

NORTH EAST ETHNIC CONFLICT AND SRI LANKA MUSLIMS

Part – I: North East Ethnic conflict

Quite contrary to popular claims from various quarters of peace, amity and sense of co-existence among the Muslims and Tamils of the Eastern and Northern provinces, resentment and antipathy among the Tamils have been growing towards the Muslims for the last half a century, particularly after the independence to Sri Lanka in 1948. In fact they feel that the Muslims were better placed economically than the Tamils. Muslim youths were advancing in education and out-pacing the Tamils in higher education at the universities and technical institutions. Muslims were able to obtain more government and private sector jobs thus pushing the Tamil youths into the cadre of unemployment. Muslims were more favourably placed with the Government in power on the strength of their leaders disclaiming terrorist and separatist policies, while the Tamils caught in the web of “Eelam” activities, were left in the lurch and thus alienated from the government with the onset of struggle for a separate state for the Tamils. Muslims were unsympathetic towards their separate state demand and therefore constituted a danger in their midst.

The LTTE shot the Muslims in the back while praying, burned our mosques, schools, paddy fields and committed robbery of our cattles and fishing boats. They gave just two days notice for the Muslims who have been living for centuries to vacate our homes and leave the Northern Province. Continuous outrages by the Tamil militants against the Muslims civilian population have made thousands leave their homes in the North and East. None of the Muslim or Arab countries have accepted any Muslim refugees from the Northern and Eastern provinces. They are undergoing untold hardships in the refugees' camps in the neighboring provinces. The Tamils are objecting the Muslim refugees returning home which is only 20 to 30 miles away from the refugee camps whereas thousands of Tamils who left the North East voluntarily due to Eelam War are freely returning to the North East from India and other Western countries and unlawfully occupying the agricultural lands and properties of the Muslims with the help of the LTTE.

Other communities in Sri Lanka – the Sinhalese, and Tamils have also suffered. But the case of the Muslims is quite different. The Government and its armed forces are providing all possible protection and relief for the Sinhalese. Tamil Militants, the Indian Government and the International Tamil Community are fully backing the Sri Lanka Tamils. But the unarmed Sri Lanka Muslims are helpless and caught napping in the unfortunate ethnic conflict.

The Indo-Sri Lanka Accord, the 13th Amendment to the constitution and the provisions of the Provincial councils Act has failed to meet the legitimate demands of the Muslims. They have failed to protect our lives and properties. They have failed to promote socio-economic interests of our people. They have failed to recognize the different ethnic and political aspirations of the Muslims. This total disregard shown to Muslims sentiments brings to surface one important truth – that the Government has little or no concern about the safety and security of the Muslims people in the Northern and Eastern provinces.

Muslims are conscious of the serious problems that are likely to arise when the Northern and Eastern provinces are merged to form an Interim Self Government Authority. After the formation of the Provincial Council in the temporarily merged North-East, the Tamil National Army – TNA of the EPRLF, TELO and ENDLF attacked several Police Stations in the predominant Muslim areas in the East and murdered hundreds of Muslims in cold blood.

This volatile atmosphere gave rise to suspicion and made the Muslims in the Northern and Eastern Provinces realize that the prospect of sharing political and economic powers with the Tamils in the event of a separate state or merged North East Regional Council becoming a reality, are remote.

Part – II: Devolution of Power for the settlement of North East Ethnic conflict

In the Bandaranaike – Chelvanayakam pact of 1957. Hon. S.W.R.D. Bandaranaike proposed Provincial Councils – one for the Northern Province, and the Eastern Province to have two or more. Two or more Councils could also amalgamate even beyond Provincial boundaries.

