

POWER SHARING IN SRI LANKA

I. Introduction:

Sri Lanka has experienced three decades of civil war between the minority Tamils, who have been fighting to carve out a separate Tamil Elam state in Sri Lanka and the government of Sri Lanka. In the process of the civil war between these two parties another minority ethnic group, Muslims of the North-East also have been brought into the scene due to some political and economic factors in the region that created a conflict between the Tamils and the Muslims. The war has claimed more than 65,000 human lives and the destruction of hundreds of millions of dollars worth moveable and immoveable properties. Since the war escalated in the North and East of the country nearly hundred thousands of people from all three ethnic groups became internally displaced and expatriates. The number of mental and physical handicaps in the war zones has increased in unprecedented level. The economy of the whole country has been affected very badly and it has resulted in the increase of cost of living, high rate of unemployment and poverty among the people.

In this regard, this is an attempt to identify some of the vital aspects of this civil war and related issues on the Muslim perspectives of this country.

A. Brief history of failed attempts of ethnic conflict in Sri Lanka

In the post-independent period of Sri Lanka many attempts were made in finding solution to the ethnic conflict. However, almost all such efforts were ended in failure due to the dissatisfaction of either Tamils or Sinhalese. The following description highlights how some important efforts were made and ultimately failed in finding an everlasting solution

1. 1957 Banda-Chelva Pact

Banda-Chelva pact of 1957 was the first official agreement signed by the leader of the government of Sri Lanka and the political leaders of Tamils to diminish the tension between the two ethnic groups through a power sharing process. Although, they could agree for a solution on the basis of setting up Regional Councils, due to the mounting communal tensions, which culminated in the riots of May 1958, the government was forced to withdraw the bill.

2. Dudley-Chelva pact of 1965-8

A second attempt was made in 1965-8 when the then Prime Minister Mr. Dudley Senanaik and the leader of the federal party Mr. S.J.V. Chelvanayagam signed another agreement. Both leaders agreed to solve the ethnic tension through establishing the District Councils. However, unfortunately, this attempt also failed due to the dissatisfaction and the pressure of the majority Sinhalese people in the country.

3. 1980-1 JR'S DDC

When the Tamil politicians entered the Parliament with the intension of establishing a separate nation in the so-called Tamil homeland and to get the international

recognition for such separate state, the government attempted to minimize the demand of Tamils by offering District Development Councils. It could be considered as the third major attempt in the process of devolution of powers for the purpose of resolving the issue. However, the DDC also failed when the Tamils felt of insufficient powers they were entitled to receive.

4. Indo-Lanka agreement of 1987 and the Provincial Councils

Indo-Lanka Agreement of 1987 was the first attempt made with the third party mediation to solve the ethnic conflict. The two leaders of India and Sri Lanka signed an agreement on 29th July 1987 and this agreement led to the introduction of Provincial Councils that was legalized through the 13th amendments of the constitution. The powers and functions of the Provincial Councils did not satisfy the majority Tamils, especially the LTTE. Therefore, the system was totally failed in the North - East, where it was necessary but remains in other provinces. However, one should admit that the establishment of Provincial Councils is unique in one aspect as it is the first such instance where Councils were established in Provinces for the purpose of devolving power.

5. Devolution process during 1994 - 2001

During this period, the PA government, under the leadership of President Chandirika Bandaranike Kumaratunga, took some efforts to solve the conflict through power sharing. However, those efforts neither reached the level of agreements nor implementations.

B. The peace process and thoughts on Federal System

After three decades of war a situation has emerged where people anticipate a permanent peace in this country. Internal and external factors have forced both the government and the LTTE to immediately engage in the peace talks. Although the peace process has created a temporary healthy condition in the North-East, the entire success of the peace process depends on the mutual understanding and the constructive contribution that also includes the give and take policy of parties concerned. According to the latest statements of the stakeholders it is understandable that they work for a solution on the basis of setting up a system of federal government in Sri Lanka. They have agreed to share the powers within a united Sri Lanka and the LTTE has expressed its willingness to give up its demand for a separate Elam state and to accept the federal system. Thus, the peace talks in Thailand mainly focused on the possible federal system in Sri Lanka and the method of power sharing between the central government and federal units.

II. Unitary and Federal System

1. What is Unitary System?

Under the unitary system of government, the legislature of the whole country is the supreme lawmaking body in the country. It may permit other legislatures to exist and to exercise their powers, but it has the right in law (constitution), to overrule them. A unitary government is a place where the habitual exercise of supreme legislative authority is carried out by one central power. If we look at this unitary system briefly, the following assumptions can be agreed. A unitary state is organized under a single Central Government; that is to say, whatever powers are possessed by the various provinces within the area administered as a whole by the Central Government, are held at the discretion of the Central government, and the Central power is supreme over the whole country without any restrictions imposed by any law granting special powers to its provinces.

