

De-merger of Northern and Eastern Provinces

The Supreme Court on Monday the 16th October 2006, in a landmark judgment ruled that the merger of the Northern and the Eastern Provinces by a gazette notification on a Presidential directive was null and void.

Since 1988 successive Presidents have extended the unlawful merger through special gazette notifications as they were unable to carry out the referendum on the merger which was to decide the merger of the two provinces by the vote of the people in the Eastern province.

According to a condition in the Indo-Lanka Accord President J.R. Jayewardene merged the two provinces creating a single unit on September 7, 1988 by special gazette notification under the Public Security Act. According to Section 37 of the Provincial Councils Act No. 42, the President has to make the proclamation on the merger of the two provinces only after the armed groups operating in those areas have surrendered their weapons and all hostilities have ceased.

Although the two provinces were merged by a special Presidential declaration, the other conditions needed for the confirmation of the merger were not carried out as the hostilities broke out between the Indian Peace Keeping Force that was in the Country at that time and the LTTE which refused to completely surrender its weapons and join the democratic mainstream. Unable to hold the referendum in the Eastern province, the poll was postponed by a special gazette notifications on Presidential directives, first to July 1989 and then to January 1990 and June 1990. Thereafter the referendum had been postponed annually.

With hostilities continuing between the government security forces and the LTTE after the IPKF had left the country, the three Presidents who succeeded President Jayewardene continued with the practice as it was a basis on which the Tamil political parties and groups continued to negotiate with the government.

The merger of the North and the East flared up opposition as it was paving the way to the creation of a single administrative entity that encompassed one third of the land area and two-third of the country's coast. Also the ethnic balance of the Eastern Province was another matter of contention. Whereas the Eastern Province as a single entity had an ethnic balance that did not give a majority to one ethnic group, the merger of the two provinces created a Tamil majority. This was strongly resisted by the Muslim and Sinhala communities in the Eastern province.

Even with strong opposition by the Sinhala and Muslim communities, successive Presidents namely Ranasinghe Premadasa, D.B. Wijetunga and Chandrika Kumaratunga continued the extension of the merger with the hope of arriving at a negotiated settlement to the national question and then deciding on the fate of the two provinces at a final solution.

With the split of Karuna from the LTTE, Tamil regionalism based on the Eastern province came to the fore adding a new dimension to the entire issue of the North-East merger.

However, this practice was brought to a halt by Supreme Court judgment on three fundamental rights violation petitions filed by JVP MP Jayantha Wijesekera of Kantale, A.S. Mohamed Buhari of Sammanthura and L.P. Wasantha Piyatissa of Uhana. The petitioners claimed that their fundamental rights were violated by the merger and the continued postponement of the Provincial Council election of the Eastern Province. The petitioners supported by three eminent lawyers Messrs. H.L. de Silva, S.L. Gunasekera and Gomin Dayasiri submitted that due to non observance of the mandatory conditions the merger should be declared null and void.

The five bench judges comprising Chief Justice Sarath N. Silva, Nihal Jayasinghe, Rajah Fernando, Nimal Gamini Amaratunga and N.K. Udalgama granted the relief prayed by the petitioners thus declaring the merger null and void.

Indo-Sri Lanka Agreement

Resolve that:

1. Since the Government of Sri Lanka proposes to permit adjoining Provinces to join to form one administrative unit and also by a Referendum to separate as may be permitted to the Northern and Eastern Provinces as outlined below:
2. During the period, which shall be considered an interim period, (i.e. from the date of the elections to the Provincial Council, as specified in para 2.8 to the date of the referendum as specified in para 2.3, the Northern and Eastern Provinces as now constituted, will form one administrative unit, having one elected Provincial Council., Such a unit will have one Governor, one Chief Minister and one Board of Ministers.
3. There will be a referendum on or before 31st December, 1988 to enable the people of the Eastern Province to decide whether:
 - (a) The Eastern Province should remain linked with the Northern Province as one administrative unit, and continue to be governed together with the Northern Province as specified in para 2.2,
 - (b) The Eastern Province should constitute a separate administrative unit having its own distinct Provincial Council with a separate Governor, Chief Minister and Board of Ministers.

The President may, at his discretion, decide to postpone such a referendum.

- 2.9 The Emergency will be lifted in the Eastern and Northern Provinces by August 15, 1987. A cessation of hostilities will come into effect all over the island within 48 hours of the signing of this Agreement. All arms presently held by militant groups will be surrendered in accordance with an agreed procedure to authorities to be designated by the Government of Sri Lanka.

Consequent to the cessation of hostilities and the surrender of arms by militant groups, the Army and other security personnel will be confined to barracks in camps as on 25 May 1987. The process of surrendering of arms and the confining of security personnel moving back to barracks shall be completed within 72 hours of the cessation of hostilities coming into effect.

Section 37 of the Provincial Councils Act. No. 42

(b) The President shall not make a Proclamation declaring that the Provisions of subsection I (a) shall apply to the Northern and Eastern Provinces unless he is satisfied that arms, ammunition, weapons, explosives and other military equipment, which on 19th July, 1987, were held or under the control of terrorist militant or other groups having as their objective the establishment of a separate State, have been surrendered to the Government of Sri Lanka or to authorities designated by it, and that there has been a cessation of hostilities and other acts of violence by such groups in the said Provinces.

(2) (a) Where a Proclamation is made under the provision of subsection (1) (a), the President shall by Order published in the Gazette, require a poll, to be held in each of the specified Provinces, and fix a date or dates, not later than 31st day of December 1988, for such poll, to enable the electors of each such specified Province to decide whether;

(i) such Province should remain linked with the other specified Province or Provinces as one administrative unit, and continue to be administered together with such Province or Provinces; or

(ii) such Province should constitute a separate administrative unit, having its own distinct Provincial Council, with a separate Governor, Chief Minister and Board of Ministers.

27 July 1987 –

Indo-Lanka peace accord signed

30 July 1987 –

Arrival of the Indian Peace Keeping Force (IPKF)

14 November 1987 –

The 13th amendment to the constitution debated and passed in Parliament. This amendment among other things made provisions for the establishment of the Provincial Councils.

28 April 1988 –

The first ever Provincial Council election for areas other than the North and the East.

7 September 1988 –

President J.R. Jayewardene officially merges the Northern and Eastern provinces within a single North Eastern Province by special Gazette notification under the Public Security Act.

19 November 1988 –

Elections were held for seats in the North East Provincial Council.

1 March 1990 –

EPRLF declares an “Independent Eelam” and renamed the provincial council as a Tamil National Assembly.

March 1990 –

President R. Premadasa imposes direct control on Northeast Provincial Councils.

March 1990 –

North-East Chief Minister Vartharajah Perumal leaves the country surreptitiously with 250 of his supporters.

16 October 2006 –

A five judge bench of the Supreme Court including Chief Justice Sarath N. Silva rules the North-East merger null and void.

Politics of Merged North-East

Majority of the citizens of the Eastern province, comprising Muslims and Sinhalese who have no desire to live within a Jaffna Tamil dominated merged North-Eastern province approved the verdict. Political leaders of the Eastern Tamils, who are culturally separate from the Jaffna Tamils have expressed their rejection of the Jaffna Tamil dominated outfit of Prabakaran.

The Muslims who have faced the brunt of ethnic cleansing from Jaffna and more recently in Mutur have absolutely no desire to subject themselves to further tyranny at the Tamil nationalist forces' hands, who have consistently tried to trap the Muslims in the politics of 'Tamil speaking peoples' and simultaneously subscribe to the concept of mono ethnic 'Tamil homelands'?

The Muslims unequivocally reject being lumped together as 'Tamil speaking people' as they consider themselves a separate ethnic identity distinct from the Tamils and recognize the politics of duplicity of the forces of Tamil nationalism and forcing the North East merger down the throats of the Muslims without their consent.

In the early days of the Tamil struggle, human rights was used as a political tool to support the claim for territorial claims, and with Western human rights organizations highlighting only human rights abuses of states, (because states could be held accountable,) the Tamil nationalists were easily able to muster international support in India as well as the Western democracies pointing exclusively to the human rights abuses of the Sri Lankan State.

This was corrected in the mid 1980's with groups such as Amnesty International highlighting human rights atrocities, irrespective of the identity of the perpetrator and it became obvious that the forces of Tamil nationalism were the gravest human rights violator in Sri Lanka. This resulted in 'human rights' losing its effectiveness in the arsenal of Tamil nationalism to advance their territorial claims.

In Sri Lanka with a 20 million population the forces of Tamil nationalism represent less than 633,000 votes. (at the last general election) and that's after massive electoral fraud as the report of the European Union monitors indicate.

Once this electoral fraud was addressed, the LTTE prevented the Tamils from voting at the Presidential election fearing that their true numbers will knock the bottom out of their territorial and other claims. The LTTE and the forces of Tamil nationalism fears democracy, because democracy will expose their fraud to themselves and the world.

Tamil nationalism is a potent and a fascist force that sincerely believes in their perceived 'Jaffna Tamil superiority' and by default 'Sinhaleses/Eastern Tamil/Muslim/Indian Tamil/ inferiority.

The TNA, proxies of the proscribed terrorist organization the LTTE, are at present protesting in Parliament. It would be more appropriate for them to protest in Kilinochchi, as it is the LTTE, which has facilitated the present predicament.

Not only has Prabakaran's terror outfit rejected the Indo-Sri Lankan accord by waging war on the Indian Peace Keeping Force (IPKF) and then gone on to assassinate Rajiv Gandhi, Prabakaran and his Jaffna Tamil dominated outfit has failed to address the aspirations of the eastern Tamils and accommodate groups such as the TMVP, popularly known as the Karuna faction.

The Indo-Sri Lanka peace accord stipulated the disarmament of the militant groups as a condition of the accord, and the refusal of the LTTE to abide by the agreement and later waging war on the Indian Peace Keeping Force in effect was the unraveling of the North-East

merger. In this regard the LTTE's refusal to abide by the provisions of the Indo-Sri Lanka peace accord should be viewed as the main reason for the present anguish of the forces of Tamil nationalism with regard to the North-East merger.

The position of the Rajapaksa administration is astute in this regard by maintaining that the North East issue should only be resolved by a popular vote of the citizens of the Eastern Province. This is a position that will have the support of the international community and is unassailable by the forces of Tamil nationalism. It will also have the support of an overwhelming majority of the Sri Lankans.

The Supreme Court ruling on the de-merger of the North and East provinces has caused political tension among various communities in the country. There are many divergent views on the matter and the timeliness or the un-timeliness of the ruling is debated on various forums among political leadership and civil society organizations.

Future of Eastern population should be decided by referendum - President



President Mahinda Rajapaksa said that the future of the Eastern population should be decided by means of a referendum.

In a comment made earlier President Rajapaksa has said: "The Executive, Judiciary, Legislature or any other power cannot change the future of the people in the East. Their destiny can only be decided by themselves. According to the Indo-Lanka Agreement, the future of the Eastern population has to be decided by a referendum."

The Northern and the Eastern province were merged by the 13th Amendment to the Constitution and the Provincial Councils Act of 1987 which set up the provincial councils.

In terms of the provisions in the Amendment and the Act, it is mandatory for a poll to be held in each province to enable the voters in each province to decide whether the two provinces should remain linked.

LTTE rejects Supreme Court judgment



In its first reaction to the Supreme Court order for the de-merger of the North-East province, the LTTE said that the Supreme Court had no right to decide on the fate of the Tamil homeland as the Tamil people had not accepted the Constitution of Sri Lanka.

"As far as we are concerned Tamil land cannot be divided. The Sri Lankan government has no right to decide whether to de-merge or merge Tamil land because the Tamil people have not accepted the Constitution of the Sri Lanka government nor have we," LTTE political wing leader Mr. Thamilselvan said after a meeting with the visiting Norwegian peace envoy Jon Hanssen Bauer.

He said the Tamil people wanted to live in freedom on their own soil to safeguard their rights and as such the Sri Lankan government has no right to refuse those rights.

Govt. Group criticizes NE judgment as ill-timed



May aggravate ethnic crisis and peace process warns Jeyaraj

President Mahinda Rajapaksa and Government Parliamentary Group members yesterday criticized the land mark judgment that the merger of the Northern and Eastern Provinces was illegal, saying that this was not best time for such a decision.

Consumer Affairs Minister Jeyaraj Fernandopulle warned that the judgment would aggravate the ethnic crisis though it may be legally correct.

The Minister told the Group meeting held at the Parliament complex yesterday that the country would internationally be placed in a bad position and that it would give rise to dissatisfaction among the Tamil community, especially at a time when the whole peace process was at stake.

Foreign Minister Mangala Samaraweera, Constitutional Affairs Minister D.E.W. Gunasekara, Health Minister Nimal Siripala de Silva and Public Administration Minister Sarath Amunugama too joined in saying the judgment was ill-timed.

