pass the statutes necessary for a CCC. The execution of the actual work will be in the hands of the CCC. The subjects recommended to be handed over to the CCC are listed in List V of the Fourth Schedule. The CCC will have the power to make by-laws.

Sharing of Power and Devolution

1. The executive powers of a Region shall be exercised by the Governor who shall act on the advice of the Chief Minister and the Board of Ministers of the Region.

2. The Governor of a Region shall be appointed by the President with the concurrence of the Chief Minister of the Region.
3. The Governor shall appoint as Chief Minister, the member of the Regional Legislature who commands majority support in the Legislature. If one single party has the majority of members in that Legislature, then the leader of that party in the Legislature shall be appointed the Chief Minister.
4. The other Ministers of the Region shall be appointed by the Governor on the advice of the Chief Minister.
5. For devolution to be meaningful, it is recommended that the majority of the subjects and functions be categorized as belonging to the National sphere or the Regional sphere with a provision for a Concurrent List consisting of a minimum of subjects and functions.
6. We recommend that the distribution of powers should be explicit and devoid of ambiguity. The Central legislature shall have no legislative power in respect of subjects and functions in the Regional List while Provincial Legislatures shall not have legislative powers in respect of subjects and functions in the National List. Where a subject or function not found in any List is ancillary to a subject or function already included in the Regional List, such subject or function shall be deemed to be an item in the Regional List. All other subjects and functions not explicitly listed in the three Lists shall be deemed to be included in the National List.
7. We also recommend that subjects such as Defence, National Security, Foreign Affairs, Immigration/ Citizenship, Communication, National Transportation, International Commerce/ Trade and Shipping and Navigation which are necessary to ensure the sovereignty, territorial integrity and economic unity of Sri Lanka shall be reserved for the Centre.
8. Where national policy or national standards need to be laid down, it should be done through a participatory process with the involvement of the Regions, culminating in framework legislation passed by Parliament. Framework legislation in respect of a devolved subject shall not amount to law applicable on the subject within Regions, but the Regions would be required to conform to such framework legislation when passing statutes. We have endeavoured to minimize the subjects and functions in respect of which national policy or national standards may be laid down.
9. Devolution of Powers are given in the Fourth Schedule, categorized as follows:

List I-	National List
List II-	Regional List
List III-	Concurrent List
List IV-	Local Authorities List (Executive power only)

List V- Cultural Community Councils List (Executive power only).

10. We commend that Articles 154B(3) to 154B(12), 154C, 154D, 154E, 154F (2) to 154F (7), 154G, 154H, 154Q, 154R (2) to 154R (8) and 154S, of the 1978 Constitution be incorporated in the new Constitution with suitable changes in words.

11. We commend Article 154F(1) of the 1978 Constitution be amended to provide that the number of Ministers of a Region shall not exceed one-eighth of the total membership of the Regional Council, subject however, to a minimum of five and a maximum of twelve.

12. We commend Article 154R(1) of the 1978 Constitution be suitably amended to be consistent with our write-up on 'Finance', and incorporated in the new Constitution.

13. We commend Sections 3 to 14, of the Provincial Councils Act No. 42 of 1987, be incorporated in the new Constitution with suitable changes in words.

Local Government

This has been explained under Appendix III of the Fourth Schedule.

11. SHARING OF POWER AT THE CENTER

1. The Senate will consist of members elected by the Regional Councilors. In that sense, they are Representatives of the Regions. At the Centre, they do have a role in the making of laws. They will have the right to delay or reject laws. Their role at the Centre is a role of a watchdog. This is part of the sharing of legislative authority of the Centre.

2. It is also important that pluralism of the country is reflected in a pluralistic Cabinet of Ministers. This should not be done by appointing members belonging to the different ethnic groups as members of Parliament of the largest party in Parliament and making them Ministers in the Cabinet. The real sharing of power comes from selecting members of the different ethnic groups from political parties elected from the North-East Region and from the Central Region to be Cabinet Ministers. When coalition governments have to be formed with parties from the North-East Region and the Central Region, it should be viewed as a step helping in national unity and national integration.

12. CONSTITUTIONAL COUNCIL AND INDEPENDENT COMMISSIONS

1. In order that the Constitutional Court is held in high esteem, we are of the view that the current Constitutional Council should be re-named as the 'Higher Appointments Council'.

2. There shall be a Higher Appointments Council to ensure the independence of the state

services. There should be a Judicial Services Commission to ensure the independence of the Judiciary of the Republic.

3. The composition of the Higher Appointments Council shall be:

- (i) The Vice President
- (ii) The Prime Minister
- (iii) The Leader of the Opposition in Parliament,
- (iv) The Chairperson of the Chief Ministers Conference, and
- (v) Six other persons who are not Members of Parliament, and whose names are nominated by recognized professional bodies representing the legal, medical, engineering, architectural and accountants professions, and one retired judge of the Supreme Court or of the Court of Appeal.

[Members of Parliament who are not Ministers are exclusively legislators. Hence they should not be members of such Councils, which are required for executive purposes. Otherwise, the principle of separation of powers will be violated]

The Vice President shall be the Chairman of the Council.

4. The Higher Appointments Council shall nominate names for the appointment of Chairmen and members of the nine Commissions specified in Part I of the Schedule of Article 41B of the 1978 Constitution. As far as practicable, the composition of the Commissions should reflect the ethnic composition of the country.

5. All persons sought to be appointed by the President on the advice of the Prime Minister to any of the offices specified below shall also have the approval of the Higher Appointments Council before they are appointed.

Part I

- (a) The President and other Judges of the Constitutional Court.
- (b) Chief Justice and Judges of the Supreme Court
- (c) The President and Judges of the Court of Appeal
- (d) The members of the Judicial Service Commission

Part II

- (a) The Attorney General
- (b) The Auditor General
- (c) The Director General of Police
- (d) The Parliamentary Commissioner for Administration (Ombudsman)
- (e) The Secretary -General of Parliament
- (f) Heads of Sri Lankan Missions abroad.

6. There shall be a Regional Higher Appointments Board comprising seven members, consisting of the Chief Minister, the Chairman of the Regional Legislature, the leader of the Opposition in the Legislature and four other distinguished members of the legal, medical, engineering and accountants professions, appointed by the Governor of the Region. The Chairman of the Legislature shall be the chairperson of the Board.

7. The Regional Higher Appointments Board shall nominate the Chairmen and members of the Regional Public Service Commission, the Regional Police Commission and the Regional Local Government Service Commission. As far as practicable, these Commissions shall reflect the ethnic composition of the Region.

8. The Regional Higher Appointments Board may also be charged with the nomination of any key officials of the Regional Public/ State Service, identified by the Regional Legislature concerned as officers whose independence should necessarily be assured.

13. PUBLIC SERVICE

1. The public service in a devolved system of governance must be organized at the national, provincial and local levels. Under current arrangements, the Provincial Councils Act 42 of 1987 provides for a Provincial Public Service. However the implementation of these provisions was provided for administratively through “National Policy” and effected within the structure of the centralized public service. As a result provincial staffing was determined by the Centre seriously undermining the role and functions of the provincial and local levels.

2. To remedy this situation, it would be necessary to provide for the staffing of public positions required at each level of government according to the service delivery needs in relation to the functions assigned.

3. Devolution of powers to the Regions should not result in an unhealthy duplication of positions and officers in the public service. A point to be noted is that in Germany, the architects of the Constitution wanted to avoid setting up huge central authorities that would take decisions affecting people in far-away places. They therefore placed administration for the most part in the hands of the States. Most administrative authority is delegated to the States, their districts and the various local authorities. Hence the States implement not only their own legislation, but also that of the Federation. When giving effect to federal laws they act either “on behalf of the Federation” or “on their own behalf”. They are agents of the Federation, so to speak, in such fields as motorways, highways and waterways, air transport and nuclear energy. Of course, in such instances, the Federal Government could issue instructions to the state authorities.

