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## Tamil Power-Sharing Propositions in Sri Lanka

### Abstract

The article is concerned with the proposals for power-sharing solutions issued by Tamil political organisations in Sri Lanka between the years 1951 and 2008. The author explores the different solutions offered by each of these proposals, and analyses their influence on the political developments taking place in the country. The article brings special attention to how the discourse introduced by the Tamil proposals influenced the final shape of the Indo-Sri Lankan Accord of 1987 and how some of the solutions, originally recommended by Tamil associations, were implemented in the Thirteenth Amendment to the Constitution of Sri Lanka.

**Key words:** Sri Lanka, Sinhalese nationalism, Tamil nationalism, power-sharing, consociationalism, centripetalism.

### Introduction

The subject of power-sharing is more consequential when contextualised within the socio-political space of countries, where polarisation between different segments of society has reached critical levels of armed conflict. Sri Lanka, with its history of protracted civil war preceded by decades of escalating tensions between the two major ethnic groups, follows the typical construct of a contested territory. While the power-sharing solutions, which were implemented by Sri Lankan politicians with the aim of de-escalating tensions, have been criticised as inadequate, the country has a long history of dialogue on brokering power among its factions. The article presents a fragment of this discourse, while amalgamating proposals issued by members of Tamil minority groups.

The major ethnic group in Sri Lanka are the Sinhalese. The primary minority ethnic groups are Sri Lankan Tamils; Indian Tamils, or “Tamils of recent Indian origin” according to the nomenclature employed by ITAK, who are descendants of Tamil labourers brought to Ceylon by British colonial authorities to further the expansion of plantations of tea

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\* Center for the Research on Multiethnic Societies, Institute of Mediterranean and Oriental Cultures, Polish Academy of Sciences, e-mail: kleczek.r@gmail.com.

and coffee; and Moors, who constitute the Muslim minority of Sri Lanka. These minority groups use Tamil as a primary language, begetting the term “Tamil-speaking people” as a composite name for these ethnicities. The following table presents the population of these groups in the second part of the twentieth century:

<b>Year / Ethnicity</b>	<b>1953</b>	<b>1971</b>	<b>2011</b>
<b>Sinhalese</b>	5,616,700 (69.36%)	9,131,241 (71.96%)	15,250,081 (74.90%)
<b>Sri Lankan Tamil</b>	884,700 (10.93%)	1,423,981 (11.22%)	2,269,266 (11.15%)
<b>Indian Tamil</b>	974,100 (12.03%)	1,174,606 (9.26%)	839,504 (4.12%)
<b>Moor</b>	511,500 (5.32%)	855,724 (6.74%)	1,892,638 (9.30%)
<b>Other</b>	110,900 (1.37%)	104,345 (0.82%)	107,950 (0.53%)
<b>Total</b>	8,097,900	12,689,897	20,359,439

As tabulated, throughout the second half of the twentieth century the Sinhalese majority comprised approximately 70% of the society. The percentage of minority groups, registered at 30% before the civil war, decreased to 25% after the war. Among the minority groups, statistics describing the Indian Tamil community demark a different trend to patterns displayed by other groups, as it is the only large minority whose percentage of the country’s population was steadily decreasing. This trend can be attributed to the introduction of the franchise laws, which initiated

the process of repatriation of Indian Tamils to India.<sup>1</sup> After the commencement of the civil war, Indian Tamils were migrating to India in order to escape widespread violence as a result of pogroms during this period.

The Sri Lankan Tamils and the Indian Tamils are at times jointly described as the “Tamil minority group of Sri Lanka”, as they share the same religion and language. Simultaneously, the different geographical location of their settlements, and difference of status, have meant they occupied distinct positions within a hierarchy, preventing them from developing a joint group identity. The difference in status between these two groups can be understood through the prism of the caste system: while the Sri Lankan Tamils take pride in their high origins, they tend to regard Indian Tamils with disdain, as belonging to lower castes of Indian society.<sup>2</sup>

All the documents analysed in the paper were issued after Sri Lanka, historically known as Ceylon, regained independence in the year 1948. The majority of these documents were produced by key Tamil political institutions of the twentieth century: the Federal Party (ITAK, ta. *ilankait tamilaracuk kaṭci*)<sup>3</sup> and the Tamil United Liberation Front (TULF).

The ITAK became an autonomous political institution in 1949, when it split from the All Ceylon Tamil Congress (ACTC, ta. *akila ilankait tamilk kankiras*). This divide was an outcome of ideological differences within the ACTC with regard to the introduction of franchise laws<sup>4</sup> in the same year, which left Indian Tamils without citizenship. This led S.J.V. Chelvanayakam, at the time a member of parliament, to raise the differences with the leader of the ACTC, G.G. Ponnambalam, who had not condemned the government’s decision to strip citizenship status from Indian Tamils. After Ponnambalam joined the government as a minister,

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<sup>1</sup> Nira Wickramasinghe, *Sri Lanka in the Modern Age: A History*, New York: Oxford University Press, 2014, p. 183.

<sup>2</sup> K.M. de Silva, *Power Sharing Arrangements in Sri Lanka*, Hague: Netherlands Institute of International Relations “Clingendael”, 2001, p. 7.

<sup>3</sup> The Tamil name of the party, directly translated, is: “The Party of the Tamil Government of Sri Lanka”. The name implies the existence of a federal political system in the country, which would allow two “governments” to exist simultaneously: the Sinhalese government would head a majority of the country, and the Tamil government the districts with a Tamil majority.

<sup>4</sup> Franchise laws denote regulations governing the citizenship of inhabitants of a country.

Chelvanayakam went on to form a separate party, the ITAK, and was elected its president.<sup>5</sup>

The ACTC opposed the federal solution to the problem of ethnic diversity in Sri Lanka. This was a pro-Tamil protectionist measure initiated in the first years after Ceylon's independence, when the Tamil minority occupied positions of power in the administration of the country, due to the historical efficiency of missionary education in predominantly Tamil areas. Ponnambalam presumed that introducing a federal system would deprive Tamils of socio-economic mobility and limit their sphere of influence to a relatively small area of the country. This position of entitlement was a remnant of the British era, when meritorious Tamil people were favoured for governmental positions, a situation which persisted at the initial stage of Ceylon's independence.<sup>6</sup>

The TULF can be regarded as a "later manifestation" of the ITAK.<sup>7</sup> It was created in 1972 as the Tamil United Front, and initially incorporated members of the Ceylon Workers Congress, the ACTC and the Adanga Thamilar Munnani. In 1975, the party was renamed the Tamil United Liberation Front. In the following year the ITAK joined the TULF and grew to articulate the separatist tendencies of the association.<sup>8</sup>

While the Tamil militant organisations rarely formulated discourse on power-sharing, fighting for the independence of the Tamil-majority part of Sri Lanka, their involvement in the protracted civil war in the years 1983–2009 makes them an important agent in charting out the modern history of the country. The most notorious among these groups, the Liberation Tigers of Tamil Eelam (LTTE) had its origin in the student organisation, the Tamil Students' Federation, founded in 1970. The organisation adopted the name Tamil New Tigers in 1972, and from 1975 was known as the LTTE. At the initial stage of the development of this organisation, its members identified with the core ideology of Chelvanayakam.<sup>9</sup>

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<sup>5</sup> Asanga Welikala, 'The *Ilankai Tamil Arasu Katchi* (Federal Party) and the Post-Independence Politics of Ethnic Pluralism: Tamil Nationalism Before and After the Republic: An Interview with R. Sampanthan' in *The Sri Lankan Republic at 40: Reflections on Constitutional History, Theory and Practice*, Asanga Welikala (ed.), Colombo: Centre for Policy Alternatives, 2012, pp. 934–935.