The Democratic people's Alliance (DPA) in its manifesto for the Presidential Election in 1988 – Part II – The Resolution of Ethnic Problem – Unit of Devolution (a) the concept of devolution is accepted for Sri Lanka. (b) There shall be a predominant Tamil unit comprising of what are the combined Northern and Eastern provinces but excluding the areas covered by the predominant Muslim unit. (c) There shall be a predominant Muslim unit comprising the predominant Muslim electorates of Kalmunai, Pottuvil and Sammanthurai in the Ampara District as the base and identified predominantly Muslim areas in the Batticaloa and Trincomalee Districts. (d) the rights of Sinhalese and all other persons in each unit shall be on the basis of absolute equality.

In the Mangala Moonesinghe Parliament Select Committee of 11th December 1992, members representing the United National Party, Sri Lanka Freedom Party, Sri Lanka Muslim Congress, the Communist Party, Lanka Sama Samaja Party as well as the independent members Mr. K.

Srinivasan, Member for Jaffna District and Mr. Basheer Segudawood, Member of Batticaloa District reached agreement: (a) on the establishment of two separate units of administration for the Northern and the Eastern provinces. (b) to adopt a scheme of devolution on lines similar to those provided in the Indian Constitution and (c) to devolve more subjects that are in List III (Concurrent List) or to dispense with the List.

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.

Part – III: LTTE Proposals – for the Interim Self Government Authority in the North East.

LTTE submitted their ISGA proposals to Mr. Ranil Wickremesinghe's government on the 01 November 2003, on behalf of the Tamil people for an Interim Self Government Authority covering all the eight districts of the North-East. The proposals demand substantial authority to effectively and expeditiously undertake all tasks of resettlement, rehabilitation, reconstruction and development in the North East.

Mr. Anton Balasingham, the Chief Negotiator of the LTTE when addressing an event on 27 November 2004 in London said. "We have already established a state. We have a government of our own. We have an army which is equivalent to the Sinhala army and a navy, police administration, justice system and all the infra structure of a state and we are conducting a government there. We have already a permanent state. We are asking an interim administration for a permanent state to be recognized internationally".

It is very important to point out here that the predominant Muslim areas in the Eastern and Northern Provinces do not come under the control of the LTTE. Muslim areas continue to remain as part of Sri Lanka State. In these areas the Muslims have Sri Lanka Army, Navy, Police administration, Justice System and all the infrastructures.

In the Ceasefire Agreement, the Government and the LTTE, had agreed not to lay claim to the right or seek to control, administer or rule any part of the territory of the Northern and Eastern Provinces that was under the control of the other party as at the date of the signing of the Ceasefire Agreement for the duration of that Agreement. The demand for an ISGA is undeniably a demand by the LTTE to have and exercise absolute powers of governance over the entirety of the Northern and Eastern Provinces including all those areas of the North East Provinces which they failed to subdue by force of arms and remain under the control of the Government. Hence the demand is a patent violation of the Ceasefire Agreement.

The principal purpose of making the proposals for an ISGA according to the LTTE is to serve the needs and secure the rights of the Tamils who, have been oppressed, victimized, brutalized and discriminated against by all Governments of Sri Lanka and continue to be so oppressed, victimized, brutalized and discriminated by the present Government too.

But the proposal is silent regarding the needs, rights and security of the Muslim people who have been forcibly displaced, victimized, brutalized and discriminated by the Tamil militants and continue to be oppressed, victimized, brutalized and discriminated by the LTTE too.

The Tamils were displaced due to the war in the North East but the Muslims continued to live here until the ethnic cleansing by the LTTE in October 1990. Nearly 100,000 Muslims were forcibly displaced 12,000 residential houses have been destroyed, more than 100,000 Acres of agricultural lands have been unlawfully occupied, movable and immovable properties worth Rs. 10,000 millions have been robbed by the LTTE.

At the LTTE leaders' international media conference on 10th April, 2002, Dr. Anton Balasingham repeated his previous apology made at a public meeting on behalf of the LTTE for the forcible expulsion in 1990 of thousands of Muslims by the LTTE as a "political blunder that cannot be justified". Mr. Balasingham said: "Let us forget and forgive the mistakes made in the past. Tamil Elam is also the homeland of the Muslims and we have to live in harmony and amity to promote peace and prosperity in the region." In the said media conference to a question, whether the LTTE would allow Muslim participation in the peace process, Mr. Velupillai Pirabakaran replied, "certainly we will allow Muslim participation in the peace process. It is very important that the questions of the Muslim people are resolved along with the question of the Tamil people."