2. Examples and main features of Unitary System.

Many countries have adopted the unitary system today. Sri Lanka, United Kingdom, Japan, South Korea, Italy, Cameroon, France, Kenya, Morocco, Sweden and Uruguay are some examples. When discussing constitutions with unitary features, United Kingdom stands apart as an example of a Unitary State. Although, there are local authorities in the United Kingdom, which carry out Central functions, they function under the central authority and the local government institutions are not lawmaking bodies. They are empowered only to enact by-laws. By-laws made by local authorities in England may be defined in simple terms; as a law which operates over the area of the authority having been made by the authority under a power conferred by state and confirmed by the secretary of state for home affairs or other appropriate minister. Sri Lanka is also a very good example for a Unitary State. Chapter I, article 2 of the constitution of the Democratic Socialist Republic of Sri Lanka clearly states that the Republic of Sri Lanka is a Unitary State. Although, there are many local administrative bodies existing in provincial and district levels, the Parliament of Sri Lanka remains as the supreme lawmaking body in the country. All the powers that have been devolved to such local bodies are subjected to be changed or overruled by the Central government. Thus, two essential features of a Unitary State or a Constitution could be identified:

- (a) The supremacy of the Central Parliament and
- (b) The Absence of subsidiary sovereign bodies.

3. What is Federal System?

Identifying a universal definition to the federal state is difficult, as federal systems are relatively uncommon around the world. However, by pointing out some of the most important methods of such system, one could be able to understand to a certain extent that what is federal system. Under a federal constitution the powers of the Government are divided between the Government for the whole country and governments for the provinces or federal units. This is carried out in such a way that each government, including the Government for the whole country, is dependent in its own sphere. There is no control over the provincial governments by the

Government for the whole country and in turn there is no supervision over the latter by the Central Government.

This emphasizes the fact that the legislature of the whole country has limited power. The provincial governments, too, are with limited legislative powers, which make two sets of government's co-ordination instead of being subordinate. Accordingly, the legislative authority of a federal State is divided between a central government and the provincial governments. A local government under a federal constitution would thus derive its power from a provincial constitution, which is not subject to change by the Central Government by any means including the constitutional amendments without the consensus of the federal units.

(A) Examples

Since the eighteen-century many countries have identified this federal system suiting to their different internal political, social, economic and cultural diversities. In 1789, the federal system was introduced in the USA and gradually many countries adopted this system. At present, in countries like the USA, Canada, Australia, German, Brazil, South Africa, Malaysia, Belgium, Mexico, Nigeria, Yugoslavia and India we can observe this system with some differences especially in the structure and the power sharing in each countries.

4. What is Confederation?

A confederation is similar to a federal system but gives less power to the central government. The loose alliances of countries or other political entities that make up a confederation seek to cooperate with one another while retaining ultimate control of their own internal policies. Unlike federal system, confederations usually give each member nation absolute control over its citizens and territory. The central government decides only issues that affect all members of the confederation. The United States began as a confederation. A weak central government ruled the country from 1783 to 1789 under the Articles of Confederation. More recently, the Soviet Union dissolved in 1991, and many of the former republics formed and called the Commonwealth of Independent States (CIS)-to coordinate domestic and foreign policy. Confederations tend to be weak and unstable because member nations often resist relinquishing final authority on any matters and insist on their withdrawal from the confederation at any time. Confederations are uncommon; most are international bodies with limited and specific responsibilities, such as the European Community (EC) and the British Commonwealth.

(A) Examples

Switzerland is the best model for the confederation in the contemporary world. Although, there are many countries, which have adopted the confederation for their government systems, usually the system in Switzerland has been praised as the best model because of its uniqueness. However, Switzerland experienced a civil war for nearly 700 years before it come to the confederation. When they introduced the confederation in the later half of the 13th century, Switzerland had been confronted many internal civil wars between the ethnic groups of Italy, German, France and Romans. Based on their languages and religions these ethnic groups were fighting for the powers in the country. In the Swiss system every canton administrates its

own affairs independently. However, the matters of foreign affairs, trade, and security in which differences are less handled by cantons.

(B) Basic requirements for the Federal System

1. A written and rigid constitution: For a creation of a federal system in a country a new constitution must be drafted and it should be inflexible or rigid that protects constitution from amendments not like amendments in ordinary bill.
2. The concept of two sovereignties must be accepted. The sovereignty of the country must be divided between the center and the provincial governments.
3. The powers for the center and the provinces must clearly be mentioned in the constitution. For this purpose, it can have lists of powers as follows. (a). Center list, (b). State list and (c). Concurrent list and or (d). Residuary list.
4. There shall be no any system of interference of center or state in other's powers and functions.
5. An independent judicial system. The central government should not try to influence the judiciary. Supreme Courts must function as the courts of the constitution and the judgment of this court must be recognized as the final solution on any issues of the constitution.