<sup>6</sup> *Ibid.*, pp. 961, 964.

<sup>7</sup> De Silva, *Power Sharing...*, p. 16.

<sup>8</sup> Wickramasinghe, *Sri Lanka...*, p. 294.

<sup>9</sup> *Ibid.*, pp. 294–296.

The proposals analysed in the present article also include proposals issued by the Muslim minority. This might be regarded as controversial since, in spite of their being classified within the category of “Tamil-speaking people” by Tamil political associations, they themselves emphasise their distinct identity and define themselves not only as a distinct ethnic group, but also as a distinct nation. The decision to include proposals for power-sharing issued by members of the Muslim minority was motivated not only by the salient solutions proposed in these documents, but also by the fact that these documents were meant to supplement, rather than replace, proposals issued by Tamil associations, and were framed around the acceptance of the general scheme of devolution of power proposed by these groups.

Power-sharing is a term used to indicate a political system, that empowers the participation of major segments of society in its governance and, apart from the structural and institutional mechanism, requires the prior existence of an inclusive political culture to allow these solutions to succeed.<sup>10</sup> Some power-sharing solutions can be introduced mechanically, at the structural, institutional, and organisational levels, even in the absence of traits allowing for the smooth functioning of these mechanisms.<sup>11</sup>

In common discourse, the term “power-sharing” is identified with one such system that gained prominence in political science literature, consociationalism. The model of consociationalism was developed by Arend Lijphart on the basis of existing political solutions implemented e.g. in Netherlands, Austria and Belgium. The four principal elements of a consociational system are: governmental rule by a grand coalition including members of all major segments of a society; cultural autonomy of the major segments; proportional political representation; and the right of veto extended to members of the minority segments regarding decisions concerning their basic rights and autonomy.<sup>12</sup> These elements may exist in a country in formal dictum, defined by the constitution, or may be implemented by progressive politicians in an informal manner.

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<sup>10</sup> “Segment” is understood here as a social group characterised by shared identity, and is often based on ethnicity, religion, or the nationality of its members.

<sup>11</sup> Krzysztof Trzcinski, ‘Istota i główne modele *power-sharing* w kontekście wieloetniczności. Zarys problematyki’ [‘The essence and key models of *power-sharing* in a multi-ethnic context. An outline of issues’], *Przegląd Politologiczny* [Political Review], No. 3, 2016, p. 29.

<sup>12</sup> *Ibid.*, pp. 33–34.

Lijphart cites India to illustrate consociational mechanisms implemented without constitutional provisions enforcing them.<sup>13</sup>

The other significant model of power-sharing is centripetalism, a system that exists in its full form only in Nigeria and Indonesia. Centripetalism, which can be located on the other end of the spectrum to consociationalism, aims at depoliticisation of an ethnicity through three elementary methods. The first stratagem aims to divide the country into administrative units which divide members of a single ethnic group into a number of different units, which subsequently need to compete for resources from the centre. The second approach calls for presidential candidates to gain a territorial distribution of votes, thereby obliging the candidate to gain influence and support in the entire country. The third is the requirement for political parties to be multiethnic, and to situate members of various ethnicities in principal positions.<sup>14</sup>

### **ITAK First National Convention (1951)**

The First National Convention of the ITAK took place in April 1951. During this event, the party accepted seven resolutions, which summarised and justified the demand for the introduction of federalism as a means of devolving power in the country. The first of the resolutions emphasised the nationhood of Tamils living in Ceylon, basing it on the assumption that the minority is characterised by a distinct history, language and culture. This served as the basis for the demand for regional autonomy of Tamil-majority areas of the country within a federal system of government. The second resolution denounced the existing Soulbury Constitution<sup>15</sup> “as being both irrational and unjust” due to its unitary character, which left the Tamil minority subject to the decrees of the majoritarian government. This issue was continued in the third resolution, which criticised the government’s refusal to grant citizenship to Indian Tamil inhabitants of Ceylon. The fourth resolution was concerned with the status of Tamil language in independent Ceylon, which was ignored “in most government publications and official forms”, thereby setting the basis for the proclamation of Sinhalese as the only official language. The fifth resolution condemned the governmental stratagem of colonisation of areas with a Tamil majority with Sinhalese people. The sixth resolution

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<sup>13</sup> Arend Lijphart, ‘The Puzzle of Indian Democracy: A Consociational Interpretation’, *American Political Science Review*, Vol. 90, No. 2, June 1996, pp. 258–262.

<sup>14</sup> Trzeciński, ‘Istota i główne modele...’, pp. 35–36.

<sup>15</sup> Ceylon Constitution Order in Council from 1946.

denounced the official flag of Ceylon. Authors of the document cited the disproportionate attention to Sinhalese iconography, by granting the lion, a symbol of the Sinhalese nation, the central place. The document concluded with the seventh resolution, which provided the assurance that the Tamil state would not provide “provincial, religious, social or economic advantage” to any single section of society over others.<sup>16</sup>

The particular importance of these resolutions lies in the fact that they are pertinent to subjects central to the demands issued by Tamil political organisations in Sri Lanka in later periods. The points of particular importance considered in the document were: the ambiguous status of the Tamil language in Ceylon, the government sponsored colonisation of traditionally Tamil territories by Sinhalese people and the question of the citizenship rights of Indian Tamils. The omission of Tamil as an official language became a central issue in 1956, when the Parliament passed the Official Language Act No. 33, often referred to as the “Sinhala Only Act”, the act granting Sinhala the status as the sole official language of the country. The allegation of colonisation of traditionally Tamil territories was associated with a government sponsored programme under which the majoritarian Sinhalese people were re-settled into areas with high Tamil population density. As the settlement, according to some sources, focused on Tamil-majority areas, and the majority of the new settlers were Sinhalese, it came to be recognised as colonisation, aiming at manipulating the percentage of the Tamil population in these regions.<sup>17</sup> This was a strategic decision to prevent overt Tamil representation in local governments, as the majoritarian government feared that such representation would make traditionally Tamil areas increasingly autonomous and open to articulating separatist tendencies.