However, after the ceasefire agreement, the incident at Valachenai during June 2002 where the LTTE had abducted 13 Muslims and the dead bodies of two Muslim youths killed by the LTTE were burned in front of their parents and government security forces thus denying them the burial according to Muslims rites, which clearly demonstrate the scant respect the LTTE has for the religion and the culture of the Muslims. LTTE has even put up a military camp in our Mosque in the Government controlled area at Kurangupanchan in Kinniya which is a gross violation of the MoU signed after the cease fire.

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. This would have enormous and far-reaching consequences, both domestically and internationally. On the domestic side it would destabilise the entire Sri Lankan community. The possibility of Muslim armed struggle here attracting the attention of predominantly Muslim countries elsewhere who will surely not allow their brothers and sisters in Sri Lanka to be left disregarded and even undefended, is extremely alarming. We will then have to face a situation where another dimension of our political problem will become internationalised.

The meaning and effect of Article 9. Jurisdiction of the ISGA, Article 11. Separation of Powers, Article 14. District Committees and Article 15. Administration are crystal clear.

Firstly, the jurisdiction of all our Courts from the Supreme Court downwards in respect of every inch of the territory of the Northern and Eastern Provinces will be effectively abolished from the date of the establishment of the ISGA:

Secondly, that jurisdiction will be vested entirely in a 'judiciary' to be established by the ISGA which will necessarily be the Courts of the LTTE now functioning in those areas under their control and others like them to be set up in those parts of the Northern and Eastern Provinces which are presently ruled by the Government.

The provisions of Article 16 pertaining to a Special Commission to be appointed by the ISGA (i.e. by the LTTE) to report upon the rights of the "dispossessed people" is clearly a device to enable the LTTE to complete the process of 'ethnic cleansing' of the Northern and Eastern Provinces. The LTTE was able to drive out all the Muslims from the Northern Provinces, it could not achieve a repeat performance in the Eastern Province though they tried hard by committing mass murders of Muslims even while they were praying in our Mosques and sleeping in our villages.

It is pertinent in this connection to observe that among the lands that were forcibly occupied by the LTTE were all the lands of the Muslims in both the uncleared and cleared areas of the Northern and Eastern Provinces. This demand contains no provision whatsoever, for the LTTE to restore possession of any land and properties in the occupation of the LTTE to its rightful owners, or to pay compensation to any civilian for the forcible occupation of their lands and properties by the LTTE and the denial to their rightful owners, of “unfettered access” to such lands.

The ISGA wants executive power to control all administrative structures and personal in all the eight districts of the Northern and Eastern Provinces. This means the undermining of its elected members of Parliament, the dismantling of the North East Provincial Council, District Secretaries, Divisional secretaries and the Local authorities – Municipal Councils, Urban Councils and Pradeshiya Sabhas and control the statutory authorities, State Banks etc., for a short term goal of an Interim administration.

The ISGA will have plenary powers. As everyone knows ‘plenary’ means ‘entire, absolute and unqualified’. The absolute majority of the members of the ISGA which will be appointed at the sole discretion of LTTE to rule not only the Tamils living in areas presently under the control of the LTTE, but also to rule all Sinhalese, Muslims and Tamils who live in those parts of the Northern and Eastern Provinces which are under the lawful and democratic rule of the Government.

The plain and simple meaning of these provisions is that the Government of the Sovereign Republic of Sri Lanka elected by all its people including those voters living in the Northern and Eastern Provinces will neither own nor have any rights and/ or powers in respect of a single square inch of any part of the land, the territorial waters abutting the Northern and Eastern Provinces or any of the minerals or resources that lie beneath the surface of that land and sea.

