

SECRET/NOT TO BE DIVULGED

**FINAL PROPOSALS FORWARDED BY
GOVERNMENT OF SRI LANKA FOR
FINDING A POLITICAL SOLUTION
TO THE ETHNIC PROBLEMS**

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PREAMBLE

The Sri Lanka Government has made certain proposals and states that the said proposals may be examined within the framework of the undermentioned principles to which the Sri Lanka Government subscribes:

- i) maintenance of the unity, integrity and sovereignty of Sri Lanka;
- ii) the maintenance of the unitary character of the Sri Lanka Constitution;
- iii) the principle of devolution of powers upon the Provincial Councils within the framework of the Constitution of Sri Lanka as proposed to be amended.

2. With reference to the Northern and Eastern Provinces, in order to allay the apprehensions of any community, the Sri Lanka Government is prepared to consider the following alternative suggestions:

- i) Suitable institutional arrangements to provide for the Provincial Councils in the Island, especially in the Northern Province and the Eastern Province, to consult with each other and act in co-ordination on matters of mutual interest and concern.
- ii) Suitable legal and institutional arrangements to ensure that the ethnic groups in each Province participate in the Government of the Province.
- iii) Establishment of units to give to the ethnic groups a large measure of local self-government under the control of the Provincial Government such as:
 - a) community oriented AGA Division.
 - b) Pradeshiya Sabhas in the AGA Divisions.
 - c) Any other unit of local self-Government.

3. A detailed note containing observations on the proposals of the Sri Lanka Government on the framework is appended as

Annexure I....

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4. A separate note is annexed (Annexure II) on law and order and the scope of the powers devolved thereunder.

5. A separate note is annexed (Annexure III) on land settlement and the scope of the powers devolved thereunder.

4. 5. 86

Note on Provincial Councils.

1. A Provincial Council shall be established in each Province. Law-making and Executive (including Financial) powers shall be devolved upon the Provincial Councils by suitable Constitutional amendments, without resort to a referendum. After further discussion, subjects broadly corresponding to the proposals contained in Annex I to the Draft Framework of Accord and Understanding of 30.8.85 and the entries in List II and List III of the Seventh Schedule of the Indian Constitution shall be devolved upon the Provincial Councils. This will, however, be subject to the accompanying notes relating to (i) law and order; and (ii) land settlement.

2. In the Northern Province and in the Eastern Province, the Provincial Councils shall be deemed to be constituted immediately after the Constitutional amendments come into force. Elections to the said Provincial Councils shall be held immediately thereafter on the basis of proportional representation.

3. In regard to the other Provinces, the existing District Councils in a Province may, at any time, opt to constitute a Provincial Council. Where a Provincial Council is constituted in any other Province, the said Provincial Council may exercise legislative powers in respect of any or all subjects devolved upon the Provincial Councils. The Provincial Council may also resolve to request Parliament to exercise legislative powers on its behalf in respect of any devolved subject.

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4. There shall be a High Court in each Province. The Supreme Court of Sri Lanka will exercise Appellate and Constitutional jurisdiction.

5. The leader of the party which commands a majority in the Provincial Council shall be appointed as the Chief Minister. The other Ministers of the Council of Ministers shall be appointed on the advice of the Chief Minister.

6. The Sri Lankan side has no objection to the proposal to appoint a Governor in each Province. However, this question may be further examined.

7. Any ^{future} amendment to the Constitutional provisions or any other laws providing for devolution of legislative and executive (including financial) powers shall require a 2/3rd majority as provided in the present Constitution. Any further safeguards, for example a further requirement of a referendum, may also be discussed.

8. On the establishment of a Provincial Council, it may, by a resolution, decide to grant right of audience in the Provincial Council, but without a right to vote, to the Members of Parliament elected from the Province. Such resolution shall be in force for the duration of the term of the Provincial Council.