4. Giving emphasis to the All Island Services would immensely contribute not only towards emergence of economical and effective services but also services built on national unity and integration.

5. Several years of experience with Provincial Councils has shown that the Centre only gave step-motherly treatment to the personnel requirements of the Provinces. We would have to assume that even if the personnel requirements of the Regions are met in the future, it is very likely that these very Regions will give step-motherly treatment to the personnel requirements of local authorities under their purview. It is therefore proposed that each of the Regions should have its own Regional Local Government Service. Thus, Regional Local Government Services are a necessity to provide effective services by the local authorities.

6. There shall be public services categorized as All Island Services, National Public Services, Regional Public Services and Regional Local Government Services.

7. Parliament may declare by law any public service to be an All Island Service. This shall not preclude a Region in establishing regional services for all or any of the disciplines. The All Island Services shall include services such as, the Sri Lanka Administrative Service, Sri Lanka Engineering Service, Government Medical Officers Service, Sri Lanka Police Officers Service (DSP upwards), Sri Lanka Scientific Officers and Sri Lanka Accountants Service. Parliament shall consult the Regional Councils prior to declaring a service as an All Island Service. Services such as Sri Lanka Planning Service, Sri Lanka Education Administration Service and Sri Lanka Principals Service are services that do not gain experience due to mobility around the Island. Hence, such services do not qualify to be declared as All Island Services.

8. Officers of the All Island Services shall be recruited nationally and regionally (on a delegated basis) and be deployed in the national and regional public services on deputation by the National Public Service Commission. The release of any All Island Service officers to the regional public services shall be agreed to with the respective Regional Public Service Commission. Every officer of an All Island Service recruited to the cadre of a region shall at the outset serve a minimum of 5 years in that Region and a minimum aggregate of 8 years under the Centre and the balance period of service shall be in the region to which the officer was recruited.

9. There shall be a National Public Service Commission (NPSC) consisting of not less than 7 members and not more than 9 members and a Regional Public Service Commission for each of the Regions consisting of not less than 3 members and not more than 7 members. Every Regional Local Government Service Commission shall consist of not less than 3 members and not more than 5 members. The memberships of these commissions shall reflect the ethnic composition at the national and provincial levels respectively. Nearly as may be, one-half of the membership of any of the commissions shall be persons who shall have had a minimum of 10 years experience as an officer under Government.

10. The National Public Service Commission and the Regional Public Service Commissions and the Regional Local Government Service Commissions shall determine the cadres to their respective services, including the All Island Services required to serve the Region.

11. All appointments, transfers, promotions, dismissal and disciplinary control of national public officers shall vest in the National Public Service Commission. It may delegate all or any of its functions in respect of specific categories to a Committee of the NPSC or to any public officer and where appropriate to the Regional Public Service Commissions. An officer of an All Island Service seconded to a regional public service shall have the right of appeal to the National Public Service Commission against any disciplinary action taken against him by any regional public service commission.

12. Committees of the NPSC shall be independent and shall function under the direct supervision of the NPSC. There shall be a minimum of 3 members in each such Committee, one of whom shall be a member of the NPSC, who shall also be the Chairman of the Committee. The other two members shall not be serving public or judicial officers.

13. Devolution of powers has not only to be effective but also devoid of duality. For this purpose, we propose that the district administration to be restructured so as to form part of the regional administration. Thus the Government Agent and the Divisional Secretary should belong to an All Island Service and hold the rank of a head and deputy head of department respectively, in the regional administration. All Grama Niladharis in a Region should also be absorbed into the Regional Public Service of that Province.

14. In view of the importance attached to the districts and divisions in the implementation of regional plans, the Government Agent of a District shall be redesignated as the District Commissioner (DC) while the Divisional Secretary shall be redesignated as the Divisional Commissioner (Div C). The DC who has to report to the Regional Secretary in charge of Home Affairs shall have the rank of an Additional Regional Secretary.

15. Constitutional provisions shall be made to enable the Centre to entrust central functions such as, customs, elections, census, national identity cards, gun licensing etc to the District Commissioner, Divisional Commissioner, Grama Niladhari and other regional officers as agency functions. A sub-secretariat in each of the District Secretariats (Kachcheris)/ Divisional Secretariats will have to be set up under a senior officer to provide services to the public in respect of such central functions entrusted to the District Commissioners/ Divisional Commissioners and others.

16. There shall be equitable representation of the different ethnic communities of Sri Lanka in the public services. Since Sri Lankan Tamils, Moors and Indian Tamils are under-represented in the public service, suitable affirmative action should be taken to remedy the situation. An affirmative action shall be for an interim period to restore the ethnic balance in the public services, and, will be reviewed every five years.

17. The principle for recruitment to the public service shall be merit. However, in view of the ethnic imbalance in the public service, recruitment to public office may be based on regional or national ethnic ratios, as the case may be, and on merit within a particular community, taking

into consideration the actual needs based on linguistic criteria. Such recruitment shall be time-bound until the ethnic imbalance is rectified.

18. Promotion of public officers shall be based on seniority and on merit, based on objective criteria among serving officers within a particular service.

19. The President shall appoint the Cabinet Secretary, the Principal Secretary to the Prime Minister, the Secretary to the President, all Secretaries to National Ministries and other public officers required by the Constitution, on the advice of the Prime Minister or on the recommendation of the Higher Appointments Commission, as the case may be. The appointment, promotion, transfer dismissal and disciplinary control of all Additional Secretaries to Ministries and the Heads of National Departments shall vest in the Cabinet of Ministers.

20. The Governor of a Region shall appoint the Chief Secretary, the Principal Secretary to the Chief Minister, the Secretary to the Governor and other Secretaries to Regional Ministries on the advice of the Chief Minister of the Region. The appointment, promotion, transfer, dismissal and disciplinary control of all Heads of Departments of a Region including the District Commissioners (Government Agent) shall vest in the Board of Ministers.

21. There shall be a Public Services Appeals Tribunal.

22. There shall be a Forum of Chairpersons of Public Service Commissions consisting of the Chairpersons of the National Public Service Commission, the National Police Service Commission, the Regional Public Service Commissions, Regional Police Service Commissions and Regional Local Government Services Commissions.

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

24. The appointment, dismissal and disciplinary control of Advisors and Consultants shall vest in the Cabinet of Ministers and the Board of Ministers of the respective Region, as the case may be. Despite receiving remuneration from the Consolidated Funds, Advisors and Consultants shall not be deemed to be public officers.

25. All the provisions recommended by us regarding the 'Public Services' should form part of the Constitution and not of any law made under the provisions of the Constitution, such as, the Provincial Councils Act No. 42 of 1987.

14. ELECTORAL REFORMS

1. The current Parliament is unicameral. It comprises 225 members elected from 22 electoral districts on the basis of proportional representation. This number consists of 160+36 members elected on the basis of the population. The 36 members are distributed to 9 provinces at the rate of 4 members per province. An additional 29 members are elected through the national list. This system of election replaced the earlier system wherein there was weightage given to sparsely populated provinces. The earlier system which was based on population and areas was more rational than the current system.

2. We are proposing to have a House of Representatives of 225 members elected through a mixed system, but predominantly on the First Past the Post system, together with a district proportional system based on remainder votes. The figure 225 is to be made up of 150 members elected on the First Past the Post and 75 members on district PR. The FPP would consist of around 10 multi-member polling divisions. We do not want an increase in the existing number of members as we are proposing the establishment of a Senate.

3. We, however, do not favour any election through a national list. We do not subscribe to the theory that the two major parties have to be strengthened through a national list in order to have a stable government. We subscribe to the view that stability should be achieved by forming coalitions with regional parties from the North-Eastern Region and the Central Region. Such coalitions are desirable from the point of view of national unity and integration.

4. This is the first time that the country will experiment with the FPP coupled with the District PR based on remainder votes. The votes received by smaller parties could help them win seats in Parliament. A cut-off set at 5% will work against smaller parties. We are therefore not in favour of any cut-off in the votes polled by a Party. Such cut-offs help larger parties.

