

Considerations for the Proposed Constitution

The constitution of a state describes how it is structured and functions, and identifies with the interests of the dominant social class. Thus, although Sri Lanka has lived through three Constitutions since independence from direct colonial rule, the system has served only the exploiting capitalist classes, the landed gentry and their imperialist masters. Needs of the toiling masses have been neglected all along and the country has not been delivered from its economic woes resulting from continued imperialist domination in the form of neocolonialism. The Constitution of 1978 with an Executive Presidency designed to deliver the country to imperialist plunder had disastrous consequences. It plunged the country into a worsening national question and civil war and deeper economic crisis, while undermining all democratic institutions.

A Constitutional Council constituted in March 2002 under the 17th Amendment to the Constitution for rectifying serious anti-democratic features of the Constitution of 1978 was passed into law in October 2001. But it did not function and was subverted by in 2010 President Mahinda Rajapaksa who replaced it with the Parliamentary Council. Following the election of Maithripala Sirisena steps were taken in 2015 to reinstate the Constitutional Council, constituted in May 2025. The Council invited proposals from individuals and public organizations for a New Constitution to be drafted by the Constitutional Assembly. The Parliament of Sri Lanka convened as the Constitutional Assembly on 5th April to take the initial steps necessary to draft a new constitution.

The painful end to the war failed to resolve the national question and the country headed towards a fascist dictatorial rule by the Rajapaksa family. Electoral defeat of the regime in 2015 raised hopes among the public that errors of the past will be rectified. The government appeared to deliver on a few of its election pledges, but changes were mostly cosmetic, but for partial curtailment of the powers of the executive presidency. Hopes have been raised about a new constitution which will reform the existing political system, but signs are that the country will end up with a halfway house between the constitutions of 1972 and 1978.

Left and progressive forces cannot decide what emerges as the new constitution. More importantly, the revolutionary left knows that a constitution adopted by the representatives of the ruling classes will only serve the interests of those classes and their imperialist masters. It also knows that only a revolutionary change — a New Democratic Revolution achieved by revolutionary mass struggle led by the working class — can deliver genuine democratic change and liberate the country from foreign and local oppressors and resolve the basic problems facing the country.

The Left, nevertheless, has a duty make proposals within the confines of the bourgeois democratic system — but with a long term view of matters — to urge the right of every citizen to decent livelihood, fair minimum wage, safety and dignity at work, financially secure retirement, freedom from abuse and from discrimination based on gender, race, religion or caste, and equality before the law. The proposals must demand the defence of the sovereignty of the country against

foreign economic, political and military domination. They should emphasize that national unity could be secured only through devolution of power to the people, based on the right to self determination and the defence of human rights, with all nationalities and national minorities placed on equal footing. They should assert gender equality at all levels including elected bodies, with representation ensured for all significant ethnic and political identities. They should also urge writing into the constitution protection of the environment and national resources, both human and material, from unfair exploitation by big capital and foreign powers.

The text below is an approximate translation of the document submitted by the New-Democratic Marxist-Leninist Party to the Constitutional Reforms Committee in March 2016. The proposals have a long term perspective for the left and progressive forces to evolve a common minimum programme in their long march for social justice.

Important Considerations Presented by the NDMLP for Inclusion in the Proposed Constitution

1. Sovereignty of the Country

Sri Lanka is the native land of all Lankans and belongs to all of them. There is need for constitutional guarantee to protect and defend its sovereignty. The Constitution should assure that the independence, sovereignty and territorial integrity of the country and that a foreign policy is adopted which will not let room for any form of foreign pressure or interference.

2. People's Democratic Republic of Sri Lanka

The Westminster style constitution of the past and the later executive presidential system should be rejected and a Constitution of the People's Democratic Republic of Sri Lanka should be drafted that grants full independence to all people of Sri Lanka. This Republic should through the Constitution assure all fundamental rights of the entire people including the workers, peasants and other toiling masses, nationalities, national minorities and women of the country.

3. The House of People's Representatives (Parliament)

The Government should comprise representatives of the people who are freely and democratically elected to the House of People's Representatives or Parliament through a multi-party electoral system. The Constitution should affirm provisions to recall any Member of Parliament elected on the basis that he/she will serve the people and country indulging in irregular practices, corruption or abuse of power or involved in illegal activities.

4. Multi-Ethnicity

The Constitution should affirm that Sri Lanka is a country with people of several ethnicities, several languages, several religions and several cultures and assure that Sri Lanka is a secular multi-ethnic country. The Constitution should forbid all activities that induce contradiction and conflict among the people, based on ethnicity, language, religion, region and caste.