9. A Bill passed by the Provincial Council shall become Law on certification by the Chairman of the Council. If the President is of opinion that the constitutional validity of the Bill has to be decided by the Supreme Court, he may, before the Bill comes into operation, refer the same to the Supreme Court for a decision thereon. Such reference shall be made within a specified period. This may be further discussed.

10. The circumstances under which the President may dissolve a Provincial Council or remove the Provincial Government, and the conditions and limitations under which such powers may be exercised, shall be further discussed and suitable provisions made.

11. Elections to the Provincial Council shall be on the basis of proportional representation. The number of members to be elected shall be determined having regard to the population and the area of each District in the Provincial Council. The scheme of proportional representation may be discussed on the basis of the clarifications appended to the August 1985 document.

12. Disputes relating to elections to the Provincial Council shall be decided by Courts on election petitions filed before them, in the same manner as is provided now in the case of elections to Parliament.

13. The Sri Lanka side desires that the concept, powers and functions of Pradesheya Sabhas as units of local Government under a Provincial Council may be further examined and discussed.

14. The Sri Lanka side also desires that the powers and functions of other units of local government, either in existence now or which may be created in the future, may also be further examined and discussed.

15. The above represents the cardinal features of the proposed structure of Government in each Province. They will be supplemented by suitable consequential and incidental provisions.

4/5/86



AIDE MEMOIRE

1. Further to the Law and Order Papers of 4th and 10th May, 1986, additional Confidential Clarifications (dated 13th June, 1986) in response to the nine points raised by the Indian Delegation are appended.
2. It is proposed to discuss the question of the status and use of Tamil and English at the Political Parties' Conference. One of the proposals of the Government will be that Tamil and English should have the status these two languages have in the Constitution of India.
3. The Sri Lanka Government will be prepared to consider providing an institutional framework providing for Inter-Province co-ordination and consultation on matters of common interest and concern similar to that provided for in the Indian Constitution in relation to "Inter-State Councils" under Article 263. The Sri Lanka Government will also endeavour to persuade the major political parties, through the Political Parties' Conference to accept these two proposals, in paragraphs (2) and (3).
4. All these as well as other proposals should not be viewed in isolation, but as integral elements of an overall settlement provided that all other elements are accepted.

Colombo,
13th June 1986.

LAW & ORDER

1. The subject devolved shall be described as follows:-
Public order within the Province but not including -
 - (a) national defence,
 - (b) national security, and
 - (c) the use of any armed forces or any other forces under the control of the Government of Sri Lanka in aid of the civil power.

2. The Sri Lanka Police Force which shall function under the overall direction and control of the I.G.P. shall consist of -
 - (i) the National Division (including Special Units),
 - (ii) a Provincial Division for each Province.
 - 2.1. The National Division shall consist of the I.G.P., D.I.Gs, S.S.Ps, A.S.Pa and other ranks recruited at the National level.
 - 2.2. A Provincial Division shall consist of the D.I.G., S.S.Pu, S.Ps. and A.S.Pa, all seconded from the National Division and Provincial Asst. Superintendents of Police, Chief Inspectors, Inspectors, Sub-Inspectors, Sergeants and Constables recruited in the Province. Members of the Provincial Division shall be eligible for promotion to the National Division.

3. Recruitment to the National Division and promotions of Police Officers in the Provincial Divisions to the National Division shall be made by a National Police Commission composed of three members, namely -
 - (a) the I.G.P.,
 - (b) a nominee of the President, and
 - (c) A nominee of the Chief Justice.

