

## **International Seminar: Envisioning New Trajectories for Peace in Sri Lanka**

Zurich, Switzerland 7 - 9 April 2006

Organized by the Centre for Just Peace and Democracy (CJPD)  
in collaboration with the Berghof Foundation, Sri Lanka

### **Fact Sheet 6**

**Proposal of the Liberation Tigers of Tamil Eelam on behalf of the Tamil people  
for an agreement to establish an interim self governing authority  
for the North-East of the island of Sri Lanka , 31 October 2003**

*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 cease-fire,*

*Realizing 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

The provisions of Clauses 2.2 and 2.3 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 RRRD), 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/or 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.