(C) Power sharing in Federal System

Power sharing also differs from federal to federal units that depends on its own needs. There are no universal proposed lists of power sharing. However, the following list can be adopted to ease the process.

1. Powers of Center Government
2. Powers of Provincial Governments
3. Concurrent or common powers -those shared by both national and the provincial governments.
4. Residuary powers-those powers that are not included in the power sharing list that usually vested to the central government.

D. Existing models of Federal System

1. USA.

In 1789, the federal system was introduced in the USA. This can be considered as the oldest system in the world. The constitution divides powers between the nation and the states. Both the nation and the states have legal authority over their citizens; they can pass their own laws, levy their own taxes, and maintain their own courts. The states cannot alter or abolish the national government without amending the constitution, and the national government cannot alter or abolish the states. The constitution also divides power within the national government by establishing three major branches, together with a system of checks and balances designed to prevent

the concentration of power in any one branch. Under the federal system the Americans possess dual citizenship.

2. India

Indian federal system is considered as a quasi-federal system. This means a system in-between a federal and the unitary model. The Indian constitution calls itself the union of states but not a federal state. According to the constitution of 1950 there are 22 states and 9 union territories under this quasi federal. These states are based on language. The distribution of power between the center and the states follow the accepted principle that the subjects for convenience and efficiency might be administered on and all India basis, are vested in the central government, while others, which can be conveniently administered on a local basis, are vested in the state governments. Three detailed lists of subjects, as originally provided in the constitution, are drawn up: The union list (97), the state list (65), and concurrent list (47). The residuary powers rest with the union.

3. Swiss

Swiss federal model is called as confederation. It is divided into 26 units those are called cantons. There are 20 full and 6 half-cantons. Half-cantons are formed from 2 full cantons when they were subdivided. In the Swiss confederation sub national units are given wide powers. The sovereign power rests with people who elect representatives and also legislate directly by means of referendums.

Under Swiss' system of federalism the cantons and half-cantons exercise all powers of government except those delegated exclusively to the federal government.

Executive is vested in a council called federal council. Federal council consists of 7 members and elected by a joint sessions of parliament for a term of 4 years. The elected parliamentarians are in charge of this council and each of the seven council members leads one of the federal ministries.

The Swiss parliament is called Federal Assembly. It consists of 2 houses, upper and lower. The upper house is named as the council of states, and the lower house is named as national council.

The council of states accommodates elected 46 members 2 from each full cantons and 1 from each half cantons. The national council accommodates elected 200 members and seats are allocated in proportion to population size. Each canton receives minimum 1 seat.

Federal Tribunal that is the highest court in the land. There are cantonal courts also.

4. Canada

Canadian federal system is completely a different one from others. It is monarchy by tradition that has adopted federal system in power sharing especially in legislative set up. There are two bodies of legislation such as federal and the provincial government. Under the Canadian federal system there are 10 provincial governments.

The federal legislature consists of 3 bodies named the Queen and the 2 houses of parliament. The parliament has the House of Commons and the senate.

The House of Commons accommodates 301 seats. Senators appointed by the government of the day and selected from across Canada and currently it accommodates 105 seats. The representation of the provincial governments in senate is as follows:

Ontario 24, Quebec 24, British Columbia 6, Alberta 6, Saskatchewan 6, Manitoba 6, Newfoundland 6, Now Scotia 10, New Brunswick 10, Prince Edward Island 4, and for 3 territories 3 (total 105). And these senators will be affiliated to political parties. Senate involves mostly on revising, investigating legislation and other issues of public policies.

III. Brief history of federal thoughts in Sri Lankan conflict

A. Pre-Independent period

A federal thought for power sharing in Sri Lanka is not a new subject in the political history of Sri Lanka. S.W.R.D. Bandaranaike the then leader of the Progressive Nationalist Party advocated a federal structure government in July 1926. When he delivered a lecture to a student congress, he stated as follows, "... There would be trouble if a centralized form of government was introduced into countries with large communal differences. In a federal Government, each federal unit had complete power itself. Yet they unite and have one or two assemblies to discuss matters affecting the whole country". However, interestingly this suggestion received no support either from minority Tamils or majority Sinhalese. The Jaffna Youth Congress engaged in propaganda against this federal system proposed by Bandaranaike. In 1930s when the Kandyan Sinhalese witnessed to the Donomore commission, which was supposed to introduce a new constitutional reforms demanded federal system to protect their interests from costal Sinhalese.