- 3.1. The Commission shall also be responsible for promotions, transfers and disciplinary control of members of the National Division other than the I.G.P. subject to paragraph 4.1. below.
- 3.2. It shall hear and determine appeals from officers seconded to Provincial Divisions against whom disciplinary action has been taken by Provincial Police Commissions.
- 3.3. It shall set standards for recruitment and promotion of Police Officers of all Divisions and such standards shall be uniform for all Provincial Divisions.
4. Recruitment to each Provincial Division shall be made by a Provincial Police Commission composed of three members, viz.
- (a) the D.I.G. of the Province,
 - (b) a nominee of the President, and
 - (c) a nominee of the Chief Minister of the Province.
- 4.1. A Provincial Police Commission shall be responsible for transfers, promotions and disciplinary control over officers in the Provincial Division; for promotion of Officers of the National Division seconded to the Provincial Division up to the rank of S.S.P.; and for transfer and disciplinary control over officers seconded to the Provincial Division except the D.I.G.
- Provided that any such officer against whom disciplinary action has been taken by a Provincial Police Commission shall have the right of appeal to the National Police Commission whose decision on such appeal shall be final.
5. The National Police Commission or a Provincial Police Commission shall be entitled to delegate such of its powers as may be prescribed to such other person or authority as may be prescribed.

6. The I.C.P. shall appoint a D.I.G. for each Province with the concurrence of the Chief Minister of the Province. However, where there is no agreement between the Inspector-General of Police and the Chief Minister the matter will be referred to the President who after due consultations with the Chief Minister shall make the appointment.

7.1. The cadres of Police Officers of all ranks of the National Division shall be fixed by the Government of Sri Lanka. The cadre of Officers and other ranks of each Provincial Division shall be fixed by the Provincial Administration with the approval of the President having regard to :-

- (i) area of the Province,
- (ii) population of the Province, and
- (iii) such other criteria, as may be agreed to or prescribed.

These principles shall be uniformly applied to all Provincial Divisions.

7.2. The cadres of the Provincial Divisions shall be fixed on ascertained principles such as population, area, number of Police Stations involved and other relevant considerations. These principles shall be applied to all Provincial Divisions without distinction.

7.3. The salary scales and perquisites of office enjoyed by the various ranks in the National and Provincial Divisions shall be determined by the Government of Sri Lanka after consultation with the Chief Ministers of the Provinces. The salary scales and perquisites of office as enjoyed by Members of the Provincial Divisions shall apply uniformly to all Provincial Divisions.

8. The nature, type and quantity of fire-arms and ammunition and other equipment for the National Division shall be determined by the National Police Commission. The nature, type and quantity of fire-arms and ammunition and other equipment

for all Provincial Divisions shall be determined by the National Police Commission after consultation with the Provincial Police Commission and uniform standards and principles shall be applied for all Provincial Divisions.

9. Recruitment to the National Division shall be made at the ranks of P.C., S.I. and A.S.P. Recruitment to the Provincial Division shall be made at the ranks of P.C., S.I. (and P.A.S.P. rank referred to in para 2.2. above).
- 9.1. Recruitment to the National Division shall be made by the National Police Commission and recruitment to the Provincial Division shall be made by the Provincial Police Commission having regard to the standards of recruitment and other criteria prescribed in this behalf. Provided also that a recruit shall, on appointment set out his preferences as to the Division in which he wishes to serve and that he shall, if possible be posted to the Division of his choice with the consent of the Division concerned.
- 9.2. The Government of Sri Lanka shall be responsible for the training of all recruits to and of members of all Divisions of the Sri Lanka Police Force.

The Provincial Administration may with the consent of the President provide for additional training for the members of the Provincial Division.
10. Members of the National Division and the Provincial Divisions shall wear the same uniform and insignia of rank, provided that uniforms of the members of each Division shall bear a distinctive shoulder flash indicating the Division to which he belongs.