5. Elections to the Regional Legislatures should also be based on the same system of FPP and PR on remainder votes.

15. JUDICIAL REVIEW OF LEGISLATIONS

1. The Constitutional Court shall have the power to strike down National or Regional legislation which is violative of the Constitution, notwithstanding the fact that such legislation has been duly certified according to the Constitution. All existing law (other than the respective personal laws) shall be read subject to the Constitution.

2. Legislation, whether National or Regional, shall be subject to post-enactment judicial review by the Constitutional Court which shall have the power to declare such legislation void to the extent of inconsistency with the Constitution. To mitigate hardships that may be caused by legal provisions being struck down sometime after enactment, the Constitutional Court shall have the power to limit the retrospective effect of a declaration of invalidity in appropriate cases.

3. The Constitutionality of the pre-legislative Bills may be subjected to judicial scrutiny under the provisions of Article 121 of the 1978 Constitution. The matter shall be heard and determined by the Supreme Court as a court having both original and final jurisdiction from which there shall be no appeal any further to the Constitutional Court.

4. Where the Supreme Court determines that the pre-legislative Bill was *ultra vires* the Constitution, that determination remains final and conclusive with regard to that Bill, and may not be reconsidered thereafter by any other court, including the Constitutional Court.

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

16. POWERS OF PRESIDENT UNDER PARLIAMENTARY SYSTEM

1. The executive power of the Republic shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with the Constitution.

2. The President has to name the Member of Parliament as Prime Minister who enjoys majority support of other Members of Parliament. If a single party has an absolute majority in Parliament, the President is obliged to call upon the leader of that party in Parliament to be the Prime Minister.

3. There shall be a Cabinet of Ministers with the Prime Minister at the head to aid and advise the President who shall in the exercise of his functions, act in accordance with such advice:

provided that the President may require the Cabinet of Ministers to reconsider the advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration.

4. The President shall make rules for the allocation of business among the Ministers.

5. The President shall have the power to call for information on all decisions of the Cabinet of Ministers relating to the administration of the affairs of the Republic, and proposals for legislation.

6. The President may require the Cabinet of Ministers to consider any matter on which a decision had been taken by a Minister, and which had not been considered by the Cabinet prior to such decision.

7. The supreme command of the Defence Forces of Sri Lanka shall be vested in the President, and the exercise thereof shall be regulated by law.

8. When both houses of Parliament are in recess, and an emergency situation arises, the President shall have the power to promulgate Ordinances . Such Ordinances are required to be approved by both Houses of Parliament when they reconvene.

9. When a Bill has been passed by both Houses of Parliament and then presented for the assent of the President, he may assent or return it to Parliament to reconsider the Bill indicating the desirability of certain amendments. The Parliament may or may not amend the Bill as requested by the President. But on the second occasion, the President is required to assent to the Bill.

10. The President may be impeached by both Houses of Parliament for violation of the Constitution.

17. ELECTION OF PRESIDENT UNDER PARLIAMENTARY SYSTEM

1. There shall be a President elected by an electoral college consisting of:

- (a) all elected members of the House of Representatives and of the Senate
- (b) all elected members of Regional Councils and Capital Territory.

and shall hold office for a period of five years.

2. There shall be one Vice President, who shall not be a Member of Parliament and shall belong to an ethnic group distinct to that of the President, and shall hold office for a term of four years.

3. The Vice President shall be elected by an electoral college consisting of members of both Houses of Parliament and hold office for a period of five years.

4. The office of the Vice President shall be rotated among the major ethnic groups other than the ethnic group to which the President belongs at the time of election of the Vice President.

5. The Vice President shall ex officio be the President of the Senate. He shall also be the Chairman of the Higher Appointments Council.

18. PUBLIC SECURITY

1. We commend the provisions of Articles 219 to 222 of the Constitution Bill of 2000, excepting the use of the Public Security Ordinance. A more humane law has to take the place of the Public Security Ordinance which is now in force.

2 . With regard to the powers of the President to dissolve an ‘errant’ Regional Council in terms of Article 223 of the Constitution Bill of 2000, we recommend that the Article be suitably amended to make the act of dissolution justiciable. If the Court determines that the dissolution was undertaken *mala fide*, the Regional Council has to be restored forthwith..

19. FINANCE

1. The design of fiscal and financial arrangements under the Thirteenth Amendment does not enable to realize the full benefits of devolution and contribute towards “balanced regional development”. A total redesign will be necessary taking into account the formulation set out in the Constitution Bill of 2000.

2. The expenditure responsibilities and revenue powers result in a large provincial fiscal gap making Provinces overly dependent upon the Centre. Though the Regions are guaranteed the allocation of “adequate” funds to meet their “needs” and establishes a Finance Commission to consult with and recommend to the Central Government what those needs are, the allocation of funds from the Annual Budget leaves the decision entirely in the hands of the Central Government. Ambiguities in the assignment of subjects have allowed the Centre to spend in areas of competence and restricting the scope of services provided by Provinces. It is imperative that the resulting duality in the provision of public services is resolved through clear Centre-Regional mandates. The substantive role of the Finance Commission is to recommend to the President the basis for the apportionment of such funds allocated from the budget. It is within these limits that any equalization of fiscal capacity to achieve balanced regional development is possible.

3. The fiscal and financial arrangements for devolution therefore need to be redesigned. These should address the spirit of devolution to enable Regions perform as efficient providers of public services assigned. Basic principles that should underpin such redesigning are the criteria of Regional Autonomy, Revenue Adequacy, Equity, Efficiency and Predictability. The design of fiscal and financial arrangements should provide for the following:

(a) Clarity in delineating the expenditure responsibilities of the Regions vis-à-vis the Centre. This is based upon the clarity in the assignment of subjects and functions between the Centre and Regions and the basis for the treatment of Concurrent subjects and functions. The listing of subjects and functions in the Constitution Bill of 2000 eliminates much of the ambiguity that is present in the Thirteenth Amendment. Any Centre-Regional issues in this regard can be taken up at the Council of Chief Ministers or referred to the Constitutional Court.

(b) Availability of adequate revenues to discharge expenditure responsibilities in a manner that meets with the design criteria is sine qua non for the efficient provision of devolved public services. A combination of own sources of revenue and revenue sharing is necessary to provide untied resources at an adequate level. The Constitution Bill of 2000 provides for excise duties [Article 207 (3) (a)], Taxes on Wholesale and Retail Sales [Article 207 (4) (a)] and Taxes on Sales and Income not otherwise provided for [Article 207 (5) (a)] as well as items in the Regional List as revenue sources. Revenue sharing is introduced by Article 207 (5) (b), but need further clarification as to the modalities for determination of the share of the Regions. Shared revenues should bring Regional resources up to an adequate level that allows discretion in

making service provision choices and decisions.

(c) Equalization grants will be necessary to address variations in fiscal capacity across Regions and enable Regions to move towards providing a standard package of services in bringing about balanced regional development. The Constitutional Bill of 2000 introduces the equalization principle in the apportionment of Excise and Wholesale and Retail Sales Taxes. What is required will be equalization grants that will top up Regional resources to be adequate for capital expenditure for improving services up to minimum national standards.

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

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

5. In addition, the Finance Commission should be required to report on areas of Centre-Region overlap in expenditures as this is a serious issue. Central expenditure in areas of Regional competence negates the objective of re-distribution to Regions for bringing about balanced regional development.

6. Institutional arrangements for Centre-Region consultation on fiscal and financial matters constitute an important input in the mediation of Centre-Region fiscal relations. Such consultation is to be provided for through a statutorily constituted Finance Ministers Forum.

7. Financial transfers to Local Authorities are provided for in Grants to Regional Governments. The Finance Commission must assess “needs” of Local Authorities and Cultural Community Councils separately and such funds are to be earmarked for transfer through the Regional Governments.