President Rajapaksa however stopped short of openly criticizing the judgment but insisted that whether the North and the East should be merged or de-merged should be a matter left to the people in the area to decide through a referendum.

Tamil MPs force suspension of Parliament sittings

The pro and anti-LTTE Tamil parties subscribed to the same view with the TNA describing the new development as something running counter to the aspiration of the Tamil community.

TNA Jaffna district MP M.K. Sivajilingam said that the situation would now compel them to secede and form a separate state in the greater interest of their community.

“We see the situation as a declaration of war against Tamils,” he said.

The TULF declined to comment on the court order delivered by a five member bench.

Party leader V. Anandasangari said the country’s situation now is helping to strengthen the hands of Tigers to score over Government in the face of the international community.

The Government’s ally, the EPDP said the judgment was in line with the present constitution, and therefore they had no comment on it.

Party spokesman S. Thavarajah said they, however, stood for the merger of the two provinces under the constitutional reforms in the future to resolve the Tamil national question.

A vociferous protest by the TNA in parliament yesterday over the de-merger of the North and East, forced sittings to be limited to just 45 minutes, with the Tamil MPs warning that the SC ruling would force the creation of Eelam which would have its own Supreme Court.

Speaker W.J.M. Lokubandara was forced to adjourn sittings at 10.15 am due to the TNA protest over Monday’s Supreme court ruling nullifying the 18-year-old merger of the North and East.

The protesting MPs who surrounded the Speaker's chair chanted slogans, saying the ruling would pave the way for the establishment of Tamil Eelam.

The MPs called on India to accept Tamil Eelam saying a separate Supreme Court would be established in that Eelam.

“Do not divide the North and East. Do not divide our homeland,” the MPs shouted, forcing the Speaker to suspend sittings for ten minutes at 9.45 am. TNA leader Rajavarothiam Sampanthan, Party General Secretary Mavai Senadhiraja and Suresh Premachandran were not present in the House during the protest.

Before parliament convened, the TNA MPs sat in the Well of the House, in a bid to prevent the Speaker from proceeding towards his chair and the Mace from being placed on its stand.

But Parliament staff outwitted the protestors by first opening the main door and then ‘smuggling’ in the Speaker and Mace to the rostrum through a side entrance from the government side.

Seeing this, the TNA MPs advanced aggressively towards the Speaker's chair, prompting Sergeant-at-Arms Anil Samarasekera and parliament security to surround the Chair and protect the Mace from being removed by the protesting MPs.

TNA parliamentarian M.K. Sivajilingam was seen lunging towards the Speaker, only to be held back by government members Mervyn Silva and Jagath Pushpakumara. Amid the din, the Speaker summoned a party leaders meeting to hear Opposition recommendations to the Banking (Amendment) Bill which was scheduled to be passed yesterday after being approved at the Committee stage.

Accordingly, at 9.45 am the House was suspended for 10 minutes to allow the party leaders to exchange views on the banking legislation. When the House reconvened at 10 am, the TNA MPs began their vocal protest again preventing the Banking (Amendment) Bill from passing beyond the Committee stage.

The Opposition members were unable to present their views on the matter over the din created by the protesting MPs.

Certain clauses in the Bill, which essentially sought to provide for defaulting banks to be vested in an acquiring bank, were opposed by the UNP and JVP when the Bill was presented on July 18.

UNP to support NE merger Bill

The main opposition UNP yesterday pledged its support if the government presented a Bill in parliament for the merger of the North and East.

“We are prepared to back such a Bill for the sake of peace. However we will consider such support after a thorough study of the legislation,” UNP parliamentarian Lakshman Kiriella told a news conference.

He said it was upto the government to decide whether the Bill was necessary or not.

“If the Supreme Court order has negative effects on the government's peace effort, the government can present a Bill in Parliament to merge the two provinces. We will be there to help,” Mr. Kiriella said.

The Supreme Court on Monday ruled that the proclamation issued by the then President J.R. Jayewardene enabling the Northern and Eastern Provinces to function as a single administrative unit and to be administered by one elected council were null and void and had no legal effect.

The UNP yesterday called on the government to work towards the re-merger of the north and east through a bill in parliament if it wanted the peace process to move forward smoothly.

“It is President Mahinda Rajapakse’s responsibility to present a bill before parliament to re-merge the north and east if he wants to restore the status quo,” said Senior UNP MP Lakshman Kiriella. He added that its implementation depended on the will of the government.

Kiriella’s comments came in the wake of the Supreme Court ruling that led to the de-merger of the north and east on Monday.

Asked if the UNP would support a bill to merge the two provinces, particularly given the certainty the JVP would oppose it in parliament, Kiriella said the party would do so subsequent to studying the clauses of the bill.

“In such an event, we will examine the bill and if it is satisfactory, will give our support to the government for the necessary two-thirds majority,” he said.

He further urged the government to get the peace process back on track, citing the large number of lives lost during its 11 month tenure.

“Over 2000 young lives have been lost so far and the government is yet to present at least the framework of a solution to the ethnic crisis,” Kiriella said.

SLMC leader Rauff Hakeem - Muslims not so overjoyed on NE de-merger



The SLMC said that it would be too naive to assume that Muslims would be overjoyed regarding the de-merger of the Northern and Eastern Provinces, knowing fully well the timing and the implications of the judgment.

Making a special statement to the House, party leader Rauff Hakeem said they could not be so naive as to ignore the sentiments of their Tamil brethren.

Mr. Hakeem said that the SLMC had come a long way since 1987 and could not be oblivious to certain flaws in the arrangement sought to be introduced by the leaders of the two countries in the Accord.

“Of particular significance is a need to address the Muslim dimension in a permanently merged Northern and Eastern Province,” he said.

De-merger gives East a chance to decide its future says Karuna



The Tamil Makkal Viduthaliaa Pullikal (TMVP), the political arm of the Karuna faction, says the de-merging of the North East gives the chance for the people of the East to decide their own future and not be “political orphans” anymore.

The TMVP said the rights and aspirations of the Eastern people were rejected under the guise of war and now that they have been given the chance to decide the fate of their own future, the de-merger should be welcomed.

Because of the war a certain section was at an advantage in areas of political, security, education, employment and residence, creating unfairness to the eastern people. But now a full stop has been placed to that and the eastern people can elect their own representatives to address their problems. This is a victory they have got.

The TMVP says the country should respect the wishes of the Eastern people by accepting the decision which will in turn help the future of the country.

Prof. Jayadeva Uyangoda – Head, Political Science Department, Colombo University



It is a legal decision with far reaching political consequences. Tamils will see it as a failure on the part of the judiciary to recognize Tamil demands or rights.

On the other hand, judiciary in the past has not been adequately mindful of the political consequences of legal decisions, particularly in the arena of minority rights.

Tissa Attanayaka – United National Party



This type of decision can have an effect on the peace process as well as the upcoming discussions in Geneva.

The merger was a result of the Indo-Lanka Pact that was signed by the leaders of both countries. This merger was only temporary until a referendum was to be held to seek if it is needed. Until now this referendum was not held, and was postponed under the provisions of emergency law. Now with this decision, the president as well as the government will have to face grave difficulties in achieving peace.

This decision will have a negative impact on the international community and they will form an impression that the Sri Lankan government is against devolution of power. In these circumstances the government should be more careful when making decisions.

Athureliye Rathana Thera –Jathika Hela Urumaya



This is a victory for the country as well as for our party. We were the first to bring this issue up in parliament when JHU member Kotapola Marakeerthi Thera proposed this to the parliament and it was placed in the order paper. We should see the positive side of this and make sure that democracy and order is sustained in the eastern area in the country the Thera said.

It was remarkable that the Supreme Court recognized the initial decision to have the North and Eastern provinces under one provincial council as illegal and declared it null and void.

Minister D.E.W. Gunasekera – Communist Party of Sri Lanka



I cannot comment on Supreme Court ruling. This is a political question that should be solved politically. I am waiting for the response of the Tamil and the Muslim communities. As the Constitutional Affairs Minister I cannot say anything more than that.

Wimal Weerawansa – JVP



This is one of the biggest defeats for Tamil separatist and racist politics. According to the law the Elections Commissioner should now take immediate steps to hold the Provincial Council election in the Eastern Province. The government should secure the Eastern Province for the Elections Commissioner to go ahead with the election. By doing so the democratic rights of the Sinhala, Tamil and Muslim communities in the East should be safeguarded. We do not think that anyone has the right to re-merge these two provinces again on the threats by the representatives of the Tamil separatist racist terrorists.

This historic judgment has also dispelled the false notion of the North and East provinces being the ‘historical habitation of the Sri Lankan Tamil speaking peoples,’ created by the Indo-Lanka accord of 1987.

Minister A.L.M. Athulla – Leader, Sri Lanka National Congress



The voting rights of the people in the Eastern province were violated because of the North-East merger. The court verdict on the de-merger shows that the law and justice in this country is still alive. The Muslim people in the East welcome this judgment and believe that a correct environment has been created to resume the peace negotiations. This paves way for proper devolution of power.

Vasudeva Nanayakkara – Democratic New Left Front



I think that the judiciary has no jurisdiction to adjudicate over matters of the executive or legislation. That is against our constitution as well as the international law.

The judiciary cannot interfere into issues that are relevant to the executive and the judiciary, including decisions of the cabinet or the parliament, and international agreements that the government has adhered to so far.

V. Anandasangaree – Tamil United Liberation Front



This is a matter that was taken in front of a court of law. However, the decision was taken in a hurry and whoever filed the action had not considered the consequences of such an action.

For the last 19 years they have tolerated the merger, I have to ask why they have decided to take this action at a time when peace talks are at a crucial point. The government is committed to talks but a decision like this can help a ruthless organization like the LTTE to engage in violent tactics. This gives them room to engage in more violence.

On the other hand, the radical faction in the south may try to take advantage from this situation. This is especially damaging to the soon to be formed alliance between the UNP and the SLFP. They have finally been able to reach a common consensus and this ruling could upset the whole thing.

Selvan Adaikalanathan – Tamil Eelam Liberation Organisation



We do not agree with the judgment given by the Supreme Court on the de-merger. It is not fair to the Tamil people. For the past 19 years J.R. Jayewardene and other political leaders were continuing the merger of the two provinces. Given the changes in the political arena at present we were expecting something like this to happen. There was always a probability that this merger might become invalid.

Now that the government and the UNP are together they might get two thirds of the parliament for the de-merger.

We definitely want peace but it does not seem that the current situation is poised towards that direction. The country is heading towards war. India as party to the Indo-Lanka accord has a duty and a responsibility towards ensuring the peace in Sri Lanka. They should intervene and support us more.

If possible they should pressurize the government to do the right thing and push the country toward peace.

Nadarajah Raviraj – TULF



We understand the judgment was given based on the technicalities of the merger so the government needs to take action to merge these two provinces again legally for the betterment of the country and to achieve a political settlement to the ethnic issue.

This decision has made a big impact of the peace process and also had attacked the foundation of a negotiated settlement.

Minister Dinesh Gunawardena – Leader MEP



The Mahajana Eksath Peramuna (MEP) hailed the Supreme Court judgment on the North-East de-merger

The MEP said it was a pioneer participant in the patriotic peoples' struggle, unbroken since the fusion of the Northern and Eastern Provinces in 1987, to separate them and restore the status quo.

The MEP addressed the people and Parliament, on various platforms, opposing the amalgamation of the Northern and Eastern Provinces.

MEP leader Dinesh Gunawardena strongly recommended the de-merger of the two Provinces and their continuation as two separate entities in the alternative to the Mangala Moonasinghe Committee report.

The MEP appreciates the Supreme Court, the Chief Justice and other Justices, the Janatha Vimukthi Peramuna, the three petitioners – including the two Members of Parliament – and the lawyers who brought this matter before the Supreme Court.