The problem of citizenship of Indian Tamils in Ceylon was a major point of contention between the core ACTC and a faction of its members, who later branched out to form the ITAK. The leader of the ACTC, G.G. Ponnambalam, refused to take a firm stand with regard to Indian Tamils and their rights to citizenship, as he was granted a ministerial function within the government.<sup>18</sup> In the chronology of later developments, the

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<sup>16</sup> Rohan Edrisinha, Mario Gomez, V.T. Thamilmaran and Asanga Welikala (eds), *Power-sharing in Sri Lanka*, Colombo: Centre for Policy Alternatives and Berlin: Berghof Foundation for Peace Support, 2008, pp. 212–215.

<sup>17</sup> Wickramasinghe, *Sri Lanka...*, p. 282.

<sup>18</sup> Welikala, ‘The *Ilankai...*’, pp. 934–935.

issue of citizenship of Indian Tamils was omitted in the list of the main objectives of the ITAK, as it did not appear in either of the pacts signed by the leader of the ITAK, Chelvanayakam, in 1957 and 1965.

### **Chelvanayakam agreements (1957, 1965)**

The Bandaranaike-Chelvanayakam Pact of 1957 was signed by the Prime Minister of Ceylon, S.W.R.D. Bandaranaike, and S.J.V. Chelvanayakam, on the 26<sup>th</sup> of July 1957. For the ITAK, the pact was considered a temporary measure, to indirectly introduce elements of devolution of power, which resembled a regional government. The government deemed it to be a compromise, meant to decrease tensions caused by the introduction of the Sinhala Only Act.<sup>19</sup>

The joint statement preceding the text of the pact articulated a lack of concurrence with regard to the Sinhala Only Act. The first portion of the pact nevertheless recognised Tamil as a language of a minority group and confirmed, that the regions with Tamil majority (Northern and Eastern Provinces) would use Tamil as an official language for provincial governance. No settlement was reached on the citizenship of Indian Tamils, but the issue was mentioned in the document, noting that “[t]he Prime Minister indicated that the problem would receive early consideration”. Most importantly, the agreement indicated a commitment to constructing regional councils, to be administered by locally elected councillors. The councils were to be vested with powers ranging from agriculture, land development, to colonisation. The issue of colonisation was addressed in a separate paragraph, and the choice of allottees for areas within the given region was relegated to the respective regional councils, a practice meant to resolve the issue of government-led colonisation schemes. The financial framework of the regional councils were to be detailed at a later date, but the document confirmed that the councils would have powers of taxation and borrowing.<sup>20</sup>

The agreement between the Prime Minister and the leader of the ITAK widened the scope for a peaceful resolution to the growing tensions. The pact did not come to fruition, as the Prime Minister was assassinated two years after signing the agreement, before it could be implemented. As the document described the nature of decentralised power in little detail, it is

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<sup>19</sup> Edirsinha, Gomez, Thamilmaran and Welikala (eds), *Power-sharing in Sri Lanka...*, p. 216.

<sup>20</sup> *Ibid.*, pp. 220–222.

difficult to ascertain whether the implementation would have rendered a system of devolution that would effectively decrease inter-segmental tensions. The institutions described by the agreement were to be created within the ambit of ordinary legislation and not implemented in the Constitution.<sup>21</sup> This opened the space for counter institutions to emerge, to overturn the system of devolution by Parliament. It is therefore likely that the Thirteenth Agreement, implemented in 1987, provided a better basis for an efficient system of devolution.<sup>22</sup> Bandaranaike enacted a concession for the Tamil citizens of Ceylon by securing the approval of the “Tamil Language (Special Provisions) Act” by Parliament in 1958. The Act permitted the limited use of Tamil in education and allowed the use of Tamil for administrative purposes in the Northern and Eastern Provinces.<sup>23</sup>

The Dudley Senanayake-Chelvanayakam Pact of 1965 was signed by the Prime Minister of Ceylon and the leader of the ITAK on the 24<sup>th</sup> of March 1965. The agreement touched upon three contentious issues: the status of the Tamil language, the establishment of district councils as a method of devolving administrative power and colonisation. In order to redress the issue of situating Tamil as an official language, proposals were made to grant Tamil the status of an administrative language in Tamil-majority areas, and to enable legal proceedings in these areas to be conducted in Tamil. District councils were scarcely mentioned in the document, except for a mention, that they were to be “vested with powers over subjects to be mutually agreed upon between the two leaders”. The issue of colonisation was treated in more detail. Under the land granting scheme in Tamil-majority areas, the priority was to be given in the first place to the landless people in the same district. Secondary priority was to be given to Tamil-speaking people of the Northern and Eastern Provinces. The third order of priority was to be given to Tamil citizens living in other parts of the country.<sup>24</sup>

The Senanayake-Chelvanayakam Pact was more cursory than the agreement signed by Prime Minister Bandaranaike. A major impediment with the document were elements of political manipulation, meant to

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<sup>21</sup> Ceylon Constitution Order in Council from 1946.

<sup>22</sup> Edirsinha, Gomez, Thamilmaran and Welikala (eds), *Power-sharing in Sri Lanka...*, p. 218.

<sup>23</sup> K.M. de Silva, *A History of Sri Lanka*, London: C. Hurst & Company, 1981, p. 515.

<sup>24</sup> Edirsinha, Gomez, Thamilmaran and Welikala (eds), *Power-sharing in Sri Lanka...*, p. 224-228.

grant Senanayake an additional vote bank, thereby allowing him to win the election. The agreement was formally abandoned in 1968, due to pressure from Sinhalese nationalist movements. The opposition was motivated by an apprehension that devolution of power would lead to the emergence of a fully federal structure, which could, according to the leaders of the Sinhalese nationalist groups, result in a division of the country.<sup>25</sup>

### **ITAK Memorandum and the Model Constitution (1970)**

The Memorandum and the Model Constitution were created by members of the ITAK in 1970, as the government framed propositions aimed at replacing the constitution of the country, opening up space for the introduction of a federal system.<sup>26</sup> The Memorandum, introducing the proposal for a federal constitution, offered the rationale for the recommended political solution, claiming that the institution of a unitary country in Ceylon was a vestige of the administrative solutions left by the colonial rulers of the island. The Memorandum proceeded to propose a union of the Sinhalese and Tamil portions of Ceylon within the framework of a federal state. The document referred to India and Australia as examples of federally administered countries.

The draft proposed creating five states, with one Tamil-majority state comprising the Northern Province and a part of the Eastern Province, one Muslim-majority state and three Sinhalese-majority states. The capital, with its surrounding territories, was to form a separate administrative unit, controlled by the central government. Boundaries between the states were to be created by a separate Boundaries Commission. The governments of the individual states were supposed to have powers over a series of roles entrusted to them by the central government. This included limited legislative authority, with the power to create laws within the ambit of the respective states. States were to be vested with limited powers of establishing cooperation with other states, but these powers were to be subjected to central government scrutiny.