B. Post-independent period

In the post-independent period when Chelvanayagam formed the federal party he was demanding for a federal system to secure minority Tamils interests. Therefore, only in the late 1940s, Tamils realized the need of a federal system for an equal power sharing in Sri Lanka.

IV. Power Sharing arrangement to resolve SL's ethnic conflict

As it is being exercised in other countries Sri Lanka also should have a unique system according to the existing ground situation. All federal governments are based on their socio, political, cultural, and historical nature and the nature of the purposes they had to adopt a federal system. Therefore, it would be difficult to apply a federal system of a particular country in Sri Lanka as its case differs much from other countries. Therefore, in this proposal, attempts are made to introduce a unique model, which derives suitable articles from the other models of federal system in the world. Especially Indian, US, Canadian and Swiss models are considered. However, it should be noted that the political setup for a power sharing alone would not create a meaningful and long-lasting peace in the country. Social integration within a community as well as between the ethnic groups must be recognized as the basic requirement for this purpose and the communities and political leaders

must agree to work on the programs of social integration from further before to post implementation of the set up in the country. The responsibility of forming suitable programs for social integration shall go to a team of capable intellectuals of the subject.

V. Proposals for Power Sharing in Sri Lanka

A. Structure of Proposed Power Sharing Province

1. Defining the Provinces

Ethnicity, and ethnic concentration are taken as the justification for defining the borders of the power sharing province. For example, the borders of the existing Provincial Councils shall be considered as the borders of the proposed power sharing provinces. The size of the **population land areas does not** matter in defining the proposed power sharing province. Most important thing is the interest of the people involved in the conflict must be taken into consideration seriously.

2. Number of power sharing provinces

- (a) There shall be Ten (10) power sharing provinces in the proposed system. Eight Units shall be in the eight provinces except the Eastern province.
- (b) There shall be a Tamil majority province in the present Eastern province but excluding the areas covered by the Muslim majority province. – This will be the ninth province called the Northeastern province.
- (c) There shall be a Muslim majority province comprising the predominantly Muslim electorates in the Ampara District as the base and identified predominant Muslim Areas in the Batticaloa and Trincomalee Districts. This will be the Tenth (10) province called the Southeastern Province.

3. Constitutions

A new constitution shall be made or revise totally according to the requirements. This constitution must be rigid in nature and should satisfy the interests of the ethnic groups that involve in the conflict today. Thus, there will be provincial constitutions also that rules the proposed power sharing province. These constitutions may differ from one province to the other in the contents of power sharing according to their internal nature.

In case of amendments in the new constitution there must be two third majority of votes of the both houses (Upper and Lower) proposed below and consent of two-thirds of power sharing provinces including the provinces of Northeast and Southeast.

4. Legislature

There shall be two houses in the central government/Center. One is upper house, which shall have equal representation of States regardless to sizes or any other factor.

The existing Parliament shall remain as the lower house of central government/Center.

In the power sharing provincial level each province shall have two legislature bodies – (upper and lower). The upper house of state shall have appointed representation on the basis of ethnic ratio. This is to protect the power sharing province level minority interests. The lower house representation shall be based on the democratic election.

5. Executive

Central government/Center

A-President for whole country

Prime Minister- Head of lower house

Upper house- Head will be elected by members of upper house/ It is Vice president

B - Chief minister-elected

C - Governor appointed

6. Judiciary

A - One Supreme Court

B - State level- top is the high court

C - Power sharing (2 types of powers)

(1) Lists for Central Government/Center

Security

Finance

Foreign affairs and other agreed powers.

(2) Lists for State Government

Education & employment

Public health

Police: Federal & State

Forest, land distribution

Electricity

Transport and other agreed powers.

Residuary /other powers goes to central government/Center.

Power sharing in the local units must be according to ethnic ratio of each federal unit. Especially powers in the local political and administrative bodies should be considered on the ethnic basis. (Education, employment, land distribution, and police etc.) .

VI. How will this proposals protect the Muslim interest in the Power Sharing System

Although, the land and population sizes of the Muslim majority province is smaller than the other nine (09) provinces, it will have the same power as for others will have and equal representation in the upper house of the center. Muslim majority provincial council will provide the Muslims with complete political, economic and social freedoms and protection.

Bringing the Batticaloa and Trincomalee Muslims under the Northeast state also will help to increase the Muslim percentage in this Muslim majority power sharing province. Consequently this will help the new Northeast Muslim community to have more representation in local politics in the power sharing province level.