From Where the Indo-Sri Lanka Accord left the North East Muslims

1. Indo-Sri Lanka Accord failed to recognize the North East area as a heterogeneous one.
 - The fundamental mistake was to treat the Northern and the Eastern provinces as areas of historical habitation of the “Tamil speaking peoples”.
 - The fact that the Muslims though they speak Tamil language have been treated politically and ethnically as a separate and distinct community was not taken into account.
 - The Northern and the Eastern provinces should have been recognized as areas of historical habitation of Tamils and the Muslims instead of the general description “Tamil speaking peoples”.
2. Although the Accord mentions that the amalgamation was only for an interim period of one year the proposed Referendum never took place although 18 years have passed.
 - At the discussions between the Tamil parties and the Muslim parties – the Tamil parties have always taken up the position that although the Referendum was provided for in the Accord it was never intended to be held or implemented.
 - Muslims do not accept this position and vehemently object a Kashmir situation in the Eastern Province.
 - Any future settlement should avoid vagueness, uncertainties and contingencies.
3. Although Article 2:16 of the accord states that the Governments of India and Sri Lanka will cooperate in ensuring the physical security and safety of all communities inhabiting the Northern and Eastern provinces the Muslim Community was subjected to untold harassment, genocide and ethnic cleansing. Both Governments could not help us when we were at the receiving end at the hands of the Tamil militants and IPKF.
4. Although the Indo - Sri Lanka Accord was signed subject to the acceptance of the proposals negotiated from 4-5-1986 to 19-12-1986 – the agreement between President J R Jayawardene and the Indian Prime Minister Rajiv Gandhi to the effect that the Muslim M.P.'s of the Eastern Province may be invited to visit India and to discuss matters of mutual concern with the Tamil side under the auspices of the Government of India was never implemented.
 - The political future of the Muslims is one of the residual matters that should have been sorted out within a period of six weeks of signing the Indo-Sri Lanka Accord(Article 2:15).
 - However, we and our destinies were deserted soon after the accord was signed.
5. Indo-Lanka Accord failed to take into consideration the fact that the Muslim community became the sole victim as a result of the amalgamation of the two provinces.
 - The only province where the Muslims are living in substantial numbers is the Eastern province. The amalgamation renders them insecure and politically insignificant.

Human Right Violations against Muslims during North East merger

Tamil Separatists brutally murdered Mr. Habeeb Mohamed, the Assistant Government Agent of Muthur on the 3rd of September 1987, which led to widespread protest – demonstrations by the Muslims throughout the Eastern province. Annoyed by this the Tamil Separatists organized a counter demonstration on the 10th of September 1987 in Kalmunai, which resulted in the Tamils attacking and burning Muslims owned shops, rice mills and houses in the predominant Muslim Town of Kalmunai, in the presence of the IPKF. Properties belonging to the Muslims damaged by the Tamils were valued approximately Rupees 67 Millions.

Mr. A.L. Abdul Majeed, a former M.P., and Deputy Minister of Muthur was killed on the 13th of November 1987. Mr. Abdul Majeed was actively involved in the relief assistance of the thousands of Muslim refugees who came from Muthur, consequent to Tamil armed separatists attack on the Muslim on the 12th of October in the presence of the IPKF.

About 26 Muslims were killed and another 200 were injured when the IPKF shelled Ottamawadi, a predominant Muslim Village in the Batticaloa District on 02nd December 1987. A Number of houses and shops belonging to Muslims were burned and destroyed. Some Muslims women were also reported to have been raped by the IPKF. About 14,000 Muslims became refugees and fled to the North – Central Province, Polonnaruwa.

Kattankudi, the home of nearly 60,000 Muslims, situated 4 miles down South of Batticaloa, was attacked by the armed Tamil separatists on the 30th of December 1987. In this fierce attack, nearly 60 Muslims were killed and more than 200 were injured. Properties worth 200 Millions belonging to the Muslims were burned and destroyed by armed Tamil militant. All these happened in the presence of the Indian Peace Keeping Forces – IPKF. Although the attack lasted for two days, Kattankudi was under siege until the 8th of January 1988. During this period, all movements, in and out of the area were blocked by the armed Tamil militants while the IPKF was supposed to be in control of the area.

Because of the attacks launched by the IPKF and armed Tamil militants, nearly 65,000 innocent Muslims who have lived for generation in Mannar, Jaffna, Mullathievu and Vavunia have abandoned their homes and are now living in refugee camps outside their homes.

Muslim Refugees in Sri Lanka in December 1987.

Muslim Population and Refugees of the Northern and the Eastern Provinces According to AGA Divisions.

<u>Eastern Province</u>	<u>1981</u>	<u>1987</u>	<u>Muslim Refugees</u>
Ampara District	161,754	193,797	-
Kalmunai	45,480	54,576	-
Sammanthurai	37,996	45,592	-
Ninthavur	20,716	24,860	-
Addalachchenai	20,140	24,168	-
Akkaraipattu	22,941	27,529	-
Pottuvil	13,433	16,120	-
Batticaloa District	79,662	94,939	10,225
Batticaloa Town	3,725	4,432	-
Kattankudy	26,509	31,546	-
Eravur	21,582	25,683	-
Ottamawadi/Valachchenai	27,291	32,476	10,225
Trincomalee District	49,280	87,428	49,280
Trinco Town & Gravats	7,979	9,176	5,000
Mutur	19,184	22,062	16,000
Kinniya	28,669	32,969	18,000
Thambalakamam	8,008	9,209	6,280
Kuchchaveli	2,088	2,401	2,000
Kanthalai	4,406	5,067	2,000

Northern Province

Jaffna District	14,169	13,306	13,160
Jaffna Town	10,925	10,270	10,100
Chavakachcheri	601	565	560
Mannar District	30,079	37,933	13,650
Mannar Town	14,517	18,291	6,250
Musali	8,716	10,982	4,720
Nanattan	1,736	2,187	1,212
Manthai West	5,110	6,439	1,468
Mullaithivu District	3,816	5,304	3,040
Maritimpattu	2,852	3,964	2,560
Mullaithivu Town	690	959	480
Vavuniya District	6,764	8,876	4,845
Vavuniya Town & VST	2,973	3,895	2,233
Vengalachettikulam	3,655	4,788	2,612

Eastern & Northern Provinces

371,405 432,310 94,200

The Tamil refugees voluntarily left the Northern and Eastern Provinces because of the Tamil Eelam war and went to India and other Western Countries. But the Muslims were forcibly evacuated by the Tamil Militants. The armed Tamil Militants gave only two days for the Muslims in the North to vacate their homes and leave. Muslim refugees had no place to go. None of the Muslim or Arab countries have accepted any Muslim refugees from the Northern and Eastern Provinces of Sri Lanka. They are undergoing untold hardships in the refugee camps, in the neighboring Provinces. Government security forces and the Rehabilitation Ministry were prepared to resettle the refugees but the armed Tamil militants are obstructing the Muslim refugees returning to their homes which are only 20 to 30 miles away from the refugee camps, whereas thousands of Tamil refugees are freely returning to the Northern and Eastern Provinces from India and other Western Countries and unlawfully occupying the properties of the Muslims with the help of the Tamil militants.

Ethnic Cleansing of Northern Muslims by the LTTE

The Muslims from the Northern Province were forced to leave their homes in the third week of October 1990. The ultimatum in many places was that they should leave the region within 48 hours. Most Muslims refugees continue to live in abject conditions outside the North. Contrary to many other situations of displacement in the country, the majority of the displaced Muslims as a result of the ethnic cleansing by LTTE have not been able to go back to their places of birth in the North. At present, there are about 65,000 Muslims refugees living in the North-Western coastal region in the Puttalam district. The report on assets of Muslim refugees was submitted to the Parliament in 1992 contained a detailed estimate of the losses suffered by these people. According to the estimates, the Muslim families have lost wealth to the tune of Rs. 5,408 million. Of this, a total of Rs. 2967 million would have been considered recoverable if Muslim families have been allowed to return to their homes immediately after their expulsion. The non-recoverable loss of the Northern Muslims is Rs. 2,441 millions.

Unlawful Occupation of Lands and other Properties of Muslims in the North – East

This is related to the forced eviction of Muslims from the Northern and the Eastern provinces. To a larger extent, it applies to Muslim-owned paddy lands adjoining predominant Tamil areas. Nearly

45,000 acres of paddy lands belonging to Muslims of the Eastern province were forcibly taken over by the LTTE and agricultural produce confiscated. The lands belonged to the displaced Muslim from the Northern Province continues to remain under the control of the LTTE. Besides, agricultural implements, motor vehicles and cattle were taken away by force by the LTTE. Under the law of property in force in the country, a land owner loses his right to possession if his property is occupied by a usurper for 10 years. It is now 16 years since Muslims in the North have been forcefully displaced from their properties.

Economic Destabilization of Muslims in the North – East

A politico-military strategy of the LTTE has been to weaken the economic strength of the Muslim community. In order to realize this objective, the LTTE, as was the case with other Tamil militants, have targeted economic ventures and business places of the Muslims. Robbing of business goods and abduction of business men for ransom remain the common specter in the North-East.

Denial of Fishing Rights

With the eviction of the Muslim community from the North, a considerable section of the Muslim fisher-folk have been rendered unemployed. In areas such as Valaichenai, Ottamavadi, Eravur and other coastal areas in the East, boats and fishing gears were routinely robbed by the LTTE. Many Muslim fishermen have also been killed while at sea by the sea tigers.

Non-respect for Religion and Culture

In many instances, in the North East, the cultural and religious symbols of the Muslim community have come under attack from the LTTE and other Tamil militant groups. The grenade attack on a mosque in Akkrapattu and massacre of Muslims at congregational prayer at Kattankudy and Eravur, as well as cold-blooded murder of Hajj pilgrims returning in 1990 in Kaluwanchikudi, demonstrate the extent of intolerance shown by the Tamil militants towards the religion and culture of the Muslims.

Ethnic Cleansing

The armed conflict between the Sri Lanka Government and the LTTE has led to ethnic cleansing of Muslims from the North East. The Muslims in the North-East have been caught in the middle of the civil war and it has been difficult to maintain their neutrality.

Details of the forcibly displaced Muslims from the North East who are now languishing in the following districts - Year 2002

<u>Districts</u>	<u>Families</u>	<u>Peoples</u>
Puttalam	15,500	74,140
Anuradhapura	865	4,070
Kurunagala	487	2,311
Gampaha	1,050	4,725
Colombo	425	1,912
Kalutara	395	1,856
Matale	85	517
Kandy	110	517
Galle	5	23
Kegalle	32	150
Ampara	110	523
Trincomalee	2,207	10,492
Batticaloa	343	1,631
<u>Total:</u>	<u>21,614</u>	<u>102,867</u>

The value of assets robbed by the LTTE during 1990 ethnic cleansing is more than Rs. 10,256 Million or US\$ 110 Million. The donor countries should put a condition for the LTTE to pay this amount to the forcibly displaced Muslims.

<u>Description</u>	<u>Quantity</u>	<u>Value in Millions</u>
Residential properties	22,000	5,500
Commercial establishments	2,402	2,100
Religious Institutions	340	1700
Agricultural Lands	39,400 Acres	200
Gold Jewelleries	475,000 Grams	300
Cattle	211,000	150
Motor Vehicles	320	160
Motor Cycles	800	20
Carts	750	4
Bicycles	4000	25
Fishing Boats	850	40
Engines (Boats)	400	16
Fishing Nets	1200	8
Refrigerators	200	2
Television sets	2000	40
Radio Sets	600	1
Total:		<u>Rs.10,256</u>

Summary of identified Muslim Civilians Killed by Tamil Militants after the unlawful Merger.

- * 26 Muslims were killed at Ottamawadi in December 1987
- * 41 Muslims were killed at Karaitheevu in November 1987
- * 35 Muslims were killed at Kinniya in April 1987
- * 52 Muslims were killed at Mutur in October 1987
- * 21 Muslims were killed at Sammanthurai Mosque in April 1989
- * 67 Muslims were killed at Valaichchenai from April 1985 to July 2002
- * 67 Muslims were killed at Kattankudy in December 1987
- * 168 Muslims were killed at Kattankudy in July 1990
- * 147 Muslims were killed at Kattankudy Mosque in August 1990
- * 58 Muslims were killed at Akkaraipattu in July 1990.
- * 14 Muslims were killed at Kattankudy Mosque in July 1990
- * 13 Muslims were killed in November 1989
- * 19 Muslims were killed at Alimnagar in August 1990
- * 126 Muslims were killed at Eravur in August 1990
- * 53 Muslims were killed at Ambalanthurai in August 1990
- * 23 Muslims were killed at Sainthamaruthu in September 1992
- * 15 Muslims were killed at Addalachchenai in May 1990
- * 37 Muslims were killed at Pallitthidal, Akbarpuram in October 1992
- * 200 Muslims were killed at Kalmunai, Akkaraipattu and Pottuvil in June 1990
- * 33 Muslim farmers were killed at Ampara in August 1990
- * 147 Muslims were killed at Alingippottanai in April 1992
- * 30 Muslims were killed at Pottuvil in June 1991

Duplicity in the Peace Process

There are a number of events which are occurring in the East which directly affect the Muslim people. Muslim Villages are being threatened, the Muslims have a very clear sense of insecurity and this is leading to unrest among the Muslim youths in those areas who simply cannot understand why the Government is not taking their concerns seriously. They have the feeling that they are being left to the grace and favour of the mercy of the LTTE which as we all know is a heavily armed organisation with a record of atrocities against the Muslim community.

LTTE forcibly occupying 63,000 Acres of Agricultural land belonging to 14,872 Muslim Families in the East. During the ethnic cleansing in 1990, LTTE has chased 14,400 Muslim Families from the North, unlawfully occupying 11,100 Muslim Houses a11,058 Acres of Agricultural Land robbed properties worth Rs. 5.0 billion from 13,682 Muslim Families and destroyed 148 Mosques – Muslim places of worship.