The administrative privileges of the states were to encompass all spheres, except for those under the direct supervision of the central government. The central government's jurisdiction was mentioned in

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<sup>25</sup> de Silva, *A History of Sri Lanka*, p. 530. Comp. de Silva, *Power Sharing...*, p. 18.

<sup>26</sup> Edirsinha, Gomez, Thamilmaran and Welikala (eds), *Power-sharing in Sri Lanka...*, p. 232.

article 16. of the draft, and included international relations, issues of war and peace, concerns on internal security, a framework for citizenship, banks, water resources, ports, power resources, arms, animal protection, highways, and general matters pertaining to education, labor and taxation.

A separate portion of the draft is devoted to citizenship rights. The proposed constitution granted citizenship to every person born in Ceylon whose father (or mother, in the case of an illegitimate child) was born in Ceylon.<sup>27</sup> This solution would solve the problem of the nationality of a significant group of Indian Tamils, which was at the centre of political debate.

The section of the draft concerned with the fundamental rights of citizens abolished the institution of caste and prohibited discrimination based on caste. Article 24 of that section introduced the notion of provisions for citizens subjected to caste disabilities, which most likely meant concessions for members of historically underprivileged groups. The draft did not elaborate on this notion beyond a brief mention, stating that concessions were to be granted “in land alienation, employment, housing and educational facilities and representation in local bodies, and in the State and Central Legislature for a stipulated period”.<sup>28</sup> The final form of these concessions was most likely conceived as similar to the positive discrimination of the members of Scheduled Castes and Scheduled Tribes in India, where members of these historically underprivileged societies have a range of rights facilitating their access to education and employment. The mention of a “stipulated period” indicated that, like the provisions contained in the Constitution of India, the provisions in Sri Lanka were meant to be valid for a period deemed necessary for the underprivileged groups to reach a moderate level of socioeconomic competitiveness.

The proposed draft stipulated Sinhala and Tamil as the national languages of the country, with Tamil specified as the language of administration of the Northern and North-Eastern regions. A separate provision was to be given to minorities, to safeguard their right to conserve their languages and scripts.<sup>29</sup>

The draft contained a brief review of the proposed legislation concerning educational facilities. It postulated that the Sinhala language

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<sup>27</sup> *Ibid.*, p. 243.

<sup>28</sup> *Ibid.*, p. 244.

<sup>29</sup> *Ibid.*, pp. 245–246.

should be the medium of education of the Sinhalese part of the population and Tamil was to become the language of instruction for the Tamil part of the population. It further elaborated on the issues concerning religious education, stipulating children's right to curriculums concerning their own religion, conducted by members of that religion.<sup>30</sup>

The document of the Model Constitution is the first official proposal of a federal government, issued by a Tamil political organisation in Ceylon, which is not limited to a series of demands concentrating exclusively on the mechanisms of devolution in Tamil-majority areas. The apparent lack of recognition of this proposal can be traced to claims presented in the Memorandum preceding the model constitution, which mentioned Tamil minority's right to demand the independence of parts of the Island where they constituted the majority. This mode of argumentations might have been considered as arguing for the right to secession on the basis of international law. It should be noted, that the Memorandum emphasised the futility of basing the privileges afforded ethnic groups on their historical claims. This could be used as an argument to disprove the right of the Tamil people to form a separate state in the North-East of the country, based on their hereditary right to these regions.

### **Escalation of conflict and the beginning of war**

The description of the history of the conflict between the Sinhalese majority and the Tamil minority of Sri Lanka is not within the ambit of the paper, but the escalation of the conflict resulted in the relative scarcity of official documents issued by Tamil political associations with regard to power-sharing after 1970. The model constitution, prepared by the ITAK, had no impact on the new constitution of the country. The constitution adopted in 1972 by members of the ruling Sri Lanka Freedom Party (SLFP) was based on strong Sinhalese nationalist principles, emphasising the role of Sinhala as the official language, and Buddhism as the primary religion of the state, having the "foremost place".<sup>31</sup> The document contained provisions for the use of Tamil in legislation, requiring legislators to create Tamil translations of laws, and permitting the inhabitants of the Northern and Eastern Provinces to request court proceedings concerning them to be conducted in Tamil, and subsequent documentation to be translated into Tamil. Despite such provisions, the

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<sup>30</sup> Ibid., p. 246.

<sup>31</sup> The Constitution of the Republic of Sri Lanka (Ceylon) 1972, Act 6.

elevated status of Sinhala was indisputable<sup>32</sup> and the country was officially defined as a unitary state,<sup>33</sup> steering away from proposals issued by the ITAK.

Political developments in the nation grew increasingly unfavourable for the Tamil minority and triggered a radicalisation of Tamil factions. The ITAK dropped its request for the introduction of a federal government and started fighting for the separation of Tamil regions and the establishment of an independent country. In May of 1976 the Tamil United Liberation Front (TULF), then headed by S.J.V. Chelvanayakam, adopted the Vaddukoddai Resolution, which demanded the formation of a separate Tamil state through peaceful means. This important document is one of the turning points in the modern history of Sri Lanka, but, since it was a demand for independence, it did not constitute a power-sharing proposal, and therefore is only of secondary importance for the study.

The subsequent years were marked by escalation and militarisation of the ethnic conflict and witnessed the formation of several Tamil militant groups. The radicalisation of Tamil youth, who formed the majority of recruits in these organisations, was augmented by the anti-Tamil riots of 1977.<sup>34</sup> The sole focus of these groups, such as the Liberation Tigers of Tamil Eelam (LTTE), was on separatism, which led to the marginalisation of the voices of moderate Tamil associations. This led to a decrease in the intensity of discourse surrounding power-sharing solutions.<sup>35</sup>

The 1977 general election brought about another transfer of power in Sri Lanka, with the United National Party (UNP) winning against the ruling Sri Lanka Freedom Party (SLFP). The new government decided to manage the looming crisis by passing a new constitution, which was adopted in September 1978.<sup>36</sup> The new constitution instituted the system of the executive presidency, which granted the president more extensive powers than the previous constitution.<sup>37</sup>

The 1978 constitution preserved provisions for a special place for Buddhism, and reiterated that Sinhala was the only official language of Sri Lanka. It listed Tamil, along with Sinhala, as one of the two national

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<sup>32</sup> *Ibid.*, Act 7–11.

<sup>33</sup> *Ibid.*, Act 2.

<sup>34</sup> Wickramasinghe, *Sri Lanka...*, pp. 293–298.

<sup>35</sup> Thiruni Kelegama, 'Impossible Devolution? The Failure of Power-Sharing Attempts in Sri Lanka', *Strategic Analysis*, Vol. 39, No. 3, 2015, p. 245.