The JVP has out rightly rejected the LTTE proposals and warned that it would break away from the ruling coalition if the Government resumes peace talks on the basis of LTTE ISGA proposals.

The temporary merger of the Eastern Province with the Northern Province as a result of the Indo-Sri Lanka Accord of 29 July 1987 for an interim period up to 31st December 1988 still continuing. Many General and Presidential elections have taken place during the last 17 years but not the referendum in the Eastern Province. Hence, the Eastern Province people - 41% Muslims, 33% Tamils and 26% Sinhalese do not believe in any interim arrangements.

LTTE ISGA proposal says "Representatives of the Muslim Community have the right to participate in formulation of their role in the ISGA". But LTTE objecting the participation of the Muslims in the peace talk. How it is possible without Muslim participation in the Peace Talks?

LTTE Leader Pirabakaran also says "If some elements of our proposals are problematic or controversial, those issues can be resolved through discussions at the negotiating table. Once the interim administrative authority is institutionalized and becomes functional we are prepared to engage in negotiations for a permanent settlement to the ethnic problem". To resolve the issues affecting the Muslims in the ISGA proposals and the permanent solution through discussion at the negotiating Table, Muslim participation in the peace talk is absolutely necessary.

Muslims wish to be represented clearly and solely in the discussion on the basis of our own interests whether or not those interests converge with the interests of the Government and the LTTE. We are asking for an independent place at the negotiations. At the moment the negotiations are scheduled between the Government and the LTTE. This itself is a flawed situation because the process is exclusive and, it is not an expansive process that takes into account the aspirations of all the communities of the country. It is a highly restricted process. Therefore, the Muslim as one of the ethnic communities directly affected in the North and East, conflict seeks to be represented independently as a third party to the negotiations which are supposed to lead to an overall political solution. There cannot be a permanent and durable solution to the ethnic conflict unless the Muslim community is heard and accommodated in its own right and not by proxy.

51 States and 22 international organisations represented at Tokyo firmly endorsed the participation of an independent Muslim delegation at the peace talks in the context of preserving the delicate and ethnic geographical balance, in the name of promoting and protecting human rights for all the people and the concerns of all persons displaced due to the armed conflict. Thus, the intrinsic merits of the Muslim case for participation in the talks have been strongly reinforced by a large segment of global opinion. The Government must now clearly indicate without any hesitation whatsoever that it is prepared to stand by the Tokyo Declaration, and it has the political will to support that declaration.

Part – IV: Muslim Proposals for an Interim Council in the North East

NORTH EAST INTERIM COUNCIL

1. There shall be established an Interim Council for the administration of the Northern and Eastern Provinces for a period of 5 years.
2. The objective of the Interim Council shall be to reconstruct and develop the war ravaged North East region and establish peace and normalcy.
3. The Interim Council shall ensure as quickly as possible to re-settle and rehabilitate all those people who have been displaced since the beginning of the ethnic strife.
4. It shall be the duty of the Interim Council to rehabilitate the lives of the displaced people and enable them to re-possess their lost dwellings and properties and adequately compensate them.
5. During the interim period the council shall ensure the de-escalation of violence and the decommissioning of illegally held arms in the possession of para military groups.

CONSTITUTION OF THE INTERIM COUNCIL

1. The total number of the members of the interim council shall consist of such number of members as is equal to the total number of members entitled to be returned in accordance with the determination by the Commissioner of Elections under Section 3(3) of the Provincial Councils elections Act of 1998 from the several districts of the Northern and Eastern Provinces to the Northeast provincial Council.
2. The Interim Council should consist of representatives from all three communities living in the Northern and Eastern Provinces.
3. President will decide on the proportion of membership among the three communities. (It is suggested that there should be a minimum of 35% of the seats for the Muslims)
4. President will call upon the political parties in the Parliament representing the people of the Northern and Eastern provinces to nominate their representatives to the interim Council in proportion to the number of seats they have in Parliament.