Under the system of ethnic ratio based power sharing in the local levels, the Muslims of North will be able to enjoy their rights and privileges. Since the upper house of the Northeast power sharing province consists a considerable number of appointed/nominated Muslim representatives it would satisfy their political aspirations in the province. Furthermore, the constitutional arrangements for the safeguards of the Muslims also will protect them from any discrimination of Tamil majority. The power sharing province constitution of the Northeast shall speak on the expulsion of the Muslims from their native places in the past (1990) and shall include an article on no repetition of such violence in the future, the right to resist if such violation takes place again, and the interference of the center in such event.

Like the rights and the privileges of the Sinhala and Muslim minorities in the Northeast and Southeast power sharing provinces are protected by the constitutional arrangements, the rights and privileges of the Muslim minority in the Sinhala majority power sharing province will also be protected in the same manner.

Thanks to Dr. M.S Anees Ph. D. And Mr. M.S.A Niyas B.A. Special

M.I.M Mohideen

2nd January 2003

DEMOCRATIC PEOPLE'S ALLIANCE

The Resolution of the Ethnic Problem

I. UNIT OF DEVOLUTION

- (a) The concept of devolution is accepted for Sri Lanka.
- (b) There shall be a predominantly Tamil unit comprising of what is the combined Northern and Eastern Provinces but excluding the area covered by the predominantly Muslim Unit.
- (c) There shall be a predominantly Muslim Unit comprising the predominantly Muslim areas in the Amparai District as the base and identified predominantly Muslim areas in the Batticaloa and Trincomalee Districts.
- (d) The rights of Sinhalese and all other persons in each-unit shall be on the basis of absolute equality.

II. DEVOLUTION OF POWER

- (a) All state powers, legislative, executive and judicial except those reserved to the centre, shall be devolved to democratically elected bodies called Regions. Parliament shall, however, be able to override legislation of the Regions by a 2/3 majority of its whole membership.
- (b) The subjects reserved to the centre shall be those subjects that are essential to ensure the sovereignty, the territorial integrity and the unity of Sri Lanka. They are:
 - (i) Defence - Army, Navy, Air Force and Police.
 - (ii) Foreign-Foreign Policy, Foreign Exchange and Foreign Trade.
 - (iii) Transport-airways and airports, shipping and harbours, railways, waterways, highways.
 - (iv) Money – monetary policy, fiscal policy, consolidated fund, currency, and customs.
 - (v) Communications-posts and telecommunications, radio, television.
 - (vi) Electricity
 - (vii) The Supreme Court to be seized with
 - (a) Constitutional matters.
 - (b) Centre-region relations.
 - (c) Where one of the parties is a Government Department or Corporation.

THE DEVOLUTION OF POWER TO REGIONS
(Draft Constitution - October 1997)
Establishment of Regional Council

127. (1) A Regional Council shall be established for every Region specified in Part B of the First Schedule with effect from such date as the President shall appoint by order published in the Gazette.
- (2) (a) The President shall, by Order published in the Gazette, require a Referendum to be held in the Administrative Districts of Trincomalee and Batticaloa, and fix a date, therefore, to enable the electors of such Districts to decide on the question whether or not such Districts and the Administrative Districts of Jaffna, Kilinochchi, Vavuniya, Mannar and Mullaitivu should form one Region to be designated the North Eastern Region.
- (b) Where at such Referendum the Question -
- (i) is answered in the affirmative by a majority of the valid votes cast, a Regional Council shall be established for the North –Eastern Region specified in Part C of the First Schedule with effect from such date as the President shall appoint by order published in the Gazette.
 - (ii) is not answered in the affirmative, two separate Regional Councils shall be for the Northern Region and the Eastern Region as specified respectively in part D of the First Schedule with effect from such date as the President shall appoint by order published in the Gazette.
- (3) Where a Regional Council is to be established for the North-Eastern Region in terms of sub-paragraph (b) (i) of paragraph (2), a Regional council shall be established for the South Eastern Region specified in Part C of the First Schedule from such date as the President shall appoint by Order published in the Gazette.
- (4) (a) Where a Regional council for the North Eastern Region is to be established in terms of sub-paragraph (b) (i) of paragraph (2), the President shall, by Order published in the Gazette, require a Referendum to be held in the polling division of Ampara and fix a date therefore to enable the electors of such division to decide on the question whether or not such division should form a separate Region to be designated the Region of Ampara.
- (b) Where at such Referendum the question.
- (i) is answered in the affirmative by a majority of the valid votes cast, such polling division shall form the Region of Ampara as specified in Part E of the First Schedule and for which a Regional council shall be established with effect from such date as the President shall appoint by Order published in the Gazette.
 - (ii) is not answered in the affirmative, the polling division of Ampara shall form part of the Uva Region specified in Part B of the First Schedule and for which a Regional council shall be established with effect from such date as the President shall appoint by Order published in the Gazette and, until such Order is made, the polling division of Ampara shall be administered by the Central Government and the provisions of the Constitution relating to the Capital Territory shall, mutatis mutandis, apply.