<sup>36</sup> Constitution of the Democratic Socialist Republic of Sri Lanka of 1978.

<sup>37</sup> Wickramasinghe, *Sri Lanka...*, p. 196.

languages of the country and implemented some provisions for Tamil speakers, including the use of Tamil as the language of administration in the Northern and Eastern Provinces.

In the 1980s, Tamil political associations drafted two schemes for power-sharing. The first among these was the proposal for the introduction of regional councils, presented by the Ceylon Workers Congress (CWC) at the All Party Conference in 1984. The second scheme was the proposal submitted to the Government of India by the leadership of the TULF in 1985.

The working paper submitted by the Ceylon Workers Congress is distinct, as the CWC is a political party of the Indian Tamils.<sup>38</sup> The document issued by this group expressed the views of a generally marginalised group within the political discourse of minority articulations. This marginalisation was due to the overrepresentation of Sri Lankan Tamil voices in the political spheres.

The working paper consisted of three parts: the preamble, a scheme for regional autonomy and a part devoted to the restoration of citizenship to Tamils of recent Indian origin. The preamble of the paper emphasised the pluralistic character of Sri Lankan society, delineating some basic facts about the Tamil-speaking regions. The second part outlined the scheme of regional autonomy in the areas with a Tamil majority. The councils were to have autonomous powers in their respective regions. The regions were to be divided into constituencies, each of which was to elect a member to the council. The chief minister of a council was to be appointed by the president and the convention was to elect as the chief minister the leader of the dominant party in the council.<sup>39</sup>

The regional councils were to possess legislative and executive powers in areas including maintenance of order, administration of justice, economic development, land policy and cultural development. In the purview of land policy, the paper demanded the implementation of the Chelvanayakam-Dudley Senanayake Pact from 1965, which observed that the land in the Northern and Eastern Provinces should be given to the landless people in the same district, second in order to the landless Tamil speaking people from the same region, and third to the landless Tamil speaking people from the other regions of the country. The paper further

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<sup>38</sup> de Silva, *Power Sharing...*, p. 7.

<sup>39</sup> Tamil United Liberation Front, *Towards Devolution of Power in Sri Lanka*, Madras: Jeevan Press, 1988, p. 5.

suggested creating a network of local committees and councils, to be supervised under the authority of the regional council.<sup>40</sup>

The proposal advocated the composition of special regiments within the armed forces, consisting primarily of ethnic minorities. In case armed forces had to be deployed in regions inhabited by a minority, a regiment consisting of minority members would be deployed, in order to avoid repression of the minority group. Similarly, the police force within a region was supposed to reflect the percentage of the ethnic population of that region. The regional council was to create a Regional Public Service Commission. The council would be vested with powers of altering court jurisdiction within the region.<sup>41</sup>

The third part of the paper emphasised the requisite to resolve the problem of the statelessness of Tamils of recent Indian origin. This was to be resolved at the local level, by creating bodies concerned with assisting the Tamil population, and at the national level by creating a separate ministry devoted to matters regarding Tamils of recent Indian origin.<sup>42</sup>

The vision of the regional councils delineated in the paper was more limited in its scope than the previous requests issued by the ITAK. The system was not defined as a federal form of government, as it was aimed at a more limited degree of devolution. This development indicated that Tamil associations were willing to enter into a renewed dialogue with the government of Sri Lanka.

The list of proposals submitted by the leaders of the TULF to Rajiv Gandhi, the Prime Minister of India, in 1985, was a set of suggestions for regarding peace negotiations with the government of Sri Lanka. The proposals ranged from the demand for Sri Lanka to be defined as a union of states, to the facilitation of the merger of the Northern and Eastern Provinces into a single administrative unit.<sup>43</sup>

The proposal advocated granting citizenship to persons devoid of a legitimate claim to citizenship of another country. In order to enable ethno-linguistic inclusiveness, the proposal demanded Tamil to be added to Sinhala as an official language of Sri Lanka. The proposal further

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<sup>40</sup> *Ibid.*, p. 5–6.

<sup>41</sup> *Ibid.*, p. 6–7.

<sup>42</sup> *Ibid.*, p. 7–8.

<sup>43</sup> *Ibid.*, p. 47–48.

demanded proportional representation of minorities in union services, which would include the armed services.<sup>44</sup>

The TULF's proposal envisioned States to be presided by governors, to be appointed by the president. In addition, each state was to have an elected assembly. The governor was to be vested with the power to call for amendments of bills proposed by the state assembly, but had no power to veto bills or stall them indefinitely. The state assembly would have the power to set taxes and request loans and grants. Consequently, the governor would appoint the leader of the elected political party within the state as the chief minister, who was to subsequently appoint a council of ministers.<sup>45</sup>

The finance commission of the country was to have four members, one would hold the portfolio of the governor of the Central Bank, the other three would be representatives of the three major communities: Sinhalese, Tamil, and Muslim. Each state was expected to have a high court.<sup>46</sup>

Legislative powers were to be divided between the Parliament and the State Assembly. The Parliament was to wield legislative powers in defence, foreign affairs, immigration and emigration, etc. The State Assembly was to have legislative powers within the ambit of the state, which included police, land allotment, education, health, etc. The Parliament did not have the authority to pass a resolution affecting a minority group without the approval of a majority of elected members belonging to that community.<sup>47</sup>

The proposals issued by the TULF influenced the development of Indo-Sri Lankan negotiations. After a series of consultations, the prime minister of India, Rajiv Gandhi, and the president of Sri Lanka, J.R. Jeyawardene, signed the Indo-Sri Lankan Accord of 1987. The accord commanded the government of Sri Lanka to introduce a level of devolution of power, a measure to decrease tensions between the Sinhalese majority and the minority groups of Sri Lanka. It recognised the multiethnic character of the country and confirmed that the terrains of the Northern and Eastern Provinces were distinguished by the historical habitation of Tamils.<sup>48</sup>

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<sup>44</sup> *Ibid.*, p. 48.

<sup>45</sup> *Ibid.*, p. 48.

<sup>46</sup> *Ibid.*, p. 49.

<sup>47</sup> *Ibid.*, p. 48–49.

<sup>48</sup> *Ibid.*, p. 148.