After the cease fire, the Muslims have been denied access to mosques during mass agitation promoted by the LTTE. Further, the incidents at Muttur, Kinniya, Valachenai, Eravur, Addalachchenai and Akkaraipattu where the LTTE and other Tamil militants have destroyed properties worth many Millions and abducted and killed hundreds of Muslims. Muslims in the Eastern Province are the victims of the current cease-fire.

The ethnic conflict in Sri Lanka has had a terrible effect on the Muslims in the North-East. The forcible eviction of more than one hundred thousand Muslims, the attacks on the mosques and other places of worship, the confiscation of land and attacks on innocent civilians have caused fear and insecurity in the hearts of the Muslims. Our primary concern is the safety and security of our people, rights for our areas of historical habitation, resettlement of the displaced Muslims and power sharing on the basis of our right to internal self-determination.

A politico military strategy of the LTTE has been to weaken the economic strength of the Muslim community. In order to realize this object, the LTTE, as is the case of other Tamil militants, have targeted economic ventures and business places of the Muslims.

The pattern of attacks that have been unleashed on the Eastern Muslims clearly demonstrates that there is a deliberate plan by the Tamils to weaken the economic and political strength of the Muslims and chase us away like what they did in the North and make the North-East a mono - ethnic Tamil region in order to create the “Tamil Elam” one day.

Muslims should consider more seriously the present trend and take immediate steps to safeguard our legitimate rights in an appropriate manner. If proper safeguards are not secured now it would amount to be the biggest betrayal of not only the present generation but also those yet to be born in the Eastern provinces as Muslims in the future.

If this state of affairs is allowed to continue unchecked we will have another looming problem of immense magnitude - that is, the possibility of Muslim youths taking to arms and seeking support from neighboring Muslim countries who will surely not allow their brothers and sisters here to be continuously left disregarded and even undefended. We will then have to face a situation where another dimension of our political problem will become internationalized.

Although the Government of India guaranteed and cooperated in many ways with the Government of Sri Lanka, none of the proposals of the Indo-Sri Lanka Accord of July 29, 1987, was implemented because of the unsettled situation still prevailing in the Northern and Eastern provinces. Cessation of hostilities did not come into effect. Arms and ammunitions were not surrendered by the Tamil Militants. The IPKF was unable to enforce the cessation of hostilities and

ensure physical security and safety of all communities inhabiting the Eastern and Northern Provinces. The Provincial Council established for the temporarily merged North-East province had been dissolved. In short the Indo-Sri Lanka Accord is a total failure.

The geographical merger of the Northern and Eastern provinces to form a single region with adequate powers over the land have been the main demands of the LTTE. They hold the view that the Tamil Speaking area is one and indivisible and that the geographical contiguity and territorial unity of the Tamil Speaking area should be given unconditional recognition for any meaningful solution to the Tamil problem.

The expression “Tamil Speaking People” refers not to one community but to the Jaffna Tamils, Batticaloa Tamils, Sri Lanka Muslims and Indian Tamils. The expression “Tamil Speaking area” refers to the geographical area covering the Northern and Eastern provinces. Eastern province is the area of historical habitation of Batticaloa Tamils and Muslims. Traditionally the Jaffna Tamils and the Indian Tamils never lived in the Eastern province and it is not their homeland.

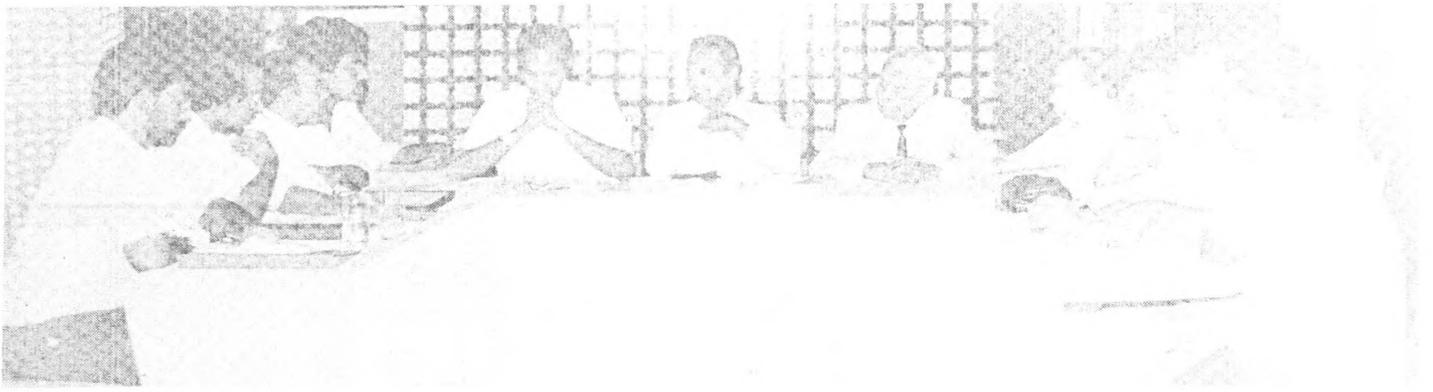
Mr. K.W. Devanayagam, former Minister of Home affairs and one time the Minister of Justice who had been a member of parliament from the Eastern province for a very long time had stated that the Tamils of Batticaloa regard themselves as a distinct group of people different from the Tamils of Jaffna and that they followed a different system of law. He has said that there is proof that the Tamils of Batticaloa are a different community and hence there was no question of a homeland for the Tamils of the North in the Eastern province. This view had been supported by former members of parliament Mr. C. Rajathurai, Mr. Thangathurai, Mr. Prince Cassinathar, Mr. Thivyanathan and many others.

The Northern and Eastern provinces extend from Point Pedro to Kumana and covers approximately one third of the land area and two-third of the sea coast of Sri Lanka.

The Northern province comprises 3,429 sq. miles and the population according to 1981 census is 1,111,468. Tamils 92%, Muslims 5%, and Sinhalese 3%. The Jaffna peninsula is approximately 440 sq. miles and it is in this 12.8% of land area that the 67%-738,788 of the Northern Province people live. All the Tamil militant groups and political parties have their base in the Jaffna peninsula and operate from there. All other districts in the Northern province-Mannar, Vavunia, Mullaithievu, and Kilinochi has a land area of 2,989 sq. miles – 82% of the land area of the Northern province but the population is only 370,616 which is 33% of the population of the Northern province.

The Eastern province has a land area of 3,839 sq. miles and the population according to 1981 census is 993,435 – Tamils 42% Muslims 33%, and Sinhalese 24%. Tamils are the majority only in the Batticaloa district which has a land area of 1,016 sq. miles – Tamils 73%, Muslims 24% and Sinhalese 3%. Tamils are the minorities in the rest of the Eastern province – both Trincomalee and Ampara districts – land area 2,823 sq. miles, 72% of the land area of the Eastern province Tamils 26%, Muslims 37% and Sinhalese 37%. In the Eastern province the Tamil and Sinhalese village are as noncontiguous as the Muslim villages. Today the Muslims are 41% and the first majority community in the Eastern Province.

However, it is because of our desire that the Tamils and Muslims should live in amity in the North and East as in the past, a Muslim delegation visited Madras on two occasions, in September 1987 and April 1988 and had wide ranging discussions with the Tamil moderates as well as the militant groups for peaceful coexistence in the North East.



After the Indo-Sri Lanka Agreement in July 1987 and the 13th Amendment to the constitution, the Sri Lanka Muslim Congress took one step further by contesting the election in the Eastern province and helped the formation of the Provincial Council for the temporarily merged North-East province.

In September 1990, it was agreed between the Tamil parties and the Muslim parties that there shall be one provincial council and two ethnic councils of devolution with equal powers. It was categorically decided that the Muslim ethnic council should in no way be inferior to the Tamil ethnic council. It was also agreed that the Provincial Council should be a bicameral legislature with the second chamber having balanced representation for the minorities in the region.

But the Tamil parties have now taken up the position of not agreeing to create a separate unit of devolution for the Muslims in the Northern and Eastern provinces. They have also taken up the position that the 18% Muslims of the Northern and Eastern province should be contented with the constitutional safeguards only. If that is so, we cannot understand as to why the 10% Sri Lankan Tamils cannot be satisfied with similar constitutional safeguards only, without demanding any share of political power through the devolution process.

From the recent experience the Muslims have realized that there is a well planned conspiracy by the Tamils to chase the Muslims away and make the Northern and Eastern provinces a mono ethnic Tamil region in order to create one day the Tamil Ealam. Although patronizing remarks and promises have been made by the Tamil leaders, in actual practice every effort is being made to cripple and destroy the legitimate rights of the Muslims. It has therefore become an absolute necessity for the Muslims in the Northern and the Eastern provinces to take independent safeguards to protect our lives and properties.

Judgment on North, East merger



In the Supreme Court of the Democratic Socialist Republic of Sri Lanka

S.C (FR) Application No. 243/06

N.W.M. Jayantha Wijesekera, Kantale – Petitioner

S.C (FR) Application No. 244/06

A.S. Mohamed Buhari Sammanthurai – Petitioner

S.C (FR) Application No. 245/06

L.P. Wasantha Piyatissa Uhana – Petitioner

Vs

1. Hon. Attorney General
2. Governor of the North-East Provincial Council
3. Commissioner of Elections

Respondents

K. Thambaiyah, Trincomalee

Vettivel Jayanathan, Ampara

Siritunga Jayasuriya

N. Thillayampalam, Ampara

Intervenient Petitioners

BEFORE: Sarath N. Silva Chief Justice
Nihal Jayasinghe Judge of the Supreme Court
N.K. Udalgama Judge of the Supreme Court
A.R.N. Fernando Judge of the Supreme Court
R.A.N.G. Amaratunga Judge of the Supreme Court

COUNSEL: H.L. de Silva, P.C., with S.L. Gunasekera, Gomin Dayasiri and Monali Jinadasa instructed by Paul Ratnayake Associates for the Petitioner in S.C. (FR) 243/2006, Gomini Dayasiri with Manoli Jinadasa for the Petitioner instructed by Paul Ratnayake Associates in SC (FR) 244/2006

S.L. Gunasekera instructed by Paul Ratnayake Associates for the Petitioner in SC (FR) 245/2006

P.A. Ratnayake, P.C., Addl. Solicitor General, Anil Gunaratne, D.S.G., A. Gnanathan, D.S.G., Indika Demuni de Silva, S.S.C., Janak de Silva, S.S.C., Milinda Gunatilake, S.S.C and Nerin Pulle, S.S.C for the Respondents.

K. Kanag-Iswaran, P.C, with M.A. Sumanthiran and L. Jeyakumar for Interventient Petitioners and

Batty Weerakoon with Percy Wickramasekera and Lal Wijenaike for Interventient Petitioners

ARGUED ON: 15th September 2006

DECIDED ON: 16th October 2006

The three Petitioners being residents of the Trincomalee and the Digamadulla Districts, within the Eastern Province, have been granted leave to proceed on the alleged infringement of their fundamental rights to the equal protection of the law, guaranteed by Article 12(I) of the Constitution.

The executive action impugned as denying to the Petitioners equal protection of the law relates to the Proclamation declaring that the provisions of Section 37(I) of the Provincial Councils Act No. 42 of 1987 shall apply to the Northern and Eastern Provinces, which resulted in these two Provinces forming one administrative unit, a process commonly described as the merger of the two Provinces. The case for the Petitioners articulated by Mr. H.L. de Silva, is that the Proclamation (P2) resulting in the merger is "fatally flawed" due to the non-observance of the mandatory conditions as contained in Section 37(I)(b). That, the amendment of the condition as laid down in Section 37(I)(b), purportedly done by an Emergency Regulation(PI), rendering the conditions ineffective, is ultra vires Section 5 of the Public Security Ordinance which empowers the President to make Emergency Regulations and is therefore null and void. And, although there was no valid merger the poll required to be held in terms of Section 37(2)(a), not later than 31.12.1988, to enable the electors of each Province to decide whether or not the respective Provinces should remain linked as one administrative unit, has been purportedly postponed from time to time by successive Presidents, the last being Order P5 made by the former President by which the poll in the Eastern Province is postponed to 17.11.2006 and in the Northern Province to 1.12.2006. Thereby, the Petitioners and similarly circumstanced voters of the Eastern Province have been continuously denied their rights to have a lawfully elected Provincial Council constituted for the Eastern Province as required by Article 154 A(2) of the 13th Amendment to the Constitution.