- (5) The legislative and executive power of the Central Government shall extend to all subjects and functions set out in List II of the Second Schedule in respect of the Capital Territory specified in Part A of the First Schedule which shall not form part of any Region for which a Regional Council is established under this Article.
- (6) For the purposes of Article 2 and this Article, the boundaries and areas of the Administrative Districts, Polling Divisions and Municipalities referred to in this Article and in the First Schedule shall be those established by or under any written law and in force at the commencement of the Constitution.
- (7) (a) The holding of the referenda provided for in this Article shall be deemed to be valid notwithstanding any inconsistency with the provisions of Chapter XII.
- (b) Parliament shall by law provide for all matters relating to such referenda and until Parliament so provides, the provisions of the Referendum Act, No. 7 of 1981 shall, mutatis, mutandis, apply.

First Schedule

Column I	Column II	Column III	
Region	Area	Number of Ministers in the Regional Board of Ministers (excluding the Chief Minister)	
PART A	Capital Territory	Municipalities of Colombo and Sri Jayawardenapura	
PART B	Western	Administrative District of Colombo excluding the Capital Territory. Administrative Districts of Gampaha and Kalutara	six
	Central	Administrative Districts of Kandy Matale	six
	Southern	Administrative Districts of Galle, Matra and Hambantota	six
	North Central	Administrative Districts of Anuradhapura and Polonnaruwa	four
	North Western	Administrative Districts of Puttlam and Kurunegala	six
	Sabaragamuwa	Administrative Districts of Ratnapura and Kegalle	four
	Uva	Administrative Districts of Badulla and Moneragala	four

		and where the Polling Division of Ampara is included as provided for by paragraph (4) (b) (ii) of Article 127	five
PART C	North Eastern	Administrative District of Jaffna, Kilinochchi, Mannar, Vavuniya and Mullaitivu and Administrative Districts of Trincomalee and Batticaloa as provided for by paragraph (2) (b) (i) of Article 127	six
	South Eastern	Polling Divisions of Kalmunai, Samanthurai and Pottuvil as provided for by paragraph (3) of Article 127	two
PART D	Northern	Administrative Districts of Jaffna, Kilinochchi, Mannar, Vavuniya and Mullaitivu as provided for by paragraph (2) (b) (i) of Article 127	five
	Eastern	Administrative Districts of Trincomalee and Batticaloa, the Polling Divisions of Kalmunai, Samanthurai and Pottuvil and the Polling Division of Ampara (constituting the Administrative District of Ampara) are provided for by paragraph (2) (b) (ii) of Article 127.	five
PART E	Ampara	The Polling Division of Ampara as provided for by paragraph (4) (b) (i) of Article 127.	two

RESPONSE OF THE SRI LANKA MUSLIM CONGRESS

The Sri Lanka Muslim Congress is of the view that,

- (a) The ground situation does not permit nor is it conducive to hold a free and fair Referendum in East Sri Lanka and any undue delay in holding the Referendum as presently proposed would delay the early functioning of the proposed Councils and the restoration of the democratic process.
- (b) In the circumstances of the ongoing war, the proposed Councils must, of necessity be constitutionally created and made to function as Institutions of the democratic process without delaying pending Referendum.
- (c) The proposed Referendum must be made mandatory and must be held within a year of the return to normalcy.
- (d) The Referendum must be held in the Batticaloa and Trincomalee Districts should enable the people of the two Districts to decide whether they wish to be with the North as proposed by the Government or to form a separate Council as provided for in the Referendum in the Polling Division of Ampara, which has been given the option of joining Uva or functioning as separate council.
- (e) The people within the proposed South-East Regional Council should also be given a similar option of deciding whether they want to function as a separate council or not.
- (f) The minorities within every Regional Council, whether it be Sinhala, Tamil or Muslim should be provided with sufficient safeguards and protections such as:
 - (i) Weighted sharing of state Resources,
 - (ii) Weighted representation in the council and
 - (iii) Provision for the requirement of a double majority in legislating on matters affecting minority interest, and
- (g) The size of the Board of Ministers of every Council should be equal, irrespective of the land area and populations as to be just and fair as well as to enable the effective functioning of the proposed executive committee system.

The S.L.M.C. wishes to make further observations if and when necessary on the other aspects of the Government's proposals for constitutional reforms.