8. Where the President is satisfied that a situation has arisen whereby the financial stability or credit of Sri Lanka or of any part of the territory thereof is threatened, he may direct the Finance Commission to issue such directives to a Regional Council as are deemed necessary to observe such cannons of fiscal and financial propriety and such other directives as may be deemed necessary or adequate for the purpose.

10. We further recommend that Articles 206, 207, 208, 209, 210, 212, 213, 214 of the

Constitution Bill of 2000 be adopted in the proposed Constitution without any material change. We further recommend that Article 211 in the Bill on the Finance Commission be replaced by the following:

(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, engineering, administration or business, and who shall be appointed by the President on the recommendation of the Higher Appointments Council.

(b) In making a recommendation under sub-paragraph (a) of this paragraph, the Higher Appointments Council shall ensure that the main ethnic groups are represented in the Commission.

(c) Neither the Secretary to the Treasury nor the Governor of the Central Bank shall be members of the Commission, but both of them shall be required to provide assistance to the Commission.

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

(e) There shall be a Regional Finance Committee for each of the Regions, and will be required to assist the Finance Commission. These Committees shall be appointed under the provisions of regional statutes.

(f) There shall be a Regional Planning Committee for each Region appointed under the provisions of a statute. A Regional Planning Committee shall be mandated to prepare medium term plans for the Region covering development activities undertaken by the central, regional and local government institutions in the Region. The Regional Finance Committee shall ensure that adequate resources will be made available to the institutions of local government in the Region. Together with, the National Planning Department and the National Budget Department The Regional Finance Committee and the Regional Planning Committee will assist the Finance Commission to decide on the allocations to the Region on a medium term basis (eg. 3 to 5 years).

(2) Every member of the Finance 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 Region.

(4) Subject to paragraph (5) below, it shall be the duty of the Commission to make recommendations to the President as to ;

(a) the principles on which such funds as are granted annually by the Central Government for the use of 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.

(5) In making the recommendations under sub-paragraphs (a) and (b) of paragraph (4) above, the Commission shall formulate such principles with the objective of achieving balanced regional development in the country, and shall accordingly take into account-

(a) the needs of the Region to implement the devolution of powers and its capacity to raise revenue.

(b) the population of each Region;

(c) the per capita GNP of each Region;

(d) the need, progressively, to reduce social and economic disparities;

(e) the need, progressively, to reduce the difference between the per capita GNP of each Region and the highest per capital GNP among the Regions;

(f) the need to have effective utilization of the monies made available to the respective Regions by ensuring timely and objective allocations in a definitive and predictable manner.

(g) any exceptional expenditure incurred by a Regional Government to meet exigencies such as a natural disaster;

(h) Special needs of particularly under privileged communities;

(i) the returns submitted to the Commission by every Regional Government including information relating to expenditure; and

(j) the reports of the Auditor-General consequent to the audits of regional institutions and authorities thereof.

(6) Legislation to empower the Finance Commission to discharge its duties as per the Constitution must be passed by Parliament. The Commission shall determine its own procedure appoint its staff and determine their salaries and shall have such power in the performance of its duties as Parliament may, by law, confer on it. The Ministry of Finance shall provide the information requested by Commission.

(7) The Finance Commission recommendations should ensure that there is fair revenue sharing taking into consideration the needs of the three tiers of government the Centre, the Province and Local Government, based on the application of the guiding principles and with due regard to the extent of devolved powers.

(8) The Report of the Finance Commission should be presented for approval to the Council of Chief Ministers, chaired by the President in the presence of the Chairman of the Finance Commission, and 3 months prior to the presentation of the National and Regional Budgets. Once adopted, the provision of Funds for its implementation shall be considered mandatory.

(9) The President shall cause every recommendation made by the Finance Commission to be laid before Parliament and shall notify Parliament as to the action taken thereon. The needs of the Regions should be assessed every 3 to 5 years and the country's economic framework approved by Parliament.

(10) The Regions shall be empowered to pass statutes to raise revenue within the subjects devolved to the Regions, without any restriction and without abdicating this authority to Parliament. The revenue collecting authorities should credit all revenue to the Consolidated Fund of the Region.

(11) 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 principles formulated by the Finance Commission.

(12) There shall be a District Coordinating Committee for every administrative district of the country. The Chief Minister of the Region or a Regional Minister appointed by the Chief Minister shall preside at such meetings. The District Commissioner (currently the Government Agent) shall be the Secretary of the DCC. All Members of Parliament, all Senators representing the Region, members of the Regional Council and Chairman of all local authorities within the Region shall be members of the DCC.

(13) The DCCs will have the powers to decide priorities in development projects as well as to recommend financial allocation to such projects.

(14) The Members of Parliament shall not have any financial allocations to be disbursed at the DCCs.

20. OTHER MATTERS

We recommend the following provisions under the captions given therein:

1.Preamble

We, the people of Sri Lanka

Recognise the injustices of the past;

Honour those who suffered for justice and freedom in our land;

Respect those who have worked to build and develop our country; and

Believe that Sri Lanka belongs to all who live in it, united in our diversity.

We therefore, through our freely elected representatives, adopt this Constitution as the supreme law of the Republic, so as to-

Heal the divisions of the past and establish a society based on:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and opportunity;

and to promote among them all:

FRATERNITY assuring fundamental human rights of the individual and of the groups.

[The above is a combination of words from the South African and Indian Constitutions]

The Preamble should form part of the Constitution and Amendments to the Preamble shall not be valid except when approved by two-thirds majority in each House of Parliament and by the People at a Referendum.

2. Amendment Procedure

1. A Bill to amend the Preamble shall be required to be passed by two-thirds of the membership of each of the House of Representatives and of the Senate sitting and voting separately, and approved at a Referendum

2. A Bill to amend any provision of the Constitution other than a provision relating to Devolution of Powers to the Regions shall be approved by two-thirds of the members of each House of Parliament sitting and voting separately.

3. Constitutional provisions relating to the powers of the Regions shall not be amended unless such amendments have been passed by every Regional Council by 50% (including those absent) majority and 50% (including those absent) of each of the Houses of Parliament sitting and voting separately.

4. The Constitution shall not be replaced unless the new Constitution is approved by two-thirds of the members of each House of Parliament sitting and voting separately, and each one of the Regional Councils approving such replacement by a majority of 50% (including those not present).

4. Centre- Regional Relations

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

2. There shall be a Forum of Finance Ministers of the Region chaired by the Finance Minister of the Centre. The Central Finance Ministry shall service this Forum.

3. In addition to the Council of Chief Ministers and Finance Ministers, we also recommend a quarterly Conference of the Chief Secretaries, chaired by the Secretary to the Prime Minister. This Conference should also be serviced by the Cabinet Secretariat.

5. Resolution of Centre-Regional and Inter-Regional Disputes

We have also considered the need for a mechanism for the resolution of disputes that may arise between the Centre and the Regions or between Regions. As a matter of approach, we recommend that in the first instance attempts must be made to resolve the disputes through informal discussions. If these discussions do not lead to satisfactory solutions, the following mechanisms could be utilised for resolution of the disputes:

- (a) Mediation/ Conciliation undertaken by the Council of Chief Ministers chaired by the President.
- (b) Arbitration by a Tribunal appointed by the Senate.
- (c) Reference to the Constitutional Court.