The Petitioners submitted that the election for the purportedly merged North-East Provincial Council held in terms of notice dated 19.9.1988 (3R2) published under Section 10 of the Provincial Councils Election Act No. 2 of 1988 was a sham, since candidates of only one political party, the

E.P.R.L.F, submitted nomination papers for the 3 Districts (Jaffna, Mannar and Vavuniya), in the Northern Province resulting in these candidates being returned uncontested and, in the, Eastern Province, in Ampara, being the only predominantly Sinhala Polling Division out of 94,068 only 5617 voted (less than 6%) – vide ‘R’. The Petitioners rely on P3 a contemporary publication which states that the dates that the Chief Minister appointed for the North-East Provincial Council being the leader of the E.P.R.L.F made several demands on the Government of Sri Lanka, proclaimed a “unilateral declaration of independence” and finally surreptitiously left the country with about 250 of his supporters in March 1990. According to paragraph 17 of affidavit 2R3, thereupon the Governor of the North-East Provincial Council made a communication in terms of Section 5A of the Provincial Councils (Amendment) Act No. 27 of 1990, that “more than one half of the membership of the Council expressly repudiated or manifestly disavowed obedience to the Constitution.” In terms of Section 5A introduced by the Amendment certified on 6.7.1990, a few months after the events referred to above, which appears to have been made especially to provide for the situation that had arisen, upon such communication by the Governor^f the Council stands dissolved. Section 4 of the Amendment provides that where a Council stands dissolved in terms of Section 5A referred to above, the Commissioner of Elections is deemed to have complied with Section 10 of the Provincial Councils Elections Act No. 2 of 1998 (being the notice calling for nominations for an election to the Council) if he publishes a notice referred to in that Section within a period of one week.

The Legislative and Executive action referred above, which worked in combination, seemingly set the stage for a new election to the merged North-East Provincial Council. I used the word seemingly because although it appeared to be thus, it was never intended to be so, as revealed by the immediately succeeding events. The Commissioner of Elections by notice dated 11.7.1990 (P4) under Section 10 of the Provincial Councils Election Act specified the nomination period for the election as being from 25.7.1990 to 1.8.1990. Thereupon the then President on 12.7.1990 (the very next day) made an Emergency Regulation under Section 5 of the Public Security Ordinance (Document “D” annexed to affidavit 2R3) which stated that the notice published by the Commissioner of Elections fixed the date and time of nominations “shall be deemed for all purposes to be of no effect.” The electoral process stopped there and has remained ever since as it were frozen, upto date. There has been no election for either the North-East Provincial Council or separately for the Northern Provincial Council or the Eastern Provincial Council. Whereas in respect of the Councils for the other seven Provinces in the country elections have been held on the due dates in 1988, 1993, 1998 and 2004.

Reverting to the merger referred to above, it is to be noted that the poll required to be held under Section 37(2)(a) of the Provincial Council Act not later than 31.12.1988 to enable the electors of the Northern and Eastern Provinces to decide whether or not such Provinces should remain linked as one administrative unit, has been postponed from time to time under Section 37(2)(b), the last being the Order P5 referred to above. The Respondents produced the relevant orders of postponement marked 3R7A to 3R7Z the particulars of which are set out below in sequence.

Thus the electoral and consultative processes being the vital concomitants of Democracy ingrained in the name of the Republic in Article I of the Constitution, have been effectively stymied.

The infringement pleaded is the failure to constitute a Provincial Council for the Eastern Province as required by Article 154A(2) of the 13th Amendment to the Constitution and the continued denial to the electors of the Eastern Province including the Petitioners the right to vote at an election for the members of such Council which stems from the invalid merger effected by P1 and P2 made in derogation of the mandatory conditions in Section 37(I)b of the Provincial Councils Act.

Document	Gazette No. and Date	Postponed Date of Poll for Northern Province	Postponed Date of Poll for Eastern Province
3R7A	538/8 dated 28.12.1988	31 st December 1988	31 st December 1988
3R7B	538/9 dated 29.12.1988	5 th July 1989	5 th July 1989
3R7C	564/3 dated 28.6.1989	29 th January 1990	29 th January 1990
3R7D	593/19 dated 19.1.1990	14 th June 1990	14 th June 1990
3R7E	614/5 dated 11.6.1990	19 th January 1991	19 th January 1991
3R7Z	Gazette not produced	22 nd August 1991	22 nd August 1991
3R7F	674/7 dated 7.8.1991	24 th February 1992	24 th February 1992
3R7G	698/6 dated 22.1.1992	28 th August 1992	28 th August 1992
3R7H	725/15 dated 28.7.1992	5 th March 1993	5 th March 1993
3R7I	18.2.1993	23 rd August 1993	23 rd August 1993
3R7J	780/20 dated 20.8.1993	28 th April 1994	18 th February 1994
3R7K	805/10 dated 9.2.1994	19 th May 1994	31 st March 1994
3R7L	812/09 dated 29.3.1994	14 th July 1994	26 th May 1994
3R7M	818/12 dated 11.5.1994	25 th May 1996	23 rd February 1995
3R7N	856/19 dated 3.2.1995	15 th February 1996	16 th November 1995
3R7O	893/13 dated 19.10.1995	1 st December 1996	16 th November 1996
3R7P	3.10.1996	1 st December 1997	14 th November 1997
3R7Q	996/12 dated 9.10.1997	1 st December 1998	16 th November 1998
3R7R	1050/15 dated 22.10.1998	1 st December 1999	16 th November 1999
3R7S	1102/31 dated 21.10.1999	1 st December 2000	16 th November 2000
3R7T	1156/18 dated 31.10.2000	1 st December 2001	16 th November 2001
3R7U	1209/13 dated 7.11.2001.	1 st December 2002	16 th November 2002
3R7V	1254/7 dated 18.9.2002	1 st December 2003	17 th November 2003
3R7W	1314/1 dated 10.11.2003	1 st December 2004	17 th November 2004
3R7X	1365/17 dated 3.11.2004	1 st December 2005	17 th November 2005
3R7Y	1420/27 dated 23.11.2005	1 st December 2006	16 th November 2006

Additional Solicitor General appearing for the Respondents submitted that the condition as contained in Section 37(I)(b) have been validly amended by the Emergency Regulation P1 and in any event the Petitioners cannot seek a declaration of nullity in respect of P1 and P2 due to time bar and/or the immunity enjoyed by the President in terms of Article 35(1) of the Constitution. He submitted that the poll required to be held of Section 37(2)(a) to enable the electors to decide whether or not the two Provinces should remain linked as one administrative unit has been validly postponed from time to time by orders under Section 37(2)(b) produced marked 2R7(a) to (z) and as such the Petitioners do not have a right to secure an order from Court that a Provincial Council be constituted by election as required by Article 154A(2) of the Constitution for the Eastern Province.

Mr. Kanag-Iswaran for the intervenients, who according to his submission are three Tamil persons from the Trincomalee District and Ampara District, claimed that the merger is based on the Indo-Sri Lanka Accord of 29.7.1987 (P6) which in clause 1.4 recognised that “the Northern and Eastern Provinces have been areas of historical habitation of Sri Lankan Tamil speaking people who have hitherto lived together in this territory with other ethnic groups.” He supported the submission of the Additional Solicitor General that the condition in Section 37(I)(b) has been validly amended by P1 and that Petitioners are not entitled to relief sought. Mr. Batty Weerakoon submitted that the Court should be slow to declare P2 invalid since the merger was effected pursuant to the Indo-Sri Lanka Accord.

The material adduced by the intervenients, represented by Mr. Kanag-Iswaran as to areas of "historical habitation" resulted in the Petitioners producing volumes of material to establish the divisions that existed in historic times and that the Eastern Province was a part of the Kandyan Kingdom at the time of British conquest. Mr. Gomin Dayasiri representing the Muslim Petitioner adduced material in support of 'ethnic cleansing' resorted to by Tamil militants in the Jaffna District resulting in over 90,000 Muslims being driven away from the District in 1990. It was submitted that the process of ethnic cleansing' is yet being perpetrated by the Tamil militants against the Muslims in the Eastern Province. It was submitted by Mr. H.L. de Silva, that the 'forced merger' would result in a destabilization of the ethnic-balance in the Eastern Province. Both Mr. de Silva and Dayasiri relying on the material produced submitted that according to the 1981 census the demographic composition of the Eastern Province was:

Tamil	-	40%
Muslim	-	32%
Sinhala	-	26%

Whereas in a merged North-East Province the demographic composition would be

Tamil	-	65%
Muslim	-	18%
Sinhala	-	13%

It was submitted that the merger would result in the Muslim and Sinhala communities in the Eastern Province being permanently subjugated to a minority which situation would be exacerbated by the process of "ethnic cleansing" carried out by the Tamil militants as referred to above. On the other hand Mr. Kanag-Iswaran submitted that the 'merger' sets right the imbalance brought about by the high increase of the Sinhala population in the Eastern Province in the period 1947 to 1981. He submitted that whereas the national increase of the Sinhala population in country was during the period was 238%, the increase in the Eastern Province 883%.

Taking note of the volatile and ethnically incendiary material produced and trend of submissions based thereon, reminiscent of the ethnic mistrust that led to terrorism, violence, death and devastating destruction that has characterized our body-politic, the Court indicated to Counsel that the case would be considered only from the perspective of securing to every person the equal protection of the law Guaranteed by Article 12(1) of the Constitution. The essential corollary of the equal protection of the law is the freedom from discrimination, based "on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds" guaranteed by Article 12(2). The elements of race, religion and language characterize ethnicity that tend to divide people. Caste, sex, political opinion and place of birth are sub-elements of further divisions between people. In contrast the equal protection of the law unifies people on the basis of the Rule of Law and the peaceful resolution of disputes that characterizes the exercise of judicial power in terms of Article 4(c) read with Article 105(I) of the Constitution. From this perspective the physical identification of a unit of devolution of legislative and executive power, being the bone of contention, diminishes in significance. Whilst ethnic criteria would be relevant to define the territory of a unit of devolution since a homogeneous unit could be better managed and served, the overriding consideration would be current criteria (not historic material or speculative assumptions for the future) that contribute to the functional effectiveness and efficiency of a unit from the perspective of service to the people, being the sole objective of representative Government.

The 13th Amendment to the Constitution was certified on 14.11.1987, being the date on which the Provincial Councils Act No. 42 of 1987 was also certified. The Amendment introduced a new chapter XVIIIA to the Constitution providing for extensive devolution of legislative and executive power to Provincial Councils in respect of the subjects and functions as contained in List I of the 9th

schedule. The legislative competence of Parliament was restricted to the subjects and functions in List II (Reserved List). There could be “joint action” in respect of the subjects and functions in list III (Concurrent List) exercised in the manner specifically provided in the Amendment. These Lists are based on the context of from Article 246 and the seventh schedule of the Constitution of India.

Article 154A(I) of the 13th Amendment to the Constitution empowers the President to establish a Provincial Council for each of the Provinces in the Eighth Schedule. Accordingly, by Order 3R1 the then President established Provincial Councils for each of the nine Provinces, including the North and East, separately, with effect from 3.2.1988. Steps were taken to constitute a Provincial Council by election for each of the 7 Provinces in terms of Article 154A(2), excluding the Northern and Eastern Provinces. In respect of the Northern and Eastern Provinces action was taken as provided in Article 154A(3) by the process impugned in these cases. Sub Article 3 reads as follows:

“Notwithstanding anything in the preceding provisions of this Article, Parliament may by, or under, any law provide for two or three adjoining Provinces to form one administrative unit with one elected Provincial Council, one Governor, one Chief Minister and one Board of Ministers and for the manner of determining whether such Provinces should continue to be administered as one administrative unit or whether each such Province should constitute a separate administrative unit with its own Provincial Council, and a separate Governor, Chief Minister and Board of Ministers.”

An analysis of the provision reveals that the law to be enacted by Parliament there under should have two components providing for –

i) the formation of one administrative unit consisting of two or three adjoining Provinces; and when the Provinces are so brought together as one administrative unit, the manner of determining whether such Provinces should continue to be administered as one unit.

As noted above, the law enacted by Parliament in terms of sub-Article 3 for the merger of two or three Provincial Councils as one administrative unit and for the manner of determining the continuance of such merger is contained in Section 37 of the Provincial Councils Act. The material provisions of which read as follows

“37(1) (a) The President may by Proclamation declare that the provisions of this subsection shall apply to any two or three adjoining Provinces specified in such Proclamation (hereinafter referred to as “the specified Provinces”), and thereupon such Provinces shall form one administrative unit, having one elected Provincial Council, one Governor, one Chief Minister and one Board of Ministers, for the period commencing from the date of the first election to such Provincial council and ending on the date of the poll referred to in subsection (2) of this section, or if there is more than one date fixed for such poll, the last of such dates.

(b) The President shall not make a Proclamation declaring that the provisions of subsection 1 (a) shall apply to the Northern and Eastern Provinces unless he is satisfied that arms, ammunition, weapons, explosives and other military equipment, which on 29th July, 1987, were held or under the control of terrorist militant or other groups having as their objective the establishment of a separate State, have been surrendered to the Government of Sri Lanka or to authorities designated by it, and that there has been a cessation of hostilities and other acts of violence by such groups in the said Provinces.