- 10.1. There shall be one uniformed police force in each Province comprising of the members of the Provincial Division and the officers seconded thereto. Members of the National Division shall ordinarily be in plain clothes provided that they may wear uniform when performing any duties in respect of the maintenance or restoration of public order as set out in paragraphs 12.1, 12.2, 12.3 and 12.4. Provided also that the I.G.P. and such other Officers as may be specified shall ordinarily be attired in uniforms.
11. All Police Officers serving in units of the National Division and Provincial Division in any Province shall function under the direction and control of the D.I.G. of such Province.
- 11.1. The D.I.G. of the Province shall be responsible to, and under the control of, the Chief Minister thereof in respect of the maintenance of public order in the Province.
- 11.2. The provisions of para 11.1. above are subject to the qualifications that -
- (i) Upon the declaration of any emergency the President may assume such powers and responsibilities of the Chief Executive and the Provincial Administration in respect of Public Order within the Province as he may by regulation provide.
- (ii) Where the President is of the opinion that the security of or public order in a Province is threatened by grave internal disturbance, he may without the declaration of an emergency but in consultation with Chief Minister of such Province, by order deploy in aid of the civil power any unit of the National Division or the armed forces in the Province for the purpose of restoring public order.

Provided that every such order shall cease to be in force as soon as the President is satisfied that public order has been restored or on the expiry of 60 days from the date of the order whichever is earlier.

- 12.1. The Provincial Division shall be responsible for the preservation of public order within the Province and the ~~prevention, detection and investigation of all offences.~~ (except the offences specified in the Schedule) and subject to the powers of the Attorney-General in terms of the Code of Criminal Procedure Act, the institution of prosecutions in the relevant Courts in respect of such offences.

The National Division of the Sri Lanka Police Force shall be responsible for the prevention, detection and investigation of all offences specified in the Schedule and, subject to the powers of the Attorney-General in terms of the Code of Criminal Procedure Act, for the institution of prosecutions in the relevant Courts in respect of such offences.

- 12.2. Where the Provincial Administration seeks the assistance of the National Division to preserve public order within a Province, the I.G.P. shall deploy such personnel of the National Division as are necessary for the purpose, and place them under the control of the D.I.G. of the Province.

- 12.3. Where a State of Emergency is declared the I.G.P. may deploy such units of the National Division as he deems necessary in any Province for the restoration and maintenance of public order within such Province.
- 12.4. Any offence which may ordinarily be investigated by a Provincial Division may be investigated by the C.I.D. or any other unit of the National Division -
- (a) where the Chief Minister requests that such investigation be undertaken by the C.I.D. or any other unit of the National Division;
 - (b) Where the Attorney-General/I.G.P. is of opinion that an investigation of such offence by the C.I.D. or any other unit of the National Division is necessary in the public interest and directs, after consultation with the Chief Minister, that such offence be investigated by the C.I.D. or any other unit of the National Division.
- 12.5. In a case falling under (a) or (b) of para 12.4. the prosecution of the offence shall be under the supervision and control of a Director of Prosecutions to be appointed in this behalf.
13. The National Division shall perform all the functions vested in the Provincial Division in any Province until a Provincial Division is established in such Province.
14. All gazetted officers of the National Division and Provincial Divisions shall be required to attain the prescribed standard in Sinhala and Tamil. All Officers of the rank of A.S.P. and above shall also be required to attain the prescribed standard of English.

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Every recruit to the Sri Lanka Police Force shall have proficiency in his mother tongue. For the first promotion he shall acquire proficiency in a language other than his mother tongue. For the next promotion he shall acquire a knowledge of the third language. The three languages recognised for this purpose are Sinhala, Tamil and English.

13th June, 1986.

NOTE ON LAND SETTLEMENTS

The subject matter of Devolution.

Land, that is to say, rights in or over land, land tenures, transfer and alienation of land and land improvement shall be a devolved subject, except as provided hereinafter.

1.1 Lands which are vested in the State (State lands), will be alienated, used and disposed of in the following manner.

1.2 Lands which are required for the purpose of the Government of Sri Lanka, in respect of subjects not devolved on the Provincial Council, may be utilised without any restriction by the Government of Sri Lanka.

1.3 Insofar as any such lands are required for the purpose of the Provincial Council, in respect of subjects devolved on the Provincial Council, the Provincial Council shall formulate schemes for the use of such land in accordance with any applicable national policy. If for the purpose of such scheme it becomes necessary for such land to be alienated or otherwise disposed of to any citizen or any other body, such alienation or disposition shall be made by the President on the advice of the Provincial Council.