5. Use of Language

The Constitution should recognize Sinhala and Tamil as National Languages of Sri Lanka, and Sinhala, Tamil and English as Official Languages, and assure the right of every citizen to be educated in his/her mother

tongue (among the national languages), conduct his/her daily affairs and communicate with Government in that language, and receive the due response in that language

6. The National Flag

The national flag of Sri Lanka should be redesigned to reflect the multi-ethnicity, secularism, unity and solidarity of the people.

-

7. National Resources

All national resources of Sri Lanka belong to the entire people of the country and their descendents. The Constitution should guarantee the protection of the land and water resources of the country and its marine resources from over-exploitation for big profit by multi-national companies and their local big capitalist allies, bring all resources within the scope of protection of national resources and put them to use for national development, and prevent the sacrifice of national resources — especially the denuding of forests and destruction of marine life — to feed the greed of foreign capital and local big capitalists.

8. National Economic Development

The Constitution should incorporate guarantee of state stimulation for all national economic activities which will yield all the essential needs of the people, control of the import of all luxury goods and prohibition of all imports injurious to the development of the national economy, while providing guarantees for self-reliant local production.

The Constitution should make provision to prevent the country from entering into agreements with other countries to the detriment of national economic development and favour foreign countries.

9. Workers

All rights of the workers — especially those which were divested by the Constitution of 1978 — should be restored and affirmed by the new Constitution. The Constitution should assure the workers their right to work, right for industrial action, fair wage, guaranteed pension, provident fund, Employees Trust Fund, fair working hours, guaranteed holidays, security of employment, health care, protection from abuse of power including victimization by employers and high officials.

10. Women Workers

The Constitution should assure the protection of the rights and safety of women workers serving in the plantations, garment factories in the Free Trade Zones and in other state and private sector organizations.

11. Plantation Workers

The Constitution should guarantee to plantation workers all legal rights including the right to work and trade union rights that workers in other sectors are entitled to and wage determination not different from other sectors of employment. The Constitution should provide to rectify the defective aspects of livelihood that are a continuation of the colonial structure and to recognize the plantation workers as a major labour force of the country. The Constitution should recognize Hill Country Tamils as a nationality and grant them the right to housing, land and employment. Besides, the Constitution should endorse special programmes for their educational, health, social and cultural development of the community which remains backward.

The Constitution should affirm the recovery of the estates transferred to 22 plantation companies and vesting their administration in the hands of cooperatives that include workers. The Constitution should affirm the

elimination of domination by administration by plantation companies by bringing all plantations and workers' settlements under the administration of Provincial and Local Government.

12. Peasantry

The Constitution should affirm guarantees for all aspects of livelihood of the peasantry. The Constitution should affirm the allocation of land for landless peasants along with the necessary irrigation, housing and essential needs. The Constitution should assure guaranteed prices for agricultural produce consistent with cost of living, assured price concessions for essential fertilizer and non-hazardous agro-chemicals, prohibition of agro-chemicals posing health hazards, encouragement and guarantees for alternative agro-chemicals, training in safe modern agricultural practices, and a pension scheme for cultivators. The Constitution should affirm prohibition of the allocation of agricultural land and water resources to foreign and multinational companies.

13. Fishers

The Constitution should guarantee a common policy on fisheries without regional variation, work security, personal security, safety at sea and health care for fishers and price subsidy for fuel, guaranteed price for all fishing equipment, protection against attack and damage to equipment by foreign encroachers, and a pension scheme for fishes. The Constitution should also guarantee modern career training that is friendly to the fisheries environment.

14. Nationalities and National Minorities

The Constitution should recognize as nationalities and guarantee national rights to the four nationalities, namely Sinhalese, Tamils, Muslims and Hill Country Tamils.

The Constitution should recognize as national minorities communities including the Burghers, Malays and the Attho (Vedda) who consider themselves as distinct communities and guarantee their social and cultural rights.

15. Solving the National Question

The Constitution should guarantee the setting up of regional and internal autonomous structures within a united Sri Lanka, based on the principle of the right to self determination in order to affirm the existence, rights, development and security of the nationalities.

The following aspects should comprise key components of the above.

- Setting up of a regional autonomy in the region comprising the merged North and East
- Setting up of autonomous units for the Muslim nationality within the above regional autonomy
- Setting up of autonomous internal structures for the Sinhalese within the above regional autonomy
- Setting up of autonomous units in regions with a large concentration of Hill Country Tamil population
- Setting up of autonomous internal structures outside the North and East for Tamils, Muslims and for Hill Country Tamils
- Setting up of autonomous internal structures for all national minorities including Burghers, Malays and the Attho (Vedda) in all districts according to intensity and distribution of population.