The Indo-Sri Lankan Accord required the government to institute a temporary merger of the Northern and Eastern Provinces, until a referendum could be organised in the provinces to gauge mass opinion on the merger. The accord further requested the government of Sri Lanka to grant the status of official languages to Tamil and English. It also required the government to establish a system of provincial councils, but the framework of this proposal lacked details.<sup>49</sup>

The Indo-Sri Lankan Accord compelled the government of Sri Lanka, to pass the Thirteenth Amendment to the Constitution in November 1987. The Amendment introduced the system of provincial councils in the country, thereby implementing an extensive system of devolution of power. The provincial councils were headed by governors, appointed by the president. The position of the governor was vested with strong powers, which included the power to refuse assent to statutes issued by the provincial council, returning them for consideration and forwarding them to the supreme court. This could in effect paralyse the statutory work of provincial councils.<sup>50</sup> The governor could dissolve the provincial council. In case of the failure of the provincial council, he was entitled to assume administrative powers in the province with sanctions from the president, which in effect would bring the province under the direct rule of the centre.<sup>51</sup>

The Amendment introduced solutions regarding the finance commission, as advocated by the TULF in its guidelines from 1985. The commission was to encompass the governor of the Central Bank of Sri Lanka, the Secretary to the Treasury and three other members representing the communities: Sinhalese, Tamil, and Muslim. The commission would counsel the president on the allocation of funds to the provinces.<sup>52</sup>

The Amendment introduced three lists of subjects, drawn on a similar frame to the two lists suggested by the TULF for the resolution of the conflict between the central and the provincial legislature. The first list, referred to as “The Provincial Council List”, cited core areas within which the provincial councils could create statutes. These included police and public order, education, local government, land, etc. The second list, introduced as “The Reserved List”, assembled subjects within which the

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<sup>49</sup> *Ibid.*, p. 148–151.

<sup>50</sup> Thirteenth Amendment to the Constitution of Sri Lanka, art. 154H.

<sup>51</sup> *Ibid.*, art. 154L.

<sup>52</sup> *Ibid.*, art. 154R.

central government had unique legislative power. These incorporated national policy, defence, foreign affairs, ports, etc. The third list, represented as “The Concurrent List”, dwelled on subjects in which the centre originates legislation in cooperation with the provincial councils.<sup>53</sup>

The functioning of provinces under the Thirteenth Amendment was, in theory, similar to the functioning of states within the federal system of India. The major difference, as discerned by de Silva, was that “the Sri Lankan provincial councils would operate within the framework of the country’s constitutionally-entrenched unitary system”<sup>54</sup>.

The Thirteenth Amendment was criticised at length by members of the TULF for its lack of provisions to insulate power-sharing mechanisms. The main points of criticism focused on the unnaturally strong powers of the governor, the limited range of subjects included in the “Provincial List”, and the central government’s strong grip over legislative and executive power in the province.<sup>55</sup> Since the financial framework lacked extensive planning in its theorisation, it impeded execution, as the economic inefficiencies of the provincial council system were highly visible.<sup>56</sup>

### **LTTE ISGA proposal (2003)**

After the Indo-Sri Lankan Accord of 1987 was signed, India was obliged to send the Indian Peace-Keeping Force (IPKF) to assist the government of Sri Lanka with the task of subduing the LTTE. The methods employed by the IPKF, such as torture and executions, led to the alienation of the Tamil people, and served as an excuse for the LTTE to escalate its activities. The IPKF left Sri Lanka in 1989, but the enmity between the LTTE and the Prime Minister of India, Rajiv Gandhi, led to his assassination by a member of the LTTE in 1991.<sup>57</sup>

The subsequent years witnessed the intensification of the armed conflict, with a brief ceasefire in the years 1994–1995, when the newly elected president, Chandrika Bandaranaike Kumaratunga, started peace negotiations with the LTTE. The negotiations were eventually abandoned, due to the LTTE’s increasing demands for the removal of government forces from Tamil-majority regions. The armed conflict

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<sup>53</sup> Ibid., art. 154G.

<sup>54</sup> de Silva, *Power Sharing...*, p. 17.

<sup>55</sup> TULF, *Towards Devolution...*, pp. 153–156.

<sup>56</sup> Kelegama, ‘Impossible Devolution...’, pp. 237–253.

<sup>57</sup> Wickramasinghe, *Sri Lanka...*, pp. 304–307.

resurfaced and marked the genesis of the most intense phase of the civil war. In the following years, the LTTE orchestrated large-scale bombing attacks, leading to mass casualties of army personnel and civilians. This escalation of violence drew international criticism against the methods of the LTTE, and instigated its classification as a terrorist organisation by the United States of America.<sup>58</sup>

In 2002, the LTTE and the government of Sri Lanka signed a cease-fire agreement, brokered by Norway. Both factions of the ethnic conflict were encountering difficulties in financing the war and recruiting new soldiers. The financial problems of the LTTE were largely caused by its newly gained notoriety in the international media, which depleted their resources by discouraging sections of the Tamil diaspora from extensive financing of the movement. Consequently, the LTTE had adopted brutal methods of strong-arming towards Tamil civilians to extract money and recruits, resulting in many withdrawing support due to coercion. One of the propositions of the peace negotiations, initiated during the cease-fire, was the proposal issued by the LTTE for an Interim Self-Governing Authority (ISGA) in the North-East, to be released in October 2003.

The proposal requested granting the LTTE *de facto* governance over the North-Eastern parts of the country as a temporary measure, until independent elections could be organised. The ISGA was to be formed with an “absolute majority” of the LTTE, with some members appointed by the Government of Sri Lanka, in addition to including a section of representatives from the Muslim minority. This administrative body was to be given powers in the Tamil majority regions, without necessitating elections for a period of five years from the genesis of the agreement.<sup>59</sup> The powers granted to the temporary administration included taxation, revenue, finances of the provinces, administration and control over natural resources, including marine and offshore resources in the adjacent waters.<sup>60</sup>

While the question of a new constitution was not mentioned in the agreement, there was speculation, initiated by a Tamil journalist D.B.S.

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<sup>58</sup> Asoka Bandaranage, *The Separatist Conflict in Sri Lanka: Terrorism, ethnicity, political economy*, London: Routledge, 2009, pp. 162–165.

<sup>59</sup> Edirsinha, Gomez, Thamilmaran and Welikala (eds), *Power-sharing in Sri Lanka...*, p. 670.

<sup>60</sup> *Ibid.*, pp. 672–674.

Jeyaraj, that its ultimate aim was a joint preparation of a new constitution, which would contain extensive power-sharing arrangements.<sup>61</sup>

The ISGA proposal was criticised by Rohan Edrisinha and Asanga Welikala on the grounds of its *de facto* centralisation of power and lack of accountability. The researchers focused their criticism on four elements: its attitude towards the protection of human rights, the plenary powers of the ISGA, the financial aspects of the proposal, and the right to secession. The document declares that the ISGA was to be subject to international human right norms, the institution monitoring human rights violations would be controlled by the ISGA, potentially opening a conflict of interest. This conundrum was related to the concept of the ‘plenary powers’ of the ISGA, for the governance of the Northern and Eastern regions of the country. Granting the administrative authority plenary power in these regions would have given them absolute power, which as a proposal invalidated the purpose of power-sharing solutions. In the proposal, the ISGA was relatively detached from power-sharing, as visible in its proposed financial solutions. The Financial Commission of the ISGA was responsible for creating recommendations for financial transfers from the central government, without including representatives of the central government. The centre would lose control over decisions related to public spending within the sphere of control of the ISGA.<sup>62</sup>

The proposal did not comprise explicit speculation on the right to secession of the ISGA, but as Edrisinha and Welikala posit, some statements from the preamble of the document could form legal validation for secession. The introductory portion of the document states that the government of Sri Lanka perpetrated violence and persecuted members of minority groups, while noting that “elected representatives” were mandated by the Tamil people to establish an independent state, and defined armed struggle as a means of self-defence of the Tamil minority.<sup>63</sup> In exceptional circumstances, international law may be used in favour of the creation of an independent state, on the basis of the principles specified by the Canadian Supreme Court’s resolution on the Quebec secession. The acceptance of proposals by the ISGA would validate the

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<sup>61</sup> Ibid., p. 665.