1.4 The National Land Commission shall also have power to formulate policy regarding the use of State land.

2.1 Inter-Provincial irrigation and land development projects, such as the Mahaweli Development Project, shall be the responsibility of the Government of Sri Lanka.

2.2 Principles and criteria in regard to the size of holding of agricultural and homestead land arising out of inter-Provincial irrigation schemes shall be determined by the Government of Sri Lanka in consultation with the Provincial Governments.

2.3. Principles and criteria in regard to selection of allottees for settlement of land arising out of inter-Provincial schemes shall be determined by the Government of Sri Lanka, but the actual application of these principles, the selection of allottees and all other incidental matters shall be within the powers of the Provincial Government.

2.4 The Government of Sri Lanka shall establish a National Land Commission for formulating a national policy regarding land use in areas covered by inter-Provincial irrigation schemes. Such national policy will be based on technical aspects (and not on political or communal aspects). It will lay down general norms in regard to the use of land having regard to soil, climate, rain-fall, soil erosion, forest cover, environmental factors, economic viability etc. The Provincial Council shall, in exercise of its power derived ^{as in page 1} under (1) above, give due regard to the national policy in regard to land use as formulated by the National Land Commission.

ENCLOSURE TO ANNEXURE III

MAHAWELI PROJECT

The total number of new allotments estimated to be available in Systems A to H under the Accelerated Mahaweli Programme is as follows:

System A	14,300
System B	37,483
System C	22,000
System D	14,800
System E	Nil
System F	Nil
System G	12,900
System H	10,000 (notional)

	101,483

Therefore, the entitlements on the basis of national ethnic ratios of Sri Lankan Tamils, Muslims and Indian Tamils to the new allotments would be:

Sri Lankan Tamils	12,787
Muslims	7,509
Indian Tamils	5,683
Total	-----
	25,979

This number of allotments will be made available accordingly in the Trincomalee and Batticaloa districts to the Tamil-speaking people. However, it is noted that up to date the following allotments have been alienated to Tamil-speaking families and these numbers have to be reduced from the above entitlements.

<u>System</u>	<u>Tamil</u>	<u>Muslim</u>	<u>Total</u>
A	47	822	869
B	14	91	106
C	821	568	1,389
Total	-----	-----	-----
	882	1,481	2,363
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1. The notional entitlement of allotments of the "Tamil speaking people" in the Accelerated Mahaweli Programme has been estimated at 25979 allotments consisting of -

Sri Lankan Tamils	12787	allotments
Muslims	7509	allotments
Indian Tamils	5683	allotments

2. The entitlement of allotments of the "Tamil-speaking people" in Trincomalee and Batticaloa Districts, distributed according to the ethnic population of the Districts would be approximately as follows: (subject to availability and further discussions in the event of changes in available land)

	<u>Trincomalee</u>	<u>Batticaloa</u>	<u>Total</u>
Allotments	12700 (approx)	18690 (approx)	31390
Sri Lanka Tamils	6960 + 19	10440 + 30	17400 + 49
Muslims	3220 + 10	4830 + 15	8050 + 25
Indian Tamils	180 + 2	270 + 3	450 + 5
	10391	15588	25979

3. Such a distribution would result in Sri Lanka Tamils receiving about 4700 allotments more than they are entitled to, and Muslims receiving about 500 additional allotments. Indian Tamils would receive about 5000 allotments less. The distribution then has to be adjusted to give the Indian Tamil community its due share, and this would result in their ethnic proportion in these two Districts being very significantly increased.

4. The balance allotments comprising of approximately 2308 allotments in Trincomalee district and approximately 3103 allotments in the Batticaloa district will be allotted to the Sinhalese

5. It is therefore necessary to specify that -

" In making settlements in Systems A,B and D in the Trincomalee and Batticaloa districts, the government will do so in a way which will not affect the ethnic proportions of those districts". Subject to paragraph 3 above.