POWERS AND FUNCTIONS OF THE INTERIM COUNCIL

1. The Interim Council shall be entitled to exercise all the powers of the Regional Councils established under new Constitution.
2. The powers of the Interim Council shall be enshrined in the Constitution.
3. The functions of the Interim Council and its relations with the Governor will be laid down in the Constitution
4. The core subjects and functions to be assigned to the Chief Minister, Deputy Chief Minister and the other Ministers shall also be enshrined in the Constitution.
5. The Interim Council shall take appropriate action against human rights violations.

ADMINISTRATION OF TRADITIONAL MUSLIM HOMELANDS IN THE NORTH EAST

All Muslim majority Divisional Secretary Division in Ampara, Batticaloa, Trincomalee, Mannar and Jaffna Districts should be clustered and brought under separate Muslim Secretaries in each district.

IMPLEMENTING AGENCY OF THE INTERIM COUNCIL

1. All the development programmes of the interim council shall be channeled through the respective Local Authorities.
2. As soon as the interim council is established; the central government shall proceed to appoint a delimitation commission to establish ethnic oriented local authority areas all over the North and Eastern Provinces.
3. As far as possible and practical the commission shall endeavor to bring in within the same Local Authority areas all the residential and agricultural and other areas and resources of the people of the same community.
4. The delimitation commission in the process shall also re-examine the boundaries of the existing local authorities and may recommend the creation of such additional number of ethnic oriented local authority areas with a view to allay the fears and suspicions of the different communities and people.
5. Such new local authorities as recommended shall be established within a period of six months (6) and the Central Government with the assistance of the Interim Council shall ensure the holding of elections to all local authorities and other local authorities in the region whose term of office has expired.

MINORITY SAFEGUARDS

1. There will be the following safeguards to ensure that all communities in the Northern and Eastern provinces can participate and work together successfully in the operation of the Interim Council:-
2. The Interim Council shall function in committees.
3. There shall be allocated Committee Chairs, Ministers and Committee Membership to all communities.
4. Key decisions and legislations should be proofed to ensure that they do not infringe the fundamental rights enshrined in the constitution.
5. Any decision of the interim council should not be valid.
 - If it prohibits to restrict the free exercise for any religion.
 - If it makes persons of any community or religion liable to disabilities or restrictions to which persons of other communities or religions are not made liable, or
 - confer on any person or community or religion any privilege or advantage which is not conferred on person of other communities or religions, or

- alter the constitution of any religious body except with the consent of the governing authority of that body (similar to Section 29 of the Soulbury constitution)
6. The key decisions and directives that may affect one or more minority communities of the region not to be valid except with a double majority.
 7. Deputy Chief Minister of the Interim Council also to be a member of the Chief Ministers Conference as well as the Land and Water Use Council.

CABINET AND ITS SIZE

1. There shall be a minimum of eleven (11) members in the Cabinet of the Interim Council.
2. Out of the eleven (11), Three (3) shall be members of the first minority of the region.
3. There shall be a minimum of one (1) member from the second minority of the region.
4. The Deputy Chief Minister and the other cabinet Ministers of the Minority communities of the region should have the confidence of the majority members of their respective communities in the interim council.

LAW AND ORDER

1. Whilst the Chief Minister shall be in over all charge for Law and Order in the Northern and Eastern Provinces – he shall exercise his powers through the Deputy Chief Minister who will be directly answerable for Law and Order in the traditional Muslim homelands.
2. There shall be a Police Station in every Local Authority area and the composition of the Police Force shall reflect the ethnic composition of the said Local Authority.
3. All Police Stations in the traditional Muslim homelands should come under the respective Muslim District Superintendent, Muslim Province Senior Superintendent and Muslim Regional Deputy Inspector General.