FIRST SCHEDULE

We are of the view that the number of Regions within Sri Lanka should be kept to a minimum. These regions should primarily be based on language/ languages, while at the same time, be such that aspirations of ethnic/ cultural communities are satisfied to a large extent. A minimum number of regions will be an argument in favour of maximum power devolution to the Regions. We are therefore proposing five Regions and one Capital Territory as follows:

Serial Nr.	Name of Region/ Territory	Provinces and Districts included/ excluded
1.	Western	Western Province minus Capital Territory
2.	Central	Central, Uva and Sabaragamuwa Provinces minus Moneragala District
3.	Southern	Southern Province plus Moneragala District
4.	North-Eastern	Northern and Eastern Provinces minus Dehiyattakandiya Division
5.	Rajarata	North-Western and North Central Provinces plus Dehiyattakandiya Division
6.	Sri Jayewardenepura Kotte (Capital Territory)	Municipal Councils of Colombo, Dehiwala Galkissa, Moratuwa, Sri Jayewardenepura Kotte and Kaduwela, and the Urban Councils of Kolonnawa, Maharagama, Wattala-Mabole, Jaela and Peliyagoda and adjoining Pradeshiya

		Sabha areas.
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Cultural Community Councils

We recommend the establishment of Cultural Community Councils as follows:

1. One Indian Origin Tamil Cultural Community Council for the contiguous area of **Nuwara Eliya and Ambagamuwa Divisions** in the Central Region.
2. One Muslim Cultural Community Council in the contiguous area comprising the **Akkaraipattu, Addalaicchenai, Nintavur, Irakkamam, Sammanturai, Sainthamaruthu and Kalmunai (M) Divisions**.
3. One Muslim Cultural Community Council in the contiguous area comprising the **Puttalam and Kalpitiya Divisions**.

The rationale behind the above recommendations are explained under the main text of our write-up on Power Sharing, Devolution and Local Government.

SECOND SCHEDULE

National Flag as existing at present.

THIRD SCHEDULE

National Anthem in Sinhala

National Anthem in Tamil.

Both linguistic versions to be equally valid.

FOURTH SCHEDULE

DISTRIBUTION OF POWERS BETWEEN THE CENTRE AND THE REGIONS

List I - National List

1. Defence; national security; security forces; special forces and para-military forces established by or under law.
2. National police; law and order including public order and the exercise of police powers in the Capital Territory and where expressly determined by Parliament.
3. Firearms, ammunition, explosives and other armaments.
4. Foreign affairs, including all matters which bring the Republic of Sri Lanka into relations with other States, the United Nations Organization, its specialized agencies and inter-governmental organizations, and the undertaking of international obligations.

5. Entering into treaties, conventions and agreements with other States and international organisations and implementing such treaties, conventions and agreements.
6. Diplomatic, consular and trade representation, subject to item 60 in List II.
7. Facilitating international conferences, associations and other such bodies and implementing decisions made thereat.
8. Foreign jurisdiction; immigration and emigration; extradition.
9. Regulation of international and foreign funded non-governmental organizations.
10. Piracy and crimes committed on the high seas or in the air; offences against the law of nations committed on land or the high seas or in the air.
11. Citizenship.
12. Registration of births and deaths; registration of persons
13. Census.
14. Elections; Elections Commission.
15. Currency and foreign exchange, international economic relations, external resources and the formulation of monetary policy.
16. Public debt of the Government of Sri Lanka.
17. Foreign loans of the Government of Sri Lanka.
18. Regulation of banking, banking institutions and other national financial institutions.
19. National policy on insurance and institutions providing insurance services.
20. Regulation of securities, stock exchanges and futures markets.
21. Audit of the accounts of the Government and of the Regions and of other state institutions.
22. Taxes on income, capital and wealth of individuals, companies and corporations as provided in the Constitution.
23. Customs duties, including import and export duties, and excise duties (excluding such excise duties as may be specified by law) as provided in the Constitution.
24. Turnover taxes and stamp duties, goods and services taxes as provided in the Constitution.
25. Any other taxes, duties or levies not mentioned in the Regional List.

26. National Lotteries.
27. Administration of justice; Court procedure.
28. Nuclear energy.
29. National projects in the generation of electricity as declared by Parliament by law; national grid for the supply of electricity; maintenance and management of the national grid.
30. National projects in non-conventional energy as declared by Parliament by law.
31. National projects in water supply and sanitation declared by Parliament by law.
32. Regulation of the development and exploitation of oil fields, petroleum and petroleum products.
33. Geological Survey of Sri Lanka; national policy on mines and minerals; national projects for the development and exploitation of mines and minerals as declared by Parliament by law, but not including minerals used in construction.
34. National planning for inter-provincial rivers in consultation with the relevant Regions.
35. Airports, ports and harbours with international transportation; provision of facilities, in consultation with the relevant Regional Governments, in fishery harbours used mainly by vessels engaged in fishing beyond Sri Lankan waters.
36. Inter-regional transportation.
37. National railways.
38. Civil aviation.
39. National highways, that is, the main inter-regional highways linking the Capital Territory with the 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 the authority of the Government of Sri Lanka.
40. Roads within the Capital Territory other than roads maintained by Local Authorities.
41. Shipping and navigation, but not including boat and ferry services for internal transportation within territorial waters or historical waters; Exclusive Economic Zone and Continental Shelf.
42. Posts and telecommunications.

43. Establishment of regulatory authorities which shall consist of the representatives of the Centre and of the Regions, for the determination of national standards relating to communication and media.
44. National holidays.
45. National Public Service; National Public Service Commission.
46. National policy on health; national health plan; determination of national health standards; coordination of health services; co-ordination of education, training and research relating to health; administration of hospitals declared by Parliament by law as special purpose hospitals; administration of special health programmes; national institutions for education and training of auxiliary medical personnel.
47. Policy on inter-regional trade.
48. Incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations.
49. National prisons.
50. Pensions payable by the Government of Sri Lanka or out of the Consolidated Fund of Sri Lanka.
51. Fishing beyond territorial waters (12 nautical miles); registration of vessels engaged in fishing beyond territorial waters; reference of inter-regional and international fishing disputes and for settlement in accordance with the provisions of the Constitution.
52. Protection, development and exploitation of marine and aquatic resources in keeping with international obligations and measures to enforce such obligations.
53. National policy on education; national institutions in the field of education such as the National Institute of Education; determination of national syllabi and curricula with the concurrence of the Regions; determination of minimum qualifications for teachers; co-ordination of training of teachers; national institutions for the training of teachers; determination of minimum standards for national public certification examinations and the conduct of such examinations; special programmes in education; educational publications provided by the central government;
54. University Grants Commission; national standards for universities; national standards for institutions for technical and higher technical education.
55. National standards with regard to professions, occupations and training.

56. National policy on agriculture and animal husbandry; national institutions for education and training of auxiliary agricultural and veterinary personnel.

57. National standards relating to science and technology, and to research, development and training in the areas of industries, agriculture, fisheries and aquatic resources.

58. National research institutions.

59. Tea, rubber and coconut plantations, but not including coconut small holdings; national policy on and the regulation of the production of tea, rubber and coconut.

60. Foreign trade.

61. Sri Lanka Standards Institution.

62. Establishment of standards of weights and measures.

63. Intellectual property including patents, inventions, designs, copyrights, trademarks and merchandise marks.

64. Monopolies, mergers, restrictive trade practices.

65. Buddha Sasana; pirivena education.

66. Pilgrimages outside Sri Lanka.

67. National Libraries and the National Library Services Board.

68. National archives and national museums.

69. Ancient and historical monuments and records, and archaeological sites and remains, declared by or under law made by Parliament to be of national importance, subject to the proviso that any declaration so far made after 1987 without consulting the relevant Provincial Councils shall be reviewed, and future discoveries declared only after consulting the relevant Regional government.