<sup>62</sup> Rohan Edrisinha and Asanga Welikala, ‘The Interim Self Governing Authority Proposals: A Federalist Critique’ in *Essays on Federalism in Sri Lanka*, Rohan Edrisinha and Asanga Welikala (eds.), Colombo: Centre for Policy Alternatives, 2008, pp. 296–302.

<sup>63</sup> Edrisinha, Gomez, Thamilmaran and Welikala (eds), *Power-sharing in Sri Lanka...*, p. 668.

preamble, and create a semi-independent state in the areas controlled by the LTTE, thereby creating an additional argument for the possibility of a legal struggle for secession.<sup>64</sup>

### **Oluvil Declaration (2003)**

At the onset of the 2002 peace talks, the leadership of the LTTE realised the potential benefit of rendering Muslim support for its requests, and issued a public apology for the expulsion of Muslims from the regions controlled by the LTTE. In April of 2002, the LTTE issued a joint communiqué with the Sri Lankan Muslim Congress (SLMC), in which the leaders of the two groups expressed an inclination for mutual cooperation, and fostering understanding between the communities. The communiqué recognised Muslims as a separate nationality, and the SLMC as the representative of the aspirations of this community. The instrumental treatment of the communiqué by the LTTE, led some members of the Muslim minority towards a stronger articulation of their political position.<sup>65</sup>

The Oluvil Declaration was a result of the rising tensions within the Muslim political associations, which demanded the introduction of adequate provisions for Muslim-majority areas, in case the government conceded to the demands of Tamil associations. Their primary concern was the possibility of political marginalisation in a new, decentralised unit.<sup>66</sup>

The Declaration was announced in January 2003 at a political rally in Oluvil, Ampara, a district in the Eastern Province, and was organised by the student body of the South Eastern University, which included members and sympathisers of the Muslim minority. The document was a request for the recognition of Muslims as a separate nationality, with a right to self-determination. The concept of nationality was further defined as “a unique group of people bound by a common political consciousness and a unique culture”.<sup>67</sup>

The Declaration demanded the formation of an autonomous political unit in the Muslim-majority areas of the North and East, as well as for the

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<sup>64</sup> Edrisinha and Welikala, ‘The Interim...’, pp. 306–307.

<sup>65</sup> Edirsinha, Gomez, Thamilmaran and Welikala (eds), *Power-sharing in Sri Lanka...*, pp. 678–690. Comp. Kelegama, ‘Impossible Devolution...’, p. 245.

<sup>66</sup> de Silva, *Power Sharing...*, p. 19.

<sup>67</sup> *Ibid.*, p. 686.

protection of Muslim rights of inhabitants living outside these areas. This demand came out of the assumption, that the Tamil struggle for autonomy within the federal union would come to fruition. The degree of autonomy of the Muslim areas was not discussed, thereby pushing the Muslims to demand that “any agreement or political decision” needs to be consulted with representatives of the Muslim minority.<sup>68</sup>

The document criticised the domination of the North and East Tamil people over the rest of the inhabitants of these regions. This was motivated by the fact that LTTE had a history of violence against the Muslim minority, with an instance of mass expulsion of Muslims from the regions under its control in 1990.

### **SLMC GSEAA proposal (2008)**

In 2008, the Sri Lankan Muslim Congress issued another power-sharing proposal, demanding the formation of the Greater South East Autonomous Area (GSEAA). The document presented an intricate vision of a power-sharing solution for the country, focusing on the functioning of a relatively small area with predominance in the Muslim population.<sup>69</sup>

The introductory portion of the proposal outlined a description of the experiences of Sri Lankan Muslims, concentrating on their history of peaceful cooperation with other groups, and emphasising, that they faced repercussions as a minority dominated by the clash of Tamil and Sinhalese interests. The document criticised the state-sponsored colonisation of the Northern and Eastern Provinces by the Sinhalese population and the widespread discrimination of the minorities of the country, based on religious, ethnic, and linguistic divisions. It also offered a brief criticism of Tamil ethno-nationalism, which escalated in the 1980s, resulting in ethnic cleansing of Tamil-majority areas and the displacement of the Muslim minority. These experiences are presented as an argument emphasising the necessity of arriving at a solution enabling peaceful cooperation of all the communities inhabiting Sri Lanka.<sup>70</sup>

The Sri Lankan Muslim Congress sustained the assumption that stable peace can be engendered only after the establishment of a new constitution, which would include extensive power-sharing solutions. Since acceptance of the conditions presented in the final constitution was

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<sup>68</sup> *Ibid.*, p. 687.

<sup>69</sup> *Ibid.*, p. 699.

<sup>70</sup> *Ibid.*, p. 701.

likely to be delayed, the proposal introduced a series of “constitutional principles”, which were meant to serve as guidelines for the process of negotiations on a common agreement. First among these principles was the agreement that Sri Lanka is a free, “sovereign, democratic, independent and indivisible state”. This provision was perhaps aimed at critics of the proposals of federal devolution of power, who were likely to oppose it arguing, that it might lead to secession. The second point demanded the recognition of the intrinsically pluralistic character of the society of Sri Lanka. The following points, totalling eighteen in number, were concerned with participation of the members of minorities in the central government, the representation of citizens in the legislature and a flexible and empowering system of devolution of power. A separate statement was issued with regard to the official languages of the Island, which demanded the recognition of Sinhala and Tamil, with English listed as a national language. SLMC also demanded the introduction of a multiparty democratic system within the devolved units of the country.<sup>71</sup>

Subsequent parts of the proposal specified regulations concerned the GSEAA, since designing its structure was complicated by the fact that Muslim-majority areas in Sri Lanka, while generally aggregated in a single area, also occur in disjoint centres throughout the Northern and Eastern Province. The proposed solution to this spatial complication was the creation of a core territory of the GSEAA, consisting of three polling divisions in the Eastern Province: Kalmunai, Pothuvil and Sammanthurai, and included several other non-contiguous divisions in other districts. The government of the GSEAA would reside in its core territory.<sup>72</sup>

The highest authority within the GSEAA was to be a Council, consisting of elected representatives. The Council was to elect a First Minister, who in turn would select a maximum of 6 members to the Board of Ministers of the Council. The GSEAA was supposed to wield legislative and executive powers within its borders and it was also expected to govern over finances of the areas, economic programs, taxation, and administration. The financial sources of the GSEAA, apart from taxes, were to be allocations from the national consolidated fund, as well as grants dependent on unexpected circumstances. It had the prospect of receiving foreign grants and loans with the permission of the central government. The GSEAA was also expected to partake of the regional

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<sup>71</sup> *Ibid.*, p. 704.