**Hon. Rafull Hakeem, M. P
General Secretary – S L M C**

Hon. M M Zuhair M. P. - S L M C

RESPONSE OF THE TAMIL UNITED LIBERATION FRONT

The T. U. L. F. proposed the creation of a North-East council and a South-East Council which, it strongly believed, addressed fully the concerns of all people without the need for Referendum. We are also strongly of the view that in any event ground realities and the displacement of large number of persons would militate against a fair and democratic outcome if a Referendum was to be held in the manner envisaged in the proposals.

**Dr. Neelan Tiruchelvam, M.P.
(TULF)**

Bandaranayake - Chelvenayam Pact

Joint Statement by the Prime Minister and Representatives of the Federal Party on Regional Councils.

- (a) Regional areas to be defined in the Bill itself by embodying them in a schedule thereto.
- (b) That the Northern Province is to form one regional area whilst the Eastern Province is to be divided into two or more regional areas.
- (c) Provision is to be made in the Bill to enable two or more regions to amalgamate even beyond provincial limits; and for one region to divide itself subject to ratification by Parliament. Further provision is to be made in the Bill for two or more regions to collaborate for specific purposes of common interest.

EAST SRI LANKA MUSLIM FRONT

MUSLIM MAJORITY PROVINCIAL COUNCIL

9th AUGUST 1986

Since Muslims are a recognised a Major Ethnic group in Sri Lanka, it is our legitimate right to have separate Provincial Council where the Muslims will be of sufficient majority to form a council and to share powers like the other two Major Ethnic Groups - Sinhalese and Tamils.

The proposed Provincial council for Muslims can be in the Eastern Province. The area of authority of this council would include the three predominant Muslim Electorates Kalmunai, Samanthruai, and Pottuvil including the balance part of Wewagmapattu South. Extent approximately 900 sq. miles in the present Amparal District as the base, and the non-contiguous Muslim areas of Kattankudy, Eravur, Valaichenai, Ottamavadi, Muttur, Kinniya, Thampalagama and Kuchchaveli.

In the event of a merger of the Tamil areas of the Eastern province with the Northern Province, Musali and Erikalampiti in Manar District should also be joined with the Provincial Council for Muslims.

These Muslim areas which are non-contiguous should be first made community oriented Pradesheeya Sabhas as parts of the Muslim Provincial Council. This would incorporate a little more than 85% or 315,000 Muslim of the Total Muslim population of 372,005 in the Tamil speaking area. There will be about 80,000 Tamils and 40,000 Sinhalese also in the Council for Muslims. Muslims will be more than 72% in the proposed Muslim Majority Council.

The problem of administrating non-contiguous areas is not as impossible as it is made out to be. For example, the former French possession in India-Pondicheri, part of it falls in three different states, Kerala, Tamil Nadu and Andrah Pradesh where three different languages are spoken and administrated as a separate Union State. Whereas in Sri Lanka all the Muslims in the Tamil Speaking area speak Tamil and their gnevances with regard to land, language, economy and employment are same. What we are asking here is Provincial Council on the administrative pattern of non-contiguous Union State in India.

M I M MOHIDEEN
PRESIDENT

M H CEGU ISADEEN
HONY GEN SECRETARY

SRI LANKA MUSLIM CONGRESS

MUSLIM MAJORITY PROVINCIAL COUNCIL

26th MAY 1995

The unit of devolution in the Tamil speaking area should be appropriate to the situation and protect the separate ethnic rights and traditional areas of historical habitation of the Tamils and Muslims.

There should be a predominant Tamil Province comprising the districts of Jaffna, Kilinochchi, Vavuniya, Mannar and Mullaitivu in the Northern province as the base and the identified non-contiguous Tamil areas in the Trincomalee and Batticaloa districts in the Eastern Province.

There should be a predominant Muslim province comprising the constituencies of Kalmunai, Sammanthurai and Pottuvil in the Ampara district as the base and the identified non-contiguous Muslim areas in Batticaba and Trincomalee districts in the Eastern Province.