70. Treasure trove.

71. Preservation and promotion of the national heritage.

72. National standards relating to public performances; national certificates for public performances.

73. National policy on tourism; promotion of national tourism.

74. National zoological and botanical gardens.

75. National land use policy.
76. National policy on the environment; national plans on the environment and conservation of the environment, in keeping with international obligations.
77. National Parks, Strict Natural Reserves, Nature Reserves, Sanctuaries and National Heritage Wilderness Areas declared by or under law of Parliament, after consultation with the relevant Regions.
78. Formulation of national policy on coast conservation in consultation with the Regional governments..
79. National housing programmes with the concurrence of the relevant Regional Government.
80. Formulation of national poverty alleviation programmes in consultation with the Regional Governments and co-ordination of the implementation of such programmes by the Regions.
81. Social security and social insurance.
82. National policy on youth.
83. National policy on women.
84. National policy on children and differently abled persons.
85. National policy on sports; administration of national sports bodies.
86. Disaster management at national level; intervention including relief, reconstruction, reconstruction and compensation in instances of natural and man-made disasters and epidemics, supplementing the role of the Regional Governments.
87. Labour regulation and standards; labour laws.
88. National policy on industrial development including those based on agricultural products, in consultation with the Regions.
89. Establishment of commercial, industrial and other enterprises, partly or wholly owned by the Central Government.
90. Institutions for the promotion of investments and determination of policy relating to foreign investment.
91. Lighthouses, lightships, beacons and buoys.
92. Cadastral Survey of Sri Lanka.

93. Urban planning and implementation in the Capital Territory;
94. Public utilities, that is, supply of electricity and water supply within the Capital Territory.
95. Drainage and waterways within the Capital Territory.
96. Delegation of implementation of any of the functions in the National List to any local authority in the Capital Territory.
97. National policy on food security.
98. National policy on consumer protection including adulteration of foodstuffs.
99. Policy relating to drugs, poisons and narcotics.
100. Surveys for the purpose of any matters enumerated in the National List.
101. Fees in respect of any of the matters in the National List.
102. Prevention of the introduction to the country and spread from one Region to another of infectious or contagious diseases or pests affecting human beings, animals or plants.

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

List - II - Regional List

1. Provincial planning including employment planning at the Regional level and plan implementation including employment programmes.
2. Provincial policy on formal and informal education; administration of pre-schools, primary and secondary schools and educational services within the Region in conformity with national policy; registration and regulation of private schools in the Region; recruitment and training of teachers; regional institutions for the training of teachers research on education; educational publications provided by the Regional Government; vocational education and training;
3. Regional public health services; health service administration in conformity with national health policy; supervision of private medical care; control of private nursing homes and of diagnostic facilities within a Region in keeping with national policy; regional institutions for education and training of auxiliary medical personnel; institutions for alternate medicines; establishment and maintenance of herbaria.
4. Agriculture, including agricultural research, extension, promotion and education within the Region; promotion of agro-based industries within the Region; regional

institutions for education and training of auxiliary agricultural personnel: agrarian services; seeds and fertilizers.

5. Palmyrah, teak, oil-palm and cashew plantations.
6. Coconut small holdings.
7. Animal husbandry; regional institutions for education and training of auxiliary veterinary personnel; establishment and upkeep of pasture land.
8. Protection against pests and prevention of plant diseases in keeping with national policy.
9. Fisheries and aquatic resources within territorial and historical waters.
10. Land, that is to say, land use, right in or over land, transfer of land, tenures including the relation of landlord and tenant, and the collection of rents, improvement of land and agricultural loans; alienation of state or forest land as provided in Appendix II of the Third Schedule.
11. Irrigation, that is to say, minor, medium and major irrigation works, including schemes across inter-regional rivers whose headworks and command areas fall within a single Region; inter-regional irrigation schemes, that is, schemes whose headworks and command areas are located in two or more regions, and the regulation of flow of water in inter-regional waterways, shall be undertaken in accordance with the recommendations of the Inter-Regional Water Tribunals appointed by both Houses of Parliament; irrigation using groundwater; salt water exclusion schemes.
12. Forests, including reserved forests and conservation forests, but not including national parks strict natural reserves, nature reserves, sanctuaries and national heritage wilderness areas; use of such forests in conformity with national policies on forestry and land use.
13. Protection of the environment in conformity with national policy on conservation of the environment.
14. Coast conservation in conformity with national policy.
15. Conservation of fauna and flora in keeping with national policy.
16. Water supply and sanitation, including community water supply.
17. Waterways, drainage and reclamation.
18. Supply and distribution of electricity; generation or procurement of electricity from the national grid for such supply and distribution.
19. Regional projects in non-conventional energy.

20. Roads excluding those specified in the National List; toll roads and expressways constructed by or under the authority of the Regional Government.
21. Transport within the Region including regional railways, and ferry and boat services for internal transportation.
22. Minor ports and harbours, jetties and piers for internal transportation, and with no international transportation, fishery harbours with no international transportation.
23. Housing, other than national housing programmes.
24. Town and country planning, and urban development.
25. Local Government as provided in Appendix III of the Third Schedule.
26. Rural Development.
27. Development and exploitation of mines and minerals other than national projects, declared by Parliament by law; development and exploitation of sand and rock quarries.
28. Production and supply of salt.
29. Supply and distribution of food; rationing of food and maintenance of food stocks in keeping with national policy on food security.
30. Industries and industrial development inclusive of industrial research and training within the Region.
31. To promote, establish and engage in agricultural, industrial, commercial and trading enterprises and other economic development projects within the Region.
32. Vital Statistics
33. Advocate General of the Region.
34. Registration and regulation of unincorporated business, trading, literary, scientific, religious and other societies and associations.
35. Co-operatives and co-operative banks.
36. Pensions payable by a regional government or out of the Consolidated Fund of a Region.
37. Markets and fairs.
38. Law and order; Provincial Police and Provincial Police Commission to the extent provided in Appendix I of the Third Schedule.

39. Mediation and conciliation; provision and the setting up of court buildings in consultation with the National Judicial Service Commission, the maintenance of court buildings and the development of the infrastructure of courts.
40. Regional prisons; borstal and reformatory institutions.
41. Formulation and implementation of programmes for the advancement of women, subject to national policy.
42. Formulation and implementation of programmes for the advancement of women, subject to national policy.
43. Formulation and implementation of programmes for children and differently abled persons, subject to national policy.
44. Sports.
45. Social Services, but not including social security and social insurance; registration of non-governmental social service organizations.
46. Poverty alleviation subject to the Centre's power to formulate and coordinate national poverty alleviation programmes as set out in item 80 of the National List.
47. Relief, rehabilitation and reconstruction and the granting of compensation consequent to natural or man-made disasters; disaster management at the regional level.
48. Public debt of a Region, excluding debts owed to the Central Government.
49. Domestic borrowing on the security of the Consolidated Fund of the Region.
50. International borrowing subject to such criteria and limitation as may be specified by Parliament and with the concurrence of the Finance Commission.
51. The promotion and management of foreign direct investment, international grants and grants and developmental assistance to the Region subject to such criteria and limitation as may be specified by Parliament and with the concurrence of the Finance Commission.
52. Regional financial and credit institutions including provincial institutions providing insurance services.
53. Regional Public Service; Regional Public Service Commission.
54. Districts and district administration.
- 55.1 Excise duties to be specified by law made by Parliament.

- 55.2 Betting and gaming taxes, taxes on prize competitions and on lotteries, other than national lotteries and lotteries organized by the Central Government.
- 55.3 Regional sales taxes and turnover taxes on wholesale and retail sales.
- 55.4 Liquor rentals; toddy tapping licence fees.
- 55.5 Licensing fees for the possession, transport, purchase and sale of intoxicating liquors.
- 55.6 Dealership licenses on drugs and other chemicals.
- 55.7 Motor vehicle license fees and other fees charged under the Motor Traffic Act.
- 55.8 Fees on lands alienated under the Land Development Ordinance and Crown Lands Ordinance.
- 55.9 Fees under the Fauna and Flora Ordinance.
- 55.10 Stamp duties on transfer of immovable properties and motor vehicles.
- 55.11 Taxes on mineral rights subject to limitations imposed by Parliament.
- 55.12 Taxes on products of agriculture, forestry, animal husbandry and fisheries.
- 55.13 Taxes on goods and passengers carried by roads or inland ferries and boats.
- 55.14 Taxes on entry of goods into a local area for consumption, use or sale therein.
- 55.15 Taxes on the consumption of sale of electricity and pipe-borne water.
- 55.16 Taxes on advertisements other than advertisements by means of newspapers, magazines, radio or television.
- 55.17 Taxes on vehicles, boats and animals.
- 55.18 Taxes on professions and trades.
- 55.19 Utilization of court fines within the Region provided that not less than ten per centum of the fines imposed shall be utilized for construction and maintenance of court buildings and the development of the infrastructure of courts.
- 55.20 Court fees, including stamp fees on documents produced in courts.
- 55.21 Imposition, collection and utilization of fines, other than court fines, in respect of the matters in the Regional List.
- 55.22 Imposition of levies relating to any of the subjects or functions under the purview of the Region.