(2)(b) Where a Proclamation is made under the provisions of subsection (1)(a), the President shall by Order published in the Gazette, require a poll, to be held in each of the specified Provinces, and fix a date or dates, not later than 31st day of December 1988, for such poll, to enable to the electors of each such specified Province to decide whether –

(i) such Province should remain linked with the other specified Province or Provinces as one administrative unit, and continue to be administered together with such Province or Provinces; or

(ii) such Province should constitute a separate administrative unit, having its own distinct Provincial Council, with a separate Governor, Chief Minister and Board of Ministers.

The arguments of Counsel narrow down to the exercise of power reposed in the President under Section 37(1). Whilst subparagraph (a) empowers the President to make a Proclamation declaring that two or three adjoining Provinces would form one administrative unit, sub-paragraph (b) contains an exception in respect of the Northern and Eastern Provinces where special conditions have to be satisfied as to surrender of weapons and cessation of hostilities before an order or merger is made. The provisions of Section 37(2) as to a poll being held prior to 31.12.1988 to enable electors of each Province merged to decide on the continuance of the merger is common to a Proclamation for the merger of any two or more Provinces.

The first matter to be considered in the light of the submissions made is whether the President in making a Proclamation under Section 37(1) (a) exercises executive power or delegated legislative power. This aspect has to be considered by examining the provisions of Article 154A(3) of the Constitution cited above which provides for the merger of two or three adjoining Provinces to form one administrative unit as an exception to the general rule in Article 154A(1) and (2) that there should be a separate Council for each of the nine Provinces. A plain reading of sub-Article (3) shows that there is not even a reference to the President contained therein. Thus the Constitution reserves the power of effecting a merger strictly within the legislative power of Parliament, to be done "by or under, any law."

Article 76(I) of the Constitution states as follows:

"Parliament shall not abdicate or in any manner alienate its legislative power, and shall not set up any authority with, any legislative power."

An exception to the bar on abdication of legislative power is the empowerment of a person or body to make subordinate legislation for prescribed purposes as contained in Article 76(3) which states as follows:

"It shall not be a contravention of the provisions of paragraph (1) of this Article for Parliament to make any law containing any provision empowering any person or body to make subordinate legislation for prescribed purposes, including the power ...

- a) to appoint a date on which any law or any part thereof shall come into effect or cease to have effect;*
- b) to make by order any law or any part thereof applicable to any locally or to any class of persons; and*
- c) to create a legal person, by an order or an act"*

It is plain to see that the power reposed in the President to specify the Provinces in respect of which Section 37(1) will apply comes fairly and squarely within sub-paragraph (b) of Article 76(3). Hence the power reposed in the President is in the nature of a delegated legislative power and the Proclamation issued has to be characterized as subordinate legislation.

Section 37(1)(b) contains a specific condition to be satisfied prior to the making of a Proclamation declaring that the provisions of sub-section (1) (a) shall apply to the Northern and Eastern Provinces, which would have the effect of the two Provinces being merged as one administrative

unit until a poll is held on the question of merger in each of the Provinces not later than 31.12.1988.
They are

- i) that arms, ammunition, weapons explosives and other military equipment which on 29.7.1987 were held or under the control of terrorist, militants or other groups having as their objective the establishment of a separate State, have been surrendered to the Government of Sri Lanka or to authorities designated by it, and;*
- ii) that there has been a cessation of hostilities and other acts of violence by such groups in the said Province*

It is common ground that, the date specified in (i) above, 29.7.1987 is the date of the Indo-Sri Lanka Accord (P6) which in clause 2.1 to 2.6 contains provisions for the interim merger of the Northern and Eastern Provinces as a single administrative unit.

The conditions contained in Section 37(1)(b), as to the surrender of weapons and the cessation of hostilities are contained in clause 2.9 of the Accord which states as follows

“The emergency will be lifted in the Eastern and Northern Provinces by August 15, 1987. A cessation of hostilities will come into effect all over the island within 48 hours of the signing of the agreement. All arms presently held by militant groups will be surrendered in accordance with an agreed procedure to authorities to be designated by the Government of Sri Lanka. Consequent to the cessation of hostilities and the surrender of arms by militant groups, the Army and other security personnel will be confined to barracks in camps as on May 25, 1987. The process of surrendering of arms and the confining of security personnel moving back to barracks shall be completed within 72 hours of the cessation of hostilities coming into effect.”

A copy of the Accord was tabled in Parliament by the then President when he addressed the House on 25.2.1988 (Document “A” annexed to 2R3). In the address in reference to the surrender of weapons and the cessation of hostilities the President stated as follows

“Peace prevailed in the North and the East for a few weeks after the agreement was signed. A formal handing over of arms took place in Palaly, Jaffna, on 5th August 1987, and the process continued in the two provinces with the terrorist groups handing over arms. This process was not completed as one group, the LTTE, violated the Agreement and publicly said they were doing so in early October. Since then violence has continued in these areas and the Indian Peace Keeping Force was compelled to take firm action to recover arms and explosives and had therefore to increase their number in the North and the East. This has gone on for almost six months and I hope that very soon the Indian Forces with such help as the Sri Lanka forces can give, both on land and sea, will be able to ensure that the LTTE gives up arms and violence and accepts the Agreement. They will then be entitled to the amnesty mentioned in the agreement and could enter the main stream of democratic politics and seek election to the Provincial Councils.

Thus in the words of the President himself there had been only a “formal handing over of arms” as submitted by Counsel for the Petitioners. The LTTE had violated the Agreement and publicly said so in October 1987 within 3 months of the Accord and violence had continued in these areas for the past 6 months, that is upto the date the address was made in Parliament. There could be no better evidence to establish that the conditions contained in Section 37(1)(b) had not been satisfied as at 25.2.1988 (being the date of the address), although in terms of the Accord there should have been a cessation of hostilities within 48 hours and a surrender of weapons within further 72 hours of the Agreement being signed on 29.7.1987. Nevertheless in the very same address the President stated as follows

“I will be holding elections to these Councils in April and I hope to constitute the elected Councils for the Provinces, including the temporary North-East Province in May 1988.”

On the basis of this address Mr. de Silva submitted that the President very clearly intended to make an order of merger in respect of the Northern and Eastern Provinces whether or not the conditions as to the surrender of weapons and cessation of hostilities was satisfied.

The Address to Parliament by the President was on 25.2.1988 and the impugned order of merger (P2) was made on 8.9.1988. Hence it is necessary to ascertain from the material before Court whether the situation described by the President continued upto 28.9.1988. Throughout this period the President issued monthly Proclamations under Public Security Ordinance to extend the State of Emergency. Every month these Proclamations were presented to Parliament for approval and a statement was made by a Minister on behalf of the Government specifying the terrorist activities in the North and the East with reference to the number of murders committed, attacks on Police stations and so on and a summary of incidents in the other parts of the country. In the year 1988 Proclamation had been made by the President every month, the first being on 17.1.1988 and the last for the year was on 13.12.1988. The Hansards containing the statements made by the respective Ministers seeking approval of Parliament for the Proclamations have been produced marked B1 to B12 annexed to the affidavit 2R3. The statements establish that far from the LTTE surrendering weapons and there being a cessation of hostilities, there were intensified attacks now on the Indian Peace Keeping Force (IPKF). As regards the specific period in which the order P2 was made that is from 16.8.1988 to 15.9.1988, the situation that existed could be gathered from the following extract of the speech made by the Minister (B9).

“The terrorists have concentrated their campaign of violence in Jaffna, Vavuniya, Batticaloa, Ampara and Trincomalee during the period 16th August 1988 to 15th September 1988, 62 civilians and 19 security personnel were killed during this period. In every instance when the terrorists carried out mass attacks, security forces repulsed the attacks. Considerable amounts of arms and explosives have been captured by security forces.”

Thus it is beyond any doubt that the two conditions for the merger as stated in Section 37(1)(b) referred above as to weapons being surrendered by ‘terrorist militants’ and a cessation of hostilities had not been met.

Neither the Additional S.G. nor Mr. Kanag-Iswaran sought to justify the order P2 on the basis that the factual conditions as stated in Section 37(1)(b) were met at the time the President made such order. They sought to support the order on the basis that the provisions of Section 37(1)(b) had at that time been amended by the President by an Emergency Regulation (P1) made under the Public Security Ordinance 6 days prior to Order P2 effecting the merger. The Petitioners have sought a declaration of nullity in respect of P1 as well on the basis that the Regulation is ultra vires since it cannot be rationally related to any of the purposes for which Emergency Regulations could be validly made in terms of Section 5 of the Public Security Ordinance.

It is necessary at this stage to advert to the contents of P1. It has been made under Section 5 of the Public Security Ordinance and states that Section 37(1)(b) referred to above shall have effect as if the words,

“Or that operation have been commenced to secure complete surrender of arms, ammunition, weapons, explosives or other military equipment by such groups are included at the end of the provision.

The purpose of P2 appears to be to include an alternative to the two conditions contained in Section 37(1)(b) as to the surrender of weapons and a cessation of hostilities. In terms of Article 154A(3)

only Parliament could “by or under any law Provide for two or three adjoining Provinces to form one administrative unit The Parliament exercising the power reposed in sub-Article (3) provided by law (i.e. Section 37(1)(b)) that two special conditions shall apply in respect of the merger of the Northern and Eastern Provinces. Hence a further alternative condition could, if at all, be provided only by law.

Article 170 of the Constitution defines the term “law” as follows: “law” means any, Act of Parliament, and any law enacted by any legislature at any time prior to the commencement of the Constitution and includes an Order in Council;

The term “written law” has a wider meaning and is defined as follows “written law” means any law and subordinate legislation and includes Orders, Proclamations, Rules, By-laws and Regulations made or issued by any body or person having power or authority under any law to make or issue the same.

An Emergency Regulation made by the President would be written law. The term ‘law’ in Article 154A(3) should in my view be restricted to the meaning in Article 170, considering the context in which it occurs in relation to Parliament. Therefore any provision for the merger of two or three Provinces could be made in terms of Article 154A(3), which is in itself an exception to the general rule in Article 154(1) and (2) that a separate Provincial Council be established and constituted for each Province, only by a law enacted by Parliament. The provision purportedly made by the President by Emergency Regulation P1 which is not law within the meaning of Article 170, setting out an alternative condition to what was already stated in the law (i.e. Section 37(1)(b)) is inconsistent with Article 154A(3) of the Constitution and is invalid as correctly submitted by Counsel for Petitioners.

Additional Solicitor General and Mr. Kanag-Iswaran relied on Section 5(2)(d) of the Public Security Ordinance which empowers the President to make an Emergency Regulation amending any law.

In terms of Article 155(1) of the Constitution the Public Security Ordinance, being existing legislation, is deemed to be a law enacted by Parliament.

Article 155(2) reads as follows.

“The power to make emergency regulations under the Public Security Ordinance or the law for the time being in force relating to public security shall include the power to make regulations having the legal effect of over-riding, amending or suspending the operation of the provisions of any law except the provisions of the Constitution.

Hence the power reposed in the President by Section 5 of Public Security Ordinance to make an Emergency Regulation amending any law has to be read subject to the provisions of Article 155(2) of the Constitution and an Emergency Regulation cannot have the effect of amending or over-riding a provision of the Constitution. The purported amendment of Section 37(1)(b) effected by regulation PI in effect over-rides the provisions of Article 154A(3) which only empowers the Parliament to provide by law for the merger of two or three Provinces.

Mr. de Silva assailed the validity of PI on the ground that it cannot reasonably come within any of the purposes provided in Section 5(1) of the Ordinance. This section empowers the President to make emergency regulations for

- 1) public security and the preservation of public order;
- 2) the suppression, mutiny, riot or civil commotion;

3) for the maintenance of supplies and service essential to the life of the community;

The impugned regulation cannot be reasonably related to any of the aforesaid purposes. Manifestly, it has been made for the collateral purpose of amending another and unrelated law by means of which the President purported to empower himself to act in contravention of specific conditions laid down in the law.

The preclusive clause contained in Article 80(3) of the Constitution which bars judicial review of a Bill that has become law upon certification does not extend to Emergency Regulations, being in the nature of delegated legislation. In England judicial review of “administrative legislation” (a broad label for delegated legislation) is governed by the same principles that govern judicial review of administrative action. (Administrative Law by Wade and Forsyth 9th ed. P. 858).