<sup>72</sup> *Ibid.*, p. 705–706.

fund, provided for the functioning of the Northern and Eastern Provinces.<sup>73</sup>

A separate body, the Equality Commission, would monitor the impartiality of the laws and policies of the GSEAA with regard to its citizens. The Commission was to consist of representatives of the three communities: Muslims, Tamils and Sinhalese, who were to be appointed by the president.<sup>74</sup>

The problem of coordination between the GSEAA and the central government, as well as with the adjacent provinces, was to be solved by special councils. An Over-arching Coordinating Council, consisting of representatives of the central government, the GSEAA, the Northern and Eastern Provinces and of the Uva Province, was to oversee cooperation in spheres that affect more than one province. These included areas of irrigation, land, highways and marine resources. A Coordinating Council, consisting of the representatives of the central government and the GSEAA, was to ensure cooperation between the centre and the autonomous area. Two Inter-provincial Coordinating Councils, one between the GSEAA and the Northern and Eastern Provinces, and one between the GSEAA and the Uva Province, were to resolve issues concerning two provinces. A series of District Coordinating Committees was to resolve conflicts at the levels of individual districts.<sup>75</sup>

The proposal of the establishment of the GSEAA was based on the premise of far-reaching devolution of power, and assumed that the central government would bend to some of the requests of the Tamil minority. This assumption is visible in the proposal's treatment of the Northern and Eastern Provinces as a single political unit, as the unification of these was one of the principal demands of Tamil theorists.

## **Conclusion**

Among the documents brought forward in the above analysis, two stand out due to their comprehensive vision of the functioning of devolutionary structures: the model constitution, proposed by the ITAK in 1970, and the GSEAA proposal, issued by SLMC in 2008. Both these documents were evidence of the intense struggle of the members of the

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<sup>73</sup> *Ibid.*, p. 707.

<sup>74</sup> *Ibid.*, p. 708.

<sup>75</sup> *Ibid.*, p. 709.

respective associations, and showed continuous consultations with international experts on constitutional law.

The minority proposals of power-sharing in the study are often considered failed attempts at shaping the political development of the country. The two Chelvanayakam pacts were never acted upon. The model constitution proposed by ITAK was followed by two constitutions, in 1972 and 1978, defining the country as a unitary state, and coined in strong nationalist terms. The GSEAA proposal of the Muslim Congress came at the end of the armed struggle, shortly before the Tamil minority lost a major bargaining tool, namely its military control over part of the country. The GSEAA could therefore not come to fruition, as it was based on the premise of an introduction of devolutionary mechanisms demanded by representatives of the Tamil minority.

This interpretation would overlook wider developments in the Sri Lankan political system, such as the Thirteenth Amendment to the Constitution of Sri Lanka, which introduced a broad system of devolutionary measures into the constitution. The system of provincial councils remained largely dysfunctional in the provinces which were to be the major beneficiaries of it due to the resurgence of armed conflict,<sup>76</sup> but offered a legal precedent which could be incremental in the future. The Amendment did not introduce the federal solution that the ITAK had fought for, but offered an alternative solution by granting a degree of autonomy without violating the unitary constitution of the country.

The end of the civil war in 2009 did not bring immediate reconciliation between the Sinhalese and Tamil populations of the country. The president heading the country at the time, Mahinda Rajapaksa, was known for his Sinhalese nationalistic ideology and strong-hand rule. The president passed legislation increasing his powers, which went against the spirit of reconciliation. The situation changed in 2015, when the office of the president of Sri Lanka was assumed by Maithripala Sirisena. The new president commenced work on reforming the system of the executive presidency, and the first effect of his policies appeared in April 2015, in the form of the Nineteenth Amendment to the Constitution of Sri Lanka. The amendment limited the length of the presidential term to five years

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<sup>76</sup> Kelegama, 'Impossible Devolution...', p. 240.

from the previous six, and restored the two-terms limit for the president, which was previously abolished by Rajapaksa.<sup>77</sup>

The government of Sirisena commenced work on a new constitution, which is reckoned to contain strong devolutionary measures, but the president rejected the possibility of the introduction of a federal system. The general speculation, as seen in the Sri Lankan press, is that the new constitution will retain the devolutionary measures introduced by the Thirteenth Amendment, while correcting its major defects, in addition to reducing the powers of the president.<sup>78</sup>

Historical attempts at the introduction of power-sharing mechanisms in Sri Lanka were often regarded with suspicion by Sinhalese society due to their elitist origins and secretive design.<sup>79</sup> This factor is still valid with regard to the new constitutional design, which is strongly opposed by some sections of society.<sup>80</sup> As passing the new constitution requires the approval of the majority of the population, this attitude of distrust may disrupt the process.

Tamil proposals for power-sharing should be understood in relation to their separatist demands, which became the major incentive for the civil war. The most popular proposals cited in the study cognise power-sharing in a limited sense of the term, as devolution and regional autonomy, and place comparatively little emphasis on the representation of minorities at the national level. This point of emphasis came to prominence in the 1950s, with the emergence of the ITAK as the major representative of the Tamil minority, sidelining the ACTC.<sup>81</sup> This preoccupation with autonomy could be connected with the struggle to re-establish a regional Tamil government in a form symbolically representative of the ancient Tamil kingdoms.

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<sup>77</sup> Asanga Welikala, 'Introduction' in *The Nineteenth Amendment to the Constitution: Content and Context*, Asanga Welikala (ed.), Colombo: Centre for Policy Alternatives, 2016, pp. 14–27.

<sup>78</sup> Sri Lanka Opposition Leader hopes a new constitution would find a permanent solution to the ethnic issue, ColomboPage, 30.06.2017: [http://www.colombopage.com/archive\\_17B/Jul30\\_1501394003CH.php](http://www.colombopage.com/archive_17B/Jul30_1501394003CH.php) (accessed 10.07.2017).

<sup>79</sup> Kelegama, 'Impossible Devolution...', p. 244.

<sup>80</sup> Dayan Jayatileka, 'The TNA's 'Emil Savundra Method' of Constitution-Making', *Colombo Telegraph*, 20.06.2017: <https://www.colombotelegraph.com/index.php/the-tnas-emil-savundra-method-of-constitution-making/> (accessed 10.07.2017).

<sup>81</sup> de Silva, *Power Sharing...*, pp. 5–6.