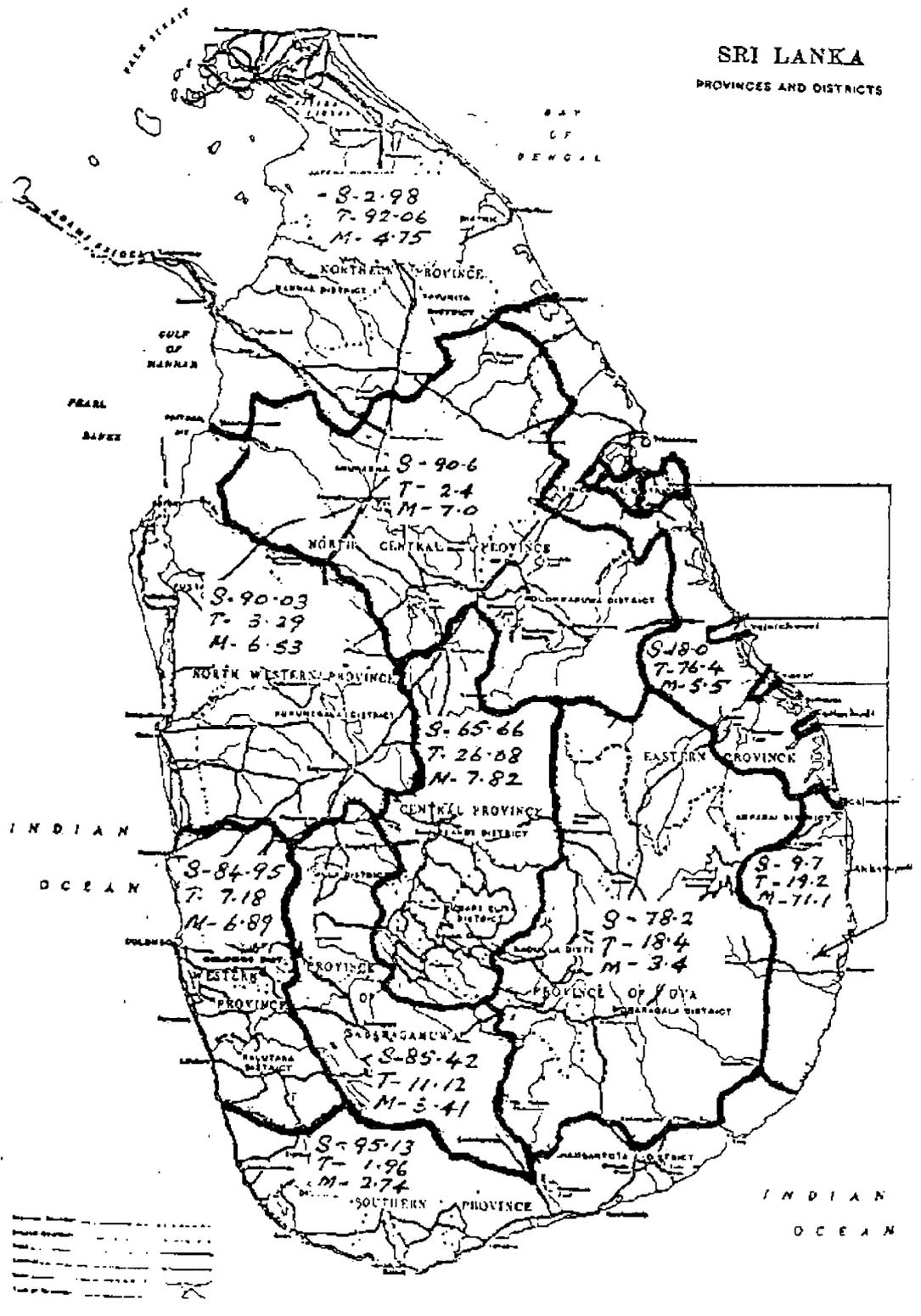
The unit of devolution should also ensure that no injustice is caused to the Sinhalese who have taken the Eastern province and other areas of the Northern province as their permanent home.

While solving the Tamil problem, the Government should not create a community of political and social slaves out of the Muslims in the Northern and Eastern provinces. It is hoped that the PA Government would not desire such a betrayal of the Muslims at a crucial time of our history.

Hon. M H M Ashraff M. P.
National Leader
Sri Lanka Muslim Congress

Hon. Rauff Hakeem M. P.
General Secretary
Sri Lanka Muslim Congress

Mr. M I M Mohideen
National Co-ordinating Secretary
Sri Lanka Muslim Congress



**OSLO CONSENSUS TO EXPLORE
A POLITICAL SOLUTION
BASED ON FEDERAL STRUCTURE
WITHIN A UNITED SRI LANKA.**

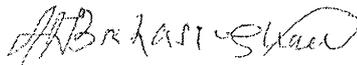
Record of Decisions on 05.12.2002.

Third session of peace talks held at the Radisson SAS Plaza Hotel in Oslo from 2 to 5 December 2002.

Working Outline for the Discussion of Political Matters.

This includes the following statement:

“Responding to a proposal by the leadership of the LTTE, the parties agreed to explore a solution founded on the principle of internal self-determination in areas of historical habitation of the Tamil-speaking peoples, based on a federal structure within a united Sri Lanka. The parties acknowledged that the solution has to be acceptable to all communities.”



Mr. Anton Balasingham
Head of the Delegation
of the LTTE



Mr. G.L. Peiris
Head of the Delegation
of the Sri Lankan Government



Mr. Vidar Helgesen
Deputy Minister of Foreign Affairs,
Head of the Norwegian Facilitation Team

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