Ensuring that there is no undue interference by the Central Government in regional autonomies and autonomous units and internal structures

16. Impact of Caste

The Constitution should affirm measures designed to change the direct and indirect effects of casteism including social inequality, untouchability, landlessness, lack of economic resources, and backwardness in education and health.

17. Women

The Constitution should affirm the guarantee of fundamental and human rights of women based on gender equality and the protection of women, women's health and equal opportunity to women as well as freeing of women from social oppression including the dowry system.

18. Children

The Constitution should assure prevention of the children of the country — children of the toiling masses especially — becoming child workers, protection of their education and their physical and emotional well being through the enactment of special laws, and putting an end to subjecting children to acts of sexual abuse, torture and assault.

19. Political Representation

The Constitution should guarantee that representation in Parliament, Provincial Councils and bodies of local government will be in fair proportion to the political and social identity and that equal representation of women is ensured alongside proportional representation in the respective districts.

20. Religions

The Constitution should assure equal state protection for all religions of the people and legal protection against the use of religion for anti-social purposes. The Constitution should provide for the teaching, besides religious education, secular and tolerant moral values.

The Constitution should, besides subjecting particulars of income and expenditure of religious establishments, affirm that all members of the clergy participating in social activity are subject to the normal laws of the country relating to such activity, and prevent the involvement of clergy in parochial political activities and thereby entering Parliament, and attempts by religious organizations to dominate government.

21. Education and Employment Opportunity

The Constitution should affirm the implementation of a national education policy for pre-school education that complements primary school education, guarantee free school education of quality, and minimum necessary resources and educational standard in all schools.

The Constitution should guarantee that no school has a population exceeding 2000 and that no class exceeds 30 in size and that schools of good standard are located so that every school student takes no more than 30 minutes to go from home to school.

The Constitution should assure that everyone has full educational rights up to a university degree based on educational proficiency, higher education with employment prospects in mind, and financial assistance and concessions according to need to enable students lacking in financial resources and students who are socially backward to enable them to undertake higher education.

The constitution should assure adequate and appropriate employment opportunity for those who have completed their education, based on competence and ethnic proportion in the population.

The constitution should assure that just and reasonable national policies are developed and implemented in relation to appointment for government employment, promotions and, transfer of service.

22. Cultural Infiltration

The Constitution should include guarantees to prevent local cultural decadence and poisonous cultural influences detrimental to the country and the people.

23. Health

The Constitution should assure a national medical service which besides prioritizing preventive medicine over therapeutic medicine, provides free medical service and patient care, the right of everyone to free medical treatment, and the location of hospitals with essential facilities so that a patient could be taken to hospital for urgent medical attention within 30 minutes.

The Constitution should assure the setting up of a pharmaceuticals procurement policy based on the proposals of Professor Senaka Bibile and a legal mechanism for its implementation and supervision of private sector import of pharmaceuticals by the government medical sector.

The Constitution should assure firm control over fees for private medical services and standard of service as well as moderate and need-based use of medicine and medical equipment, and that private medical service does not interfere with free medical service provided by the government.

24. Social Welfare

The Constitution should affirm that every citizen of the country can receive without hindrance the essential needs of life and has the means of livelihood and that resources and social support are made available to ensure that poverty, disability or chronic illness does not obstruct anyone from leading a life of self-respect and social value.

The Constitution should assure the availability of services essential to the well being of people in all parts of the country.

25. The Environment

The Constitution should affirm the prevention all acts of pollution of land and waterways, primacy to protection of the environment in all public ventures, severe action against harming of the environment for profit, and creating wholesome environmental awareness in schools.

The Constitution should emphasize that it is individually and collectively the responsibility of all members of society to limit the consumption of goods that lead to the proliferation of waste and to encourage recycling of waste.

26. Law and Justice

In order to affirm that all are equal before the law, the Constitution should guarantee legal aid for the needy, full protection for litigants and witnesses, and strict time limits for arriving at a judicial verdict without procrastination of court cases.

The Constitution should guarantee responsible conduct of all Courts of Law and the enacting of firm legal protection against abuse of power by defining clearly the powers of all members of the judicial and legal systems and the police.

27. The Defence Sector

The Constitution should comprise guarantees to confine the duties of the defence sector solely to matters concerning the defence of the country, and prevent interference by the defence sector in civilian matters, the daily lives of the people and politics.

28. Human Rights

The Constitution should incorporate in full the UN Human Rights Charter.

The Constitution should guarantee firm and impartial legal action against all acts of violation of human rights and the elimination of every oppressive piece of legislation that is in practice.

[Received: April 10, 2016]