- 55.23 Any other tax that may be devolved by law by Parliament on the Region.
56. Land revenue, including the assessment and collection of revenues, and maintenance of land records.
57. Registration of motor vehicles.
58. Pensions payable by a Regional Government or out of the Consolidated Fund of a Region.
59. Regional lotteries and their conduct.
60. Cultural, tourism and trade representation of the Region in Sri Lankan Diplomatic Missions abroad.
61. Participation in international conferences, associations and other such bodies in relation to matters in the Regional List.
62. Licensing and regulations of mass media including broadcasting and television institutions at the Regional level; printing presses.
63. Regional libraries and museums; Regional archives.
64. Promotion of cultural activities within the Region with due regard to the preservation of cultural diversity.
65. Preservation, maintenance and administration of ancient and historical monuments, archaeological sites and records other than those those declared by Parliament by law to be of national importance.
66. Regional certificates for public performances.
67. Promotion of regional tourism.
68. Regional zoological and botanical gardens.
69. Provision of facilities for festivals.
70. Pilgrimages within Sri Lanka.
71. Charitable and religious endowments.
72. Registration and regulation of unincorporated associations and societies within the Region, charities and charitable institutions; trusts and trustees.
73. Coordinating the activities of international and local non-governmental organizations in relation to matters in the Regional List.

74. Consumer protection in keeping with national policy including price control of products not subject to price control by the Centre.
75. Weights and measures except establishment of standards.
76. Research on subjects and functions in the Regional List.
77. Surveys for the purpose of any matters enumerated in the Regional List.
78. Fees in respect of any of the matters in the Regional List.
79. Regional holidays.
80. Any other matter provided for in the Constitution.

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

Appendix I- Law and Order

1. Law and order including public order and the exercise of police powers shall be devolved on the Regions, but be reserved exclusively for the Central Government in the Capital Territory (Please see the First Schedule) and in cases expressly provided for in the Constitution.
2. There shall be a National Police Division and Regional Police Divisions. The Constitution shall provide for co-operation between such Divisions.
3. The National Police Division shall consist of a Director General of Police, Inspector Generals of Police, Deputy Inspectors General of Police, Superintendants of Police, Deputy Superintendants of Police, Assistant Superintendants of Police, Chief Inspectors, Inspectors of Police, Sub Inspectors of Police, Sergeants and Constables. The DGP shall be head of the Sri Lanka Police. The Director General of Police shall be appointed by the President on the advice of the Prime Minister and on the recommendation of the National Higher Appointments Council.
4. A Regional Police Division shall consist of an Inspector General of Police, Deputy Inspectors General of Police, Superintendants of Police, Deputy Superintendants of Police, Assistant Superintendants of Police, Chief Inspectors, Inspectors of Police, Sub Inspectors, Sergeants and Constables. The Regional head of the Police shall be the Inspector General of Police, who shall be appointed by the Governor on the advice of the Board of Ministers of the Region.
5. The Chief Minister of a Region shall be the Minister in charge of law and order for the Region.

6. The National Police Service shall have exclusive competence to investigate offences laid down in the Constitution. These would include offences against the Republic, offences relating to the National Police, Army, Navy and Air Force, any offence committed against specified persons such as the President, Prime Minister, Ministers, Judges of the Supreme Court, Constitutional Court or the Court of Appeal, any offence prejudicial to national security or the maintenance of essential services, any offence in respect of which courts in more than one Region have jurisdiction, any international crime and any offence committed within the Capital Territory.
7. In respect of any Region, where the Central Government is of opinion that the Regional Police will be unable to provide adequate security to specified institutions of the Centre such as a port, harbour or airport, it may deploy the National Police to provide such security.
8. Where the Chief Minister of a Region seeks the assistance of the National Police Division to preserve public order within the Region, the National Police Commission shall deploy such personnel as are necessary for the purpose.
9. In a serious breakdown of law and order situation or a riotous or violent situation in any part of a Region, the National Police Commission shall consult the Chief Minister of the Region and thereafter deploy units of the National Police Division and place them under the control of the IGP of the Region in order to bring the situation under control. Under no circumstance should units of the armed forces be deployed to assist the Police unless a State of Emergency had been declared in the Region by the President.
10. A Regional Government may by resolution passed by the Regional Legislature request the National Police Commission to take over the function of law and order and the exercise of police powers in that Region.
11. The National Police Commission and the respective Regional Police Commissions will be responsible for the appointment, promotion, transfer, disciplinary control and dismissal of officers coming under their purview. It will also determine the cadres for the National Police Division, and of the Regional Police Divisions in consultation with the Regions. The cadres of the National Police Division and each of the Regional Police Divisions shall be approved by Parliament.
12. There shall be a single Sri Lanka Police Officers Service (SLPOS) consisting of officers in the grades of DSP and above. The National Division shall consist of grades of the SLPOS and ranks below recruited or promoted at the national level.
13. Recruitment by the National Police Commission and the Regional Police Commissions shall be at the level of Assistant Superintendant of Police, Sub Inspector and Constable. An ASP

recruited by a Regional Police Commission on promotion to the grade of DSP will be absorbed into the SLPOS.

14. A Regional Police Division shall consist of officers of the Sri Lanka Police Officers Service seconded to the Region. From time to time, an officer of the SLPOS may be transferred to different Regions.

15. The Special Task Force of the Police has had a bad reputation of being an anti-Tamil unit. Immediate action should be taken to recruit and train Tamils also to the Unit and to change the name of the Unit to Police Commandos Unit, so that there will be a change in its public image.

16. The Civil Defence Force (Home Guards) should be disbanded immediately. Serving members who possess the requisite educational qualifications should be absorbed to the regular police. Those who do not possess the requisite qualifications should be given a period of two years to acquire such qualifications. It may be noted that in certain districts pre-school teachers are enrolled as CDF cadres for the purpose of paying them a handsome salary.

17. Those who were recruited as Citizens Volunteer Force in 1989, and who continue to be such CVF should be absorbed to the regular police on reasonable terms .

18. The National Police Service, inclusive of all the Special Units must reflect the pluralistic character of Sri Lanka.

19. A Regional Police Division must reflect the ethnic composition of the Region.

20. Every Police Station in the country should be able at all times to provide facilities for communication in the Sinhala and Tamil languages. Every police officer coming into contact with the public should at first speak to a member of the public in Tamil in the North- East Region. He should speak to that member of the public in Sinhala only after he finds out that the member of the public is not Tamil-speaking. The practice of expecting members of the public to speak in Sinhala to police officers should be given up.

21. There has to be a firm commitment recruit a target number of police officers from among the Tamils. Time frames should be drawn up and the international community could be invited to support and assist with the training programmes.

[Due to a similar situation of ethnic imbalance in the police and armed forces of Macedonia, the new Constitution of Macedonia provided for such measures for the minority Albanian population as part of the peace process]

Appendix II- State Land and Forests

1. Centre shall succeed to State land and forests controlled or used by the Central Government and its institutions in relation to subjects and functions in the National List at the commencement

of the Constitution.

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

3. The Regional Government may, after due consultation with the Central Government, require the Central Government to make available to the Regional Government, such State land and forests as may be reasonably required for the purpose of a subject or function in the Regional List, and the Central Government shall comply with such requirement.

4. The Central Government may, after due consultation with a Regional Government, require the Regional Government to make available to the Central Government, such State land and forests as may be reasonably required for the purpose of a subject or function in the National List, and the Regional Government shall comply with such requirement.