BUDGET ALLOCATIONS

1. The Finance Commission shall take into consideration the following matters before allocating funds and give appropriate directives to the Interim Council.
2. The disparity already prevailing in certain under developed Local Authority areas.
3. The size of the population and geographic area of the Local Authority.
4. The interim council should expend such funds as are allocated to it by the Central Government in accordance with the guidelines provided by the Finance Commission.
5. The Interim Council should also ensure that minority communities within a particular Local Authority should not in any way be discriminated in the allocation of funds for development.

EMPLOYMENT OPPORTUNITIES

All employment opportunities in the Eastern and Northern provinces shall be given on merit and according to the ethnic proportions of the respective districts in which such vacancies are available.

STATE LANDS

1. It shall be illegal for the Interim Council to distribute State lands in any way that would disturb the demographic pattern of any particular Local Authority or Administrative Division or District.
2. State lands shall be preserved by the Interim Council for those landless persons of the district according to the demographic pattern of the said district. Any excess land in any district shall be distributed on priority basis to those landless of the adjoining district subject to the rule relating to demographic pattern.

CULTURAL COMMITTEES

1. There shall be established three (3) cultural committees one each in respect of every ethnic community of the region.
2. All members of the interim council belonging to one ethnic community shall ipso facto constitute the cultural committee of the said community.
3. The cultural committee shall function under the respective chairperson elected by the members of the respective communities.
4. All heads of local authorities belonging to the same community within the region could also take part in the deliberations of the cultural committees.
5. A Cultural Committee in addition to religious and cultural matters may also discuss and decide on any other matters of common interest of the said community in the region.
6. The interim Council shall in the Annual Budget allocate specified sums of money at the Independent disposal of each cultural committee for the benefit of the development of the different cultures of all communities in the region.

INTERNATIONAL HUMAN RIGHTS MONITORING MISSION

There shall be established International Human Rights Monitoring Missions in all the eight districts of the North East region to monitor human right violations.

EQUALITY COMMISSION

There shall also be established an Equality Commission to monitor the statutory obligations of the Interim Council to promote equal opportunity in specific area and parity of esteem between any communities and to investigate individual complaints against public bodies.

REFERENDUM IN THE EASTERN PROVINCE

At the expiration of five years from the commencement of the constitution of the Interim Council there shall be a referendum as provided in the Indo-Sri Lanka Accord of 1987 and the Provincial Council Act No.42, to enable the people of the Eastern Province to decide whether the Eastern Province should remain linked with the Northern Province as one administrative unit, and continue to be governed together with the Northern Province or 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.



தமிழீழ விடுதலைப் புலிகள் Liberation Tigers of Tamil Eelam

LTTE Political Headquarters,
Kilinochchi,
Wanni.
11-10-2003.

His Excellency Hans Brattskar,
Norwegian Ambassador to Sri Lanka,
Colombo,
Sri Lanka.

Your Excellency,

Please allow me to begin by thanking you for coming to Wanni to receive the Tamil Proposal for an Interim Self-Governing Authority (ISGA).

The job of the population of the NorthEast has, in turn, complicated efforts to negotiate and to reach agreement on the essential elements of a long-term settlement to the conflict.

As a result, it has become apparent that a new system of governance is essential to bring normalcy to the war-ravaged NorthEast, and that there must be an Interim Self-Governing Authority to accomplish this task. The Government of Sri Lanka (GOSL) has recognized this in its 2000 election manifesto, as well as in its own initial proposal, which has served as a useful starting point. However, one clear lesson to be gleaned from the peace process thus far is that in order to accomplish the immediate return, resettlement, and rehabilitation of tens of thousands of internally displaced persons and refugees, and in order to reconstruct the NorthEast's economic, educational, and cultural infrastructure, it is essential that any interim governing authority have plenary power. The proposed agreement attached herewith takes into consideration the needs of the Tamil people in the NorthEast as well as the legitimate interests of the GOSL. The creation of an Interim Self-Governing Authority is also an efficient means of building institutional capacity, which will be essential to post conflict government.