This Court has in the cases of Wickremabandu vs Herath (1990) 2 SLR page 348, Joseph Perera vs Attorney General (1992) 1 SLR 199 and Karunatilake vs Dissanayake (1999) 1 SLR page 157, entertained and decided questions regarding the validity of Emergency Regulations and of executive action taken thereunder, which was held to be not precluded by the immunity’ from suit enjoyed by an incumbent President in terms of Article 35(1) of the Constitution. Such review pertains to two levels. They are

- 1) whether the impugned regulation is per se ultra vires in excess of the power reposed in the President;
- 2) if the regulation per se is valid whether the impugned act done under the Regulation is a proper exercise of power;

I hold that both grounds urged by Mr. de Silva, as to the inconsistency with Article 154A(3) of the Constitution and being in any event outside the scope of Section 5 of the Public Security Ordinance establish that Regulation PI is ultra vires and made in excess of the power reposed in the President. Accordingly, the purported amendment of the provisions of Section 37(1)(b) of the Provincial Councils Act by the President is invalid and of no effect or avail in law.

The next question to be decided is in relation to the validity of Order P2 effecting a merger of the Northern and Eastern Provinces. Section 37(1)(b) contains two mandatory conditions that have to be satisfied before a Proclamation effecting a merger is issued. The address made by the President to Parliament and the statements made as to the security situation seeking an approval of the Proclamations of the state of Emergency in the year 1988 referred to in the preceding analysis clearly establish that the President could not have been possibly satisfied as to either of these mandatory conditions. The endeavour to amend the mandatory conditions by recourse to the Emergency Regulations demonstrates that the President in his own mind knew that the two mandatory conditions have not been satisfied. An axiomatic principle of Administrative Law is thus formulated by Wade and Forsyth early in the treatise as follows:

“Even where Parliament enacts that a minister may make such order as he thinks fit for a certain purpose, the court may still invalidate the order if it infringes one of the many judge-made rules. And the court will invalidate it, a fortiori, if it infringes the limits which Parliament itself has ordained.

(9th Edition Page 5)

The Proclamation P2 made by the then President declaring that the Northern and Eastern Provinces shall form one administrative unit has been made when neither of the conditions specified in Section 37(1)(b) of the Provincial Council Act No. 42 of 1987 as to the surrender of weapons and

the cessation of hostilities, were satisfied. Therefore the order must necessarily be declared invalid since it infringes the limits which Parliament itself has ordained.

Finally, I have to address the objection of time bar raised by the Additional Solicitor General. The impugned orders P1 and P2 were made in September 1988 and the poll to be held in terms of Section 37(2)(a) has been postponed over the past 17 years by the documents 3R7A to 3R7Z. The last postponement was made on 23.11.2005 fixing the date of poll on 16.11.2006 and 5.12.2006 for the Eastern and Northern Provinces respectively. The Petitioners have failed to invoke the jurisdiction of this Court within one month of any of the impugned orders as required by Article 126(2). It is therefore submitted that the Petitioners are precluded from obtaining relief.

The counter submission of Mr. de Silva is that the rights of the Petitioners and those similarly circumstanced in the Eastern Province to have a Provincial Council constituted in terms of Article by election of members is a continuing right and its denial by the ultra vires orders P1 and P2 is a continuing denial to the Petitioner and those similarly circumstanced the equal protection of the law guaranteed by Article 12(1) of the Constitution. He further submitted that the purported postponement of the poll by 3R7A to 3R7Z are of no force or effect in law since they seek to derive validity from P1 and P2.

As noted above the 13th Amendment which introduced a new chapter XVIIIA to the Constitution provides for extensive devolution of legislative and executive devolution of legislative and executive power to Provincial Councils. Although the Amendment was certified on 14.11.1987 and a Provincial Council was established for the Eastern Province and each of the other 8 Provinces by Order dated 3.2.1988 (3RI) made in terms of Article 154A(1) of the Constitution a Provincial Council has not been constituted for the Eastern Province by an election of members as required by Article 154A(2) due to the impugned order of merger P2. The right to have a Provincial Council constituted by an election of the members of such Council pertains to the franchise being part of the sovereignty of the People and its denial is a continuing infringement of the right to the equal protection of law guaranteed by law Article 12(1) of the Constitution, as correctly submitted by Mr. de Silva. Therefore the objection of time bar raised by the Additional Solicitor General is rejected.

For the reasons stated above I allow the application and grant to the Petitioners the relief prayed for in prayers (c) and (e) of the respective petitions. No costs.

Chief Justice

Jayasinghe J.,	I agree
Udalagama J.,	I agree
Fernando J.,	I agree
Amaratunga K.	I agree

011395

Indo-Sri Lanka Agreement



The following is the text of the Indo-Sri Lanka Agreement to establish peace and normalcy in Sri Lanka signed by President Jayewardene and Prime Minister Rajiv Gandhi in Colombo yesterday.

The Prime Minister of the Republic of India, His Excellency Mr. Rajiv Gandhi and the President of the Democratic Socialist Republic of Sri Lanka, His Excellency Mr. J.R. Jayewardene, having met at Colombo on July 29, 1987.

Attaching utmost importance to nurturing, intensifying and strengthening the traditional friendship of India and Sri Lanka, and acknowledging the imperative need of resolving the ethnic problem of Sri Lanka, and the consequent violence, and for the safety, well-being and prosperity of people belonging to all communities in Sri Lanka.

Have this day entered into the following Agreement to fulfill this objective.

- 1.1 desiring to preserve the unity, sovereignty and territorial integrity of Sri Lanka;
- 1.2 acknowledging that Sri Lanka is a multi-ethnic and a multi-lingual plural society consisting, inter alia, of Sinhalese, Tamils, Muslims (Moors), and Burghers;
- 1.3 recognising that each ethnic group has a distinct cultural and linguistic identity which has to be carefully nurtured;
- 1.4 also recognizing that the Northern and the Eastern Provinces have been areas of historical habitation of Sri Lanka Tamil speaking peoples, who have at all times hitherto lived together in this territory with other ethnic groups;
- 1.5 conscious of the necessity of strengthening the forces contributing to the unity, sovereignty and territorial integrity of Sri Lanka, and preserving its character as a multi-ethnic, multi-lingual and multi-religious plural society, in which all citizens can live in equality, safety and harmony, and prosper and fulfill their aspirations;

Resolve that:

1. Since the Government of Sri Lanka proposes to permit adjoining Provinces to join to form one administrative unit and also by a Referendum to separate as may be permitted to the Northern and Eastern Provinces as outlined below:
2. During the period, which shall be considered an interim period, (i.e. from the date of the elections to the Provincial Council, as specified in para 2.8 to the date of the referendum as specified in para 2.3, the Northern and Eastern Provinces as now constituted, will form one administrative unit, having one elected Provincial Council., Such a unit will have one Governor, one Chief Minister and one Board of Ministers.
3. There will be a referendum on or before 31st December, 1988 to enable the people of the Eastern Province to decide whether:
 - (a) The Eastern Province should remain linked with the Northern Province as one administrative unit, and continue to be governed together with the Northern Province as specified in para 2.2,
 - (b) The Eastern Province should constitute a separate administrative unit having its own distinct Provincial Council with a separate Governor, Chief Minister and Board of Ministers.

The President may, at his discretion, decide to postpone such a referendum.

- 2.4 All persons who have been displaced due to ethnic violence, or other reasons, will have the right to vote in such a referendum. Necessary conditions to enable them to return to areas from where they were displaced will be created.
- 2.5 The referendum, when held, will be monitored by a committee headed by the Chief Justice, a member appointed by the President, nominated by the Government of Sri Lanka; and a member appointed by the President, nominated by the representatives of the Tamil speaking people of the Eastern Province.
- 2.6 A simple majority will be sufficient to determine the result of the referendum.
- 2.7 Meetings and other forms of propaganda, permissible within the laws of the country, will be allowed before the referendum.
- 2.8 Elections to Provincial Councils will be held within the next three months, in any event before 31st December 1987. Indian observers will be invited for elections to the Provincial Council of the North and East.
- 2.9 The Emergency will be lifted in the Eastern and Northern Provinces by August 15, 1987. A cessation of hostilities will come into effect all over the island within 48 hours of the signing of this Agreement. All arms presently held by militant groups will be surrendered in accordance with an agreed procedure to authorities to be designated by the Government of Sri Lanka.

Consequent to the cessation of hostilities and the surrender of arms by militant groups, the Army and other security personnel will be confined to barracks in camps as on 25 May 1987. The process of surrendering of arms and the confining of security personnel moving back to barracks shall be completed within 72 hours of the cessation of hostilities coming into effect.

- 2.10 The Government of Sri Lanka will utilize for the purpose of law enforcement and maintenance of security in the Northern and Eastern Provinces the same organizations and mechanisms of Government as are used in the rest of the country.
- 2.11 The President of Sri Lanka will grant a general amnesty to political and other prisoners now held in custody under the Prevention of Terrorism Act and other Emergency laws, and to combatants, as well as to those persons accused, charged and/or convicted under these laws. The Government of Sri Lanka will make special efforts to rehabilitate militant youth with a

- view to bringing them back into the mainstream of national life. India will co-operate in the process.
- 2.12 The Government of Sri Lanka will accept and abide by the above provisions and expect all other to do likewise.
 - 2.13 If the framework for the resolutions is accepted, the Government of Sri Lanka will implement the relevant proposals forthwith.
 - 2.14 The Government of India will underwrite and guarantee the resolutions, and co-operate in the implementation of these proposals.
 - 2.15 These proposals are conditional to an acceptance of the proposals negotiated from 4.5.1986 to 19.12.1986. Residual matters not finalized during the above negotiations shall be resolved between India and Sri Lanka within a period of six weeks of signing this Agreement. These proposals are also conditional to the Government of India cooperating directly with the Government of Sri Lanka in their implementation.
 - 2.16 These proposals are also conditional to the Government of India taking the following actions if any militant groups operating in Sri Lanka do not accept this framework of proposals for a settlement, namely,
 - (a) India will take all necessary steps to ensure that Indian territory is not used for activities prejudicial to the unity, integrity and security of Sri Lanka.
 - (b) The Indian Navy/Coast Guard will cooperate with the Sri Lanka Navy in preventing Tamil militant activities from affecting Sri Lanka.
 - (c) In the event that the Government of Sri Lanka requests the Government of India to afford military assistance to implement these proposals the Government of India will co-operate by giving to the Government of Sri Lanka such military assistance as and when requested.
 - (d) The Government of India will expedite repatriation from Sri Lanka of Indian citizens to India who are resident there, concurrently with the repatriation of Sri Lankan refugees from Tamil Nadu.
 - (e) The Government of India and Sri Lanka will co-operate in ensuring the physical security and safety of all communities inhabiting the Northern and Eastern Provinces.
 - 2.17 The Government of Sri Lanka shall ensure free, full and fair participation of voters from all communities in the Northern and Eastern Provinces in electoral processes envisaged in this Agreement. The Government of India will extend full co-operation to the Government of Sri Lanka in this regard.
 - 2.18 The official language of Sri Lanka shall be Sinhala, Tamil and English will also be official languages.

This agreement and the Annexure thereto shall come into force upon signature.

IN WITNESS WHEREOF we have set our hands and seals hereunto.

DONE IN COLOMBO, SRI LANKA, on this the Twenty Ninth day of July of the year One Thousand Nine Hundred and Eighty Seven, in duplicate, both texts being equally authentic.

Rajiv Gandhi
Prime Minister of the Republic of India

Junius Richard Jayewardene
President of the Democratic Socialist Republic of Sri Lanka

Annexure to the agreement

- 1) His Excellency the Prime Minister of India and His Excellency the President of Sri Lanka agree that the referendum mentioned in paragraph 2 and its sub-paragraphs of the Agreement

- will be observed by a representative of the Election Commission of India to be invited by His Excellency the President of Sri Lanka.
- 2) Similarly, both Heads of Government agree that the elections to the Provincial Council mentioned in paragraph 2.8 of the Agreement will be observed by a representative of the Government of India to be invited by the President of Sri Lanka.
 - 3) His Excellency the President of Sri Lanka agrees that the Home Guards would be disbanded and all para-military personnel will be withdrawn from the Eastern and Northern Provinces with a view to creating conditions to fair elections to the Council.
The President, in his discretion, shall absorb such para-military forces, which came into being due to ethnic violence, into the regular security forces of Sri Lanka.
 - 4) The Prime Minister of India and the President of Sri Lanka agree that the Tamil militants shall surrender their arms to authorities agreed upon to be designated by the President of Sri Lanka. The surrender shall take place in the presence of one senior representative each of the Sri Lanka Red Cross and the Indian Red Cross.
 - 5) The Prime Minister of India and the President of Sri Lanka agree that a joint Indo-Sri Lanka ob-Excellency,
 - 6) Please refer to your letter dated the 29th July which reads as follows:-

Excellency,

Conscious of the friendship between our two countries stretching over two millennia and more, and **recognizing** the importance of nurturing this traditional friendship, it is imperative that both Sri Lanka and India reaffirm the decision not to allow our respective territories to be used for activities prejudicial to each other's unity, territorial integrity and security.