5. There shall be a National Land Use Commission with representation of the Central Government on the one hand and the Regions on the other and the equitable representation of all the major communities. Members of the Commission shall be persons with technical qualifications and experience in the relevant fields and shall not be serving public officers.

6. The Commission shall formulate national land use policy and make recommendations to the Central and Regional Governments 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. The Commission shall monitor land use and compliance with policy and recommendations so formulated.

7. Priority in land settlement schemes shall be accorded first to needy persons of the District and then to needy persons of the Region.

8. The alienation of State land under inter- regional irrigation schemes shall in the future be on the basis of the national ethnic ratio. However, with regard to the Mahaweli Development Scheme, the application of this principle shall be retroactive from the date of first alienation.

9.. Priority shall be given to persons who are displaced by the scheme, needy persons of the district or districts in which the scheme is situated, thereafter to other needy persons of the relevant Regions and finally to other needy persons in the country.

10. The National Land Use Commission shall determine and intimate to the Regions the number of allotments available for alienation to residents of the relevant districts and Regions. The

selection of the allottees shall be the responsibility of the Regions.

11. Where the members of any ethnic community do not, or are unable to take their entitlement of allotments from any such scheme in a particular district, they shall be eligible to receive an equivalent number of allotments in the same scheme in another district, or, in another inter-regional irrigation scheme.

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

Appendix III- Local Government

1. Local authorities, that is, Municipal and Urban Councils or Pradeshiya Sabhas should not form a separate executive tier of government. A third tier will undermine the authority of the second tier of government. Local authorities should come under the purview of the regional governments. However, we recommend that local authorities be given much more powers than at present. The implementation of regional statutes relating to subjects listed in List IV of the Third Schedule to the Constitution would be a matter for local authorities. Local authorities would not have legislative power. They would, however, have power to make by-laws. Such by-laws should be laid before the regional legislature for subsequent approval.

2. We are of the view that such an arrangement would be an empowerment of the people in their own localities. Further, this would also afford localized ethnic groups to be in control of their living environment.

3. We also recommend the establishment of a Regional Local Government Service Commission to service the local authorities in the Region. A Local Government Services Commission shall consist of not less than three and not more than five members. Until the Local Government Service Commission becomes functional, the local authorities will have to be serviced by officers of the relevant Regional Public Service.

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

chief administrative officer of the Sabha on the Secretary, and the position of chief executive officer of the Sabha on the Chairman.

5. The Assistant Commissioner of Local Government who functions at the District level will be the link between the local authorities and the Commissioner of Local Government at the regional level.

6. Future elections to local authorities should be held under the ward-system coupled with a limited local authority proportional representation system. To enable representation of political parties that do not obtain representation through this process, a certain number of seats should be reserved in the local authority for the election of members of such parties.

7. In demarcating Pradeshiya Sabhas, due consideration should be given to the geography of the area, ease of communication within the area, economic activities, and community cohesiveness of the population. However, a Parliamentary electorate should not bifurcate or trifurcate a local authority territory for whatever reasons. Similarly, a Grama Niladhari Division should not be apportioned to two different local authorities.

8. Non-contiguous wards may be demarcated in local authorities for special reasons. However, we do not recommend non-contiguous administrative territories in a Region as that would lead to non-governability.

9. Ideally, a Pradeshiya Sabha should be established for a rural or estate population ranging from 25,000 to 45,000. At present, there are Pradeshiya Sabhas established for a population below 10,000. Regional Councils should have the power to rectify such anomalies.

10. We further recommend that the substance of the Articles 226 of the Constitution Bill of 2000, on local government be incorporated in the proposed Constitution.

List - III - Concurrent List

1. Criminal law, including all matters included in the Penal Code, but excluding offences against laws with respect to any of the matters specified in List I or List II.

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

3. Preventive detention for reasons connected with the security of a Region, the maintenance of public order, or the maintenance of supplies and services essential to the community; persons subjected to such detention.
4. Removal from one Region to another Region of prisoners, accused persons and persons subjected to preventive detention.
5. Religious affairs
6. Drugs, poisons and narcotics
7. Registration of births and deaths;
8. Marriage and divorce; infants and minors; adoption; wills, intestacy and succession
9. Mass media, including broadcasting and television.
10. Universities, conforming to national standards set by the Universities Grants Commission,
11. Technical and higher technical education;
12. Requisition or acquisition of private property solely for the furtherance of economic or social needs subject to the payment of compensation assessed and determined according to the market value of the subject property at the time of acquisition.

List - IV - Local Authorities

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

1. Pre-schools.
2. Adult and non-formal education.
3. Promotion of religion and culture, including the establishment and maintenance of weekend religious schools and cultural centres.
4. Community centres, libraries and reading rooms.
5. Regulation of land use and construction of buildings.
6. Assessment and collection of land revenues.
7. Rural electrification; supply of electricity.
8. Water supply for domestic, industrial and commercial purposes.
9. Public wells; public baths and bathing places.
10. Drainage and flood control.
11. Lakes and canals, other than lakes and canals for irrigation.
12. Thoroughfares, including clearing and lighting of the same.

13. Local authority roads including bridges.
14. Localised transport services; ferry and boat services.
15. Bus-stops and vehicle parks.
16. Control of mosquitoes and other disease-causing insects.
17. Public health; provision of public sanitary conveniences; conservancy and scavenging; solid waste disposal.
18. Health and sanitation, including hospitals, primary health centres and dispensaries; indigenous medical clinics.
19. Ambalams and madams.
20. Inns and rest houses.
21. Licensing and regulation of lodging houses and tenement buildings.
22. Licensing and regulation of bakeries, eating houses, restaurants, tea and coffee kiosks and hotels
23. Licensing and regulation of shops and places for the sale of perishable items of food.
24. Regulation of dairies and the sale of milk.
25. Regulation of abattoirs.
26. Markets and fairs; itinerant and sidewalk vendors.
27. Licensing and regulation of launderers and laundries.
28. Licensing and regulation of beauticians and hairdressers.
29. Licensing and regulation of forges.
30. Licensing and regulation of mills.
31. Regulation of small industries, including manufacture of handlooms, textiles and garments.
32. Protection of the environment.
33. Care of waste of public lands.
34. Fuel and fodder
35. Social forestry
36. Provision of facilities to fishermen.
37. Local authority housing, including housing for the poor.
38. Slum improvement and upgradation.
39. Community amenities such as parks, gardens and playgrounds.
40. Burial and burial grounds, cremations and cremation grounds and crematoriums.
41. Regulation of toddy tapping; control of the sale and supply of toddy.
42. Regulation of breweries and aerated water manufactories.
43. Implementation of poverty alleviation programmes.
44. Implementation of youth welfare programmes.
45. Social welfare, including welfare of the differently abled; welfare of the weaker sections of society.
46. Family welfare; women and child development; provision of childcare facilities.
47. Licensing and regulation of brokers and money lenders.
48. Licensing and regulation of public entertainment.

49. Ambulance services.
50. Fire services.
51. Protection of wildlife.
52. Regulation of pens for cattle; cattle ponds.
53. Branding of animals; control of diseases among animals and birds.
54. Stray animals including stray dogs.
55. Prevention of cruelty to animals.
56. Disposal of dead bodies of animals.
57. Control of gambling.
58. Advertisements displaced in public places.
59. Control of nuisances.
60. Regulation of processions and assemblies on thoroughfares.

List V- Cultural Community Councils

Cultural Community Councils shall have executive power including the power to make by-laws in respect of the following subjects and functions, subject to the statutes of the relevant Regional Legislature:

1. Primary and secondary schools; scholarships
2. Culture and religion
3. Rural development
4. Vocational training
5. Relief and rehabilitation
6. Local transport
7. Social service; Samurdhi
8. Housing
9. Land grants
10. Agriculture; agrarian services
11. Animal husbandry.

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