Our proposal has been formulated after thorough consultations with international experts, as well as with parties to similar conflicts which have now been peacefully resolved or are in the process of being so resolved, and after substantial discussion with major segments of the Tamil People internally as well as abroad. We have prepared the attached comprehensive proposal, on behalf of the Tamil people, for the establishment of an Interim Self-Governing Authority.



தமிழீழ விடுதலைப் புலிகள் Liberation Tigers of Tamil Eelam

The proposed Agreement to establish an Interim Self-Governing Authority is based on the mutual consent of the Parties, namely the Liberation Tigers of Tamil Eelam and the Government of Sri Lanka is compatible with the international practice of establishing interim authorities to address urgent humanitarian needs while negotiations for a final settlement remain ongoing. The proposed Agreement also conforms with the existing precedents in the current peace process, including the Ceasefire Agreement, the establishment of the Sri Lanka Monitoring Mission (SLMM), and the creation of the SIHRN and the North East reconstruction Fund (NEKF).

In formulating the ISGA, we have also taken into consideration the de facto government of the LTTE for the majority of the NorthEast of the island of Sri Lanka. In doing so, the proposed Agreement conforms with the principle of effectiveness.

To ensure the fair and effective operation of the Interim Self-Governing Authority, the proposed Agreement provides for:

- 1) Representation within the Interim Self-Governing Authority for the Tamil People, the Sinhala community, and the Muslim community;
- 2) Provision for discussions with representatives of the Muslim community in the NorthEast on their role in the ISGA;
- 3) Plenary power necessary for the governance of the NorthEast region, including powers relating to resettlement, rehabilitation, reconstruction, and development;
- 4) An independent Judiciary;
- 5) The creation of an independent Human Rights Commission to ensure that all national and international human rights standards are fully complied with in the NorthEast;
- 6) Institutionalized protection of the cultural and religious interests of all those who reside within the NorthEast;
- 7) The vacation of civilian areas by the occupying armed forces;
- 8) Regular auditing of the ISGA's spending according to international standards;
- 9) Elections to be held after five years, if no final settlement is reached and implemented; and
- 10) The settlement of disputes over the interpretation or implementation of the agreement according to internationally-accepted norms.



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We respectfully request that you provide this document to the Government of Sri Lanka and that you arrange for a meeting at which we can discuss this proposal, in your presence, with the representatives of the GOSL at a mutually convenient time and venue.

We would also like to take this opportunity to thank you once again for your invaluable assistance and all that you have done to help bring lasting peace to the island of Sri Lanka.

We look forward to continuing our dialogue with the GOSL and to reaching rapid agreement on the creation of an Interim Self-Governing Authority so as to effectively bring normalcy and economic development to the Tamil People in the North East.

We trust the creation of the ISGA will provide a conducive environment for negotiating towards a peaceful resolution of the conflict in the island.

Sincerely,

(S.P. Tamilselvan)
Head of Political Wing,
Liberation Tigers of Tamil Eelam.

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

Consistent with the principles of the rule of law, the human rights and equality of all persons, and the right to self-determination of Peoples,

Determined to bring lasting peace to all persons of the island of Sri Lanka,

Acknowledging with appreciation the services of the Royal Norwegian Government, the Norwegian People, and the international community in attempting to bring peace to the island,

Recognizing that a peaceful resolution is a real possibility, despite the challenging history of the peace process between the Tamil people and the Sinhala people.

Determined to establish an interim self-governing authority for the NorthEast region and to provide for the urgent needs of the people of the NorthEast by formulating laws and policies and, effectively and expeditiously, executing all resettlement, rehabilitation, reconstruction, and development in the NorthEast, while the process for reaching a final settlement remains ongoing

Being aware that the history of the relations between the Tamil People and the Sinhala People has been a process of broken promises and unilateral abrogation, by successive governments of Sri Lanka, of pacts and agreements solemnly entered into between the government of Sri Lanka (GOSL) and the elected representatives of the Tamil People,

Bearing in mind that successive Governments of Sri Lanka have perpetrated persecution, discrimination, State violence and State-orchestrated violence against the Tamil People,