- 2) In this spirit, you had, during the course of our discussions, agreed to meet some of India's concerns as follows:-
 - i) Your Excellency and myself will reach an early understanding about the relevance and employment of foreign military and intelligence personnel with a view to ensuring that such presences will not prejudice Indo-Sri Lankan relations.
 - ii) Trincomalee or any other ports in Sri Lanka will not be made available for military use by any country in a manner prejudicial to India's interests.
 - iii) The work of restoring and operating the Trincomalee oil tank farm will be undertaken as a joint venture between India and Sri Lanka.
 - iv) Sri Lanka's agreement with foreign broadcasting organizations will be reviewed to ensure that any facilities set up by them in Sri Lanka are used solely as public broadcasting facilities and not for any military or intelligence purposes.
- 3) In the same spirit, India will:
 - i) deport all Sri Lankan citizens who are found to be engaging in terrorist activities or advocating separatism or secessionism.
 - ii) provide training facilities and military supplies for Sri Lankan security forces.
- 4) India and Sri Lanka have agreed to set up a joint consultative mechanism to continuously review matters of common concern in the light of the objectives stated in para 1 and specifically to monitor the implementation of other matters contained in this letter.
- 5) Kindly confirm, Excellency, that the above correctly sets out the agreement reached between us.

Please accept,

Excellency the assurances of my highest consideration.

Yours sincerely,
Sgd.
(Rajiv Gandhi)

**His Excellency,
Mr. J.R. Jayewardene,
President of the Democratic Socialist Republic of Sri Lanka,
Colombo**

This is to confirm that the above correctly sets out the understanding reached between us.

Please accept,

Excellency, the assurances of my highest consideration.

(J.R. Jayewardene)

**His Excellency,
Mr. Rajiv Gandhi,
Prime Minister of the Republic of India,
New Delhi**

End of a useless war and a new beginning

(President J.R. Jayewardene's speech at the reception given in honour of the Indian Prime Minister Rajiv Gandhi at the Janadhipathi Mandiraya on July 29)

Your Excellency, Madam Gandhi, Your Excellencies, Honourable Ministers, Ladies and Gentlemen

“Your visit, Mr. Prime Minister to our country is the most controversial visit of an Indian leader to Sri Lanka, since Prince Vijaya's arrival.

Prince Vijaya came here 2500 years ago. He created the Sinhala race. I hope your visit will help the Sinhala race to re-create itself and refurbish itself.

We had several years of almost a civil war.

We end it today, if this agreement is carried out by all those who are parties to it.

My government and people, your government and people, Tamil Nadu and those who have been fighting a useless war, when peace begins from today and the unity, independence and integrity of Sri Lanka is protected by Sri Lanka itself and by the help of India, that's a great achievement.

We all make mistakes. I have made many and may do so in the future. You have made mistakes and will do so in the future. But we cannot keep wrangling about our wounds the whole time, nursing them and being worried about them.

In my political life, which is fairly long, I have always forgiven those who have acted against me. But I have never forgotten what they did. Therefore, I wish that Sri Lanka and India should work together as they have done for so many centuries.

I said before, and I say now, that I am a lover of India, I am a friend of its people, I am a follower of its Greatest Son. I can say no more. Let us therefore remember that to “error is human, to forgive divine.” If your country and your people have committed harm on us, I forgive them, but I will not forget.

May I on your behalf wish Prime Minister Rajiv Gandhi, Mrs. Gandhi, her children and the people of India, to whom we are so closely connected, all the best that we can wish and let them work hand in hand with Sri Lanka and its people for the betterment, prosperity and welfare of the people of this region and of the World. Thank you.”

Time for renewal and re-building

Text of India's Prime Minister Rajiv Gandhi's speech at the reception hosted by President Jayewardene in Colombo.

President Jayewardene Distinguished Ministers Ladies and Gentlemen,

Four years ago, in the dark days of July 1983 the Government of Sri Lanka sought our good offices to resolve the crisis which had been precipitated in the island.

These four years have been years of trial and tribulation for all of us. There has been much destruction.

Communities which had lived together in harmony for hundreds of years were estranged. The economy of Sri Lanka was disrupted by civil disorder.

Refugees flowed across the Palk Straits into India. Through this period of strain, however, we kept our dialogue going.

We have reached an Agreement. It is a momentous event in the history of our two countries. It heralds peace.

It is a compact in the cause of brotherhood. It promises national reconciliation in Sri Lanka.

It has created conditions for the return of the refugees. It had dispelled the clouds that had hovered over our relationship.

The Agreement is a tribute to the wisdom and understanding of the Government and people of Sri Lanka.

I would like to pay a personal tribute to the courage and statesmanship of President Jayewardene.

The Agreement embodies his faith in the great values of Maitri, Karuna and Samanwaya.

The Agreement consolidates the historic relationship between India and Sri Lanka. It is not mere geographical proximity which binds us.

Ours is a relationship of heart and mind, finding expression in history and philosophy, literature and art, and in our contemporary concerns and daily lives.

Our trust in each other lay at the heart of the arduous process of negotiations. That trust has been vindicated by the happy conclusion we have reached.

The Agreement betokens India's continued commitment to the unity and well being of Sri Lanka.

Every agreement is an act of faith. Faith, to triumph, needs unremitting toil and unflinching determination.

In democracies, critics are often more vocal than supporters. It is upto us to defend this Agreement and bring round its detractors.

As we move into the next and vital phase of implementing the Agreement, we shall have to draw deep on the vast reserves of goodwill and understanding which our peoples have for each other.

This is not the time for recrimination or reprisal. It is a time to heal the wounds, to comfort the afflicted. It is a time for renewal and rebuilding.

Let our guiding light be Subramania bharati:

**Living together is the true life,
Falling apart spells ruin;
Well must this lesson be learned,
No other wisdom do we need.**

Through this Accord, we resume the journey on which both our countries embarked when Emperor Asoka who renounced war and violence, sent his son, Aarahat Mahinda, to Sri Lanka with the Buddha's message of nonviolence, compassion and justice.

Long live Indo-Sri Lankan friendship.

No cause for protest, says President

(The special speech made by His Excellency the President on the 6th August 1987 addressing the nation)

My dear friends,

Yesterday those who have been carrying on a bloody battle against the democratic elected government of Sri Lanka for almost 12 years have handed over their arms at a symbolic gesture in Jaffna. The arms were handed over to my delegations led by Sepala Attygalle, Secretary of Defence, and General Cyril Ranatunge. I think we have come to the end of a very bitter conflict. This has been possible because of the Accord for Peace and Normalcy which I signed with the Prime Minister of India, Rajiv Gandhi, on Wednesday. This accord has three aspects, one aspect has to be administered by the Government of India, the other aspect by the Government of Sri Lanka, and the third aspect by the terrorist.

The Government of Sri Lanka has to see that our forces are only used it times of emergency. That we maintain law and order through the police and that we give a pardon, an amnesty to all those who committed offences in the North and the East. We have also to declare that the provinces of Sri Lanka including the North and the East to be governed by the Provincial Councils under the Central Government of Sir Lanka, and they should elect their Chief Minister and Board of Ministers from the Council and have a Governor appointed by me.

We have also had a new proposal namely that the North and the East should form one unit, with one Provincial Council, one Governor and one Chief Minister elected by the people. But this is temporarily, not for ever. Temporarily unit the Eastern Province by a Referendum which I will have to order within one year of the election of Provincial Councils, by a single majority vote decide that they should continue the joinder or they should separate.

I have no fear about the result to the Referendum because all of us can work against the joinder, and I intend to ask all those who are against the joinder to come with me and work in the Eastern Province to convince the people that the joinder should not be made permanent.

Therefore, what are we quarreling about, why do we create trouble in the South and why are we destroying our properties. When within one year the people of the East persuaded by all of us can decide against the joinder. The Government of India has agreed to send away from India all those who campaign for a separate state in Sri Lanka; who campaign for the terrorists; who create and practice terrorism. They also agreed to join with us and our Navy in the Surveillance zone to prevent people coming from India with arms, ammunition and men to fight in Sri Lanka. They have also agreed to help with me with their forces to maintain law and order in the Northern and the Eastern provinces and to see that the terrorists do not carry arms and follow peace.

That is why I have invited the Indian forces to come to Jaffna and the Eastern Province. They act under the directions that I give as the Commanding Chief of the Forces of Sri Lanka. And when I say please go back home, thank you for all that you have done, they will go away. Till then they act on my directions.

The terrorists have decided today to lay down their arms they have agreed to the future to act democratically and they will come under the laws of Sri Lanka and under the Central Government of Sri Lanka.

Therefore, this accord has, I think, for the first time after so many years established peace in our country of that peace is beginning today. I am one who spoke against violence. The human race has been able to distinguish itself from animals because they believe in non-violence, they believe in democracy and they believe in a society that is governed by laws and rules, where as animals do not have laws and rules. It reminds me of a great King, Asoka. At the end of the war against Kalinga, he was resting in his tent, a mother came bringing her child who had died in the war, she laid her child at his feet and said, "Lord, you have killed so many people, killed thousands of people, cannot you give life to my child, cannot you give life to one person". The king was unable to do that. The king had remorse, the king gave up the war, he gave up war and became a Buddhist. He created the greatest and the noblest empire in the world. He is the one who sent his son Mahinda to Sri Lanka; he sent his daughter Sangamitta to Sri Lanka with a Bo-tree. I think friends we should adopt the principles of the Buddha, of non-violence. Why should we, when we have stopped violence in the North and the East, when we have stopped terrorism in the North and the East why should we have terrorism in the South, killing each other just as they did in the North and the East a few days ago. I do appeal to all those Buddhist, Christian and Muslim who love peace, who love non-violence, help the Government to stamp out terrorism in the South that is occurring now.

I therefore, like to tell you all that this course of action has brought us out of the darkness to light; from war to peace, from death to life may this peace prevail in our country for many more years to come, that is my earnest wish.

Hearts united is nation united

(Text of Mr. Rajiv Gandhi's TV address in Colombo on July 29 1987)

Dear Sri Lankan Friends

This is my first visit to your beautiful country. No Indian is ever a stranger in Sri Lanka.

We, in India, have always thought of the people of Sri Lanka as friends – friends who cherish the same great ideals, values and experiences.

We have seen you as colleagues in our struggle for a new kind of world – a world not of dominance but equality, a world not of exploitation but compassion, a world not of discord and war but harmony and peace.

For some years now, your green and beautiful island, so long a haven of tranquility, has been rocked by violence and splattered with blood.

Brother has killed brother, Innocents have died. No group, no community has been untouched by the loss of dear ones.

There has been a growing revulsion against this cycle of violence. People have yearned for peace, for a respite from fear and trouble.

As your poet Kodituwakku has so forcefully said:

Stop it
Stop that fight...
He who died that day was one of us.

Your President asked for our co-operation in his effort to restore trust and peace. We readily joined the quest, for we, in India, know the price that violence extracts.

We have known the agony of partition. We have resolutely stood for the unity of Sri Lanka. We have worked with you to bring about reconciliation between the different communities of your country.

Months of patient negotiation have borne fruit in the Agreement which President Jayewardene and I signed today.

It is an Agreement perhaps without parallel. It flows from centuries of affection and goodwill.

Whether Tamil or Sinhala, Buddhist or Hindu, Christian or Muslim, there is a close relationship between your people and ours.

The Agreement holds out the promise of a strong, united, peaceful Sri Lanka which is as much in our interest as it is in yours.

It is a unity of hearts which guarantees the unity of a nation. Where there is discrimination and discord, a nation's security becomes fragile.

Unity cannot be imposed. It has to arise from a sense of common belonging, common participation, common endeavour and common destiny.

Both our countries have had the vision to choose democratic forms of government, Democracy is both the rule of the majority and the security of the minorities. No society can be wholly free of tension and friction. But democracy resolves them through discussion and accommodation.

The Agreement is not the conclusion of a journey but a new beginning. We must work together closely to ensure its fair and determined implementation.

There might be problems. There might be difficulties. Some may not like this Agreement.

What is important is that the narrow approach of thinking of exclusive identities should be eschewed for the larger national good.

India, for its part, will be faithful to the letter and spirit of the Agreement. We shall carry out all our obligations.

Sri Lanka and India are joint founders of the Non-aligned Movement. Our commitment to Non-alignment arose out of our traditions and the ethos of our Freedom struggles.

Peace in our region depends crucially on all of us remaining non-aligned. It is this which has made this Agreement possible.

I bring you greetings from your brothers and sisters across the Palk Straits. Our friendship is enduring. Our affection is strong.

We shall continue to work together to build a peaceful, prosperous future for our peoples.

Jai Hind
Jai Sri Lanka
Jaya Wewa!

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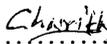
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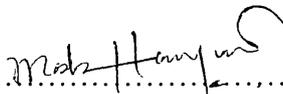
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