Noting that the Tamil people mandated their elected representatives to establish an independent sovereign, secular State for the Tamil people in the elections subsequent to the Vaddukoddai Resolution of 1976,

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

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

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

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

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

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

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

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

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

Recognising the failure of the Sub-committee on Immediate Humanitarian and Rehabilitation Needs (SIHRN) and other Sub-Committees formed during the peace negotiations, which failure was due to the composition of such Sub-Committees, which repeatedly led to inaction,

Acknowledging the recognition by the GOSL of the necessity for an Interim Authority, as mentioned in its 2000 election manifesto,

Realising that maintenance of law and order is an essential pre-requisite for a just and free society,

Recognising the need for raising revenue to meet the urgent needs for the Resettlement, Rehabilitation, Reconstruction and Development of the NorthEast region, which has been devastated by war, and for the carrying out of any function of Government,

Recognising the importance of control over land in resettlement, rehabilitation, reconstruction and development,

Mindful that the Tamils did not participate in the making of the 1972 and 1978 constitutions, which institutionalized discrimination and denied them an effective role in the decision-making process,

Noting the practice in international relations over the last decade of solving conflicts between Peoples through agreement between the parties to the conflict on terms of equality and through innovative and imaginative measures,

Relying on international precedents for establishing interim governing arrangements in war-torn countries, having the force of law based solely on pacts or agreements between the warring parties recognized by the international community,

Noting that measures such as the Ceasefire Agreement, including the role of the Sri Lanka Monitoring Mission (SLMM), and, the establishment of the SIHRN and the NorthEast Reconstruction Fund (NERF) constitute valid precedents for making such arrangements,

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

1. Interim Self-Governing Authority

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

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

2. Composition of the ISGA

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

2.2. The composition of the ISGA shall be:

2.2.a. Members appointed by the LTTE,

2.2.b. Members appointed by the GOSL, and

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

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

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

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

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

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

3. Elections

Articles 10, 11, 12, 13 and 15 shall continue until elections for the ISGA are held. Such elections shall be held at the expiry of five years of the coming into force of this Agreement, if no final settlement has been reached and implemented by the end of the said period of five years. An independent Election Commission, appointed by the ISGA, shall conduct free and fair elections in accordance with international democratic principles and standards under international observation.

4. Human Rights

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

5. Secularism

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

6. Prohibition against Discrimination

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

7. Prevention of Bribery and Corruption.

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

8. Protection of All Communities

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

9. Jurisdiction of the ISGA.

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

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

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

10. Separation of Powers

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

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

11. Finance

The ISGA shall prepare an annual budget.

There shall be a Financial Commission consisting of members appointed by the ISGA. The members should have distinguished themselves or held high office in the fields of finance, administration or business. This Commission shall make recommendations as to the amount out of the Consolidated Fund to be allocated to the NorthEast. The GOSL shall make its good faith efforts to implement the recommendation.

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

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

11.1. NorthEast General Fund

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

- 11.1.a. The proceeds of all grants and loans made by the GOSL to the ISGA and the proceeds of all other loans made to the ISGA.
- 11.1.b. All allocations by the GOSL from agreements with states, institutions and other organizations earmarked in any such agreements for the NorthEast.
- 11.1.c. All other receipts of the ISGA, other than the funds specified below.

11.2. NorthEast Reconstruction Fund

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

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

11.3. Special Fund

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

12. Powers to Borrow, Receive Aid and Trade.

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

13. Accounting and Auditing of Funds.

13.1. The ISGA shall appoint an Auditor General.

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

14. District Committees.

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

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

14.3. The Committees will function directly under the ISGA.

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

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

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

15. Administration

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

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

16. Administration of Land

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

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

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

17. Resettlement of Occupied Lands

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

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

18. Marine and off-shore resources

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

19. Natural Resources

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

20. Water Use

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

21. Agreements and contracts

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

22. Settlement of Disputes

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

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

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

23. Operational Period

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

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

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