



Sri Lankan Solidarity Movement

07th October, 2016

Dear Sir,

Preservation Of A Unitary State, A Strong Central Government, No To Bogus Homelands, No To Merger Between Any Two Provinces And Enhanced Civic Rights A Must In A New Constitution

Many persons, especially Sinhala Buddhists and the Sinhala people are having very strong reservations about the drawing up of a new constitution. There are widespread fears that a federal constitution will be brought in surreptitiously with a 'unitary' label to hoodwink the Sinhala Buddhists and the Sinhala people. Surely, a small country such as Sri Lanka does not need a quasi federal constitution since only countries which are large in size adopt quasi federal constitutions for better management purposes and small countries have adopted unitary constitutions for good reason.

The 13th Amendment Is Already Quasi Federal. Therefore Make Its Quasi Federal Features Unitary

Overturn A Provincial Statute In Parliament By A Simple Majority

The 13th amendment to the constitution is already quasi federal. This is due to the fact that, to overturn a statute approved by a provincial council with regard to a provincial subject which is inimical to the country, the parliament needs a two thirds majority to overturn such a provincial statute. This is in sharp contrast to a simple majority that parliament needs to overturn a law which has been approved by parliament i.e. the central government. Surely in a unitary state, to overturn a provincial statute, parliament only needs a simple majority? We urge that in a future constitution, if it really is unitary, then parliament should be able to overturn a provincial statute, if it is inimical to the country, by a simple majority in parliament. If the constitution really is unitary, the legislative at the centre should be able to wield its power over the legislative at the provincial level without any hindrance.

Any Law Approved By Parliament Should Automatically Be Applicable Countrywide, Even If It Concerns A Provincial Subject

Further, let us say that a law is approved by parliament with regard to a subject, which is also a provincial subject. Each of the nine provincial councils needs to consent such a law for that law to become enabled within each province. Surely, in a unitary state, if a law is approved by parliament, it should automatically be applicable countrywide, regardless of whether that law concerns a provincial subject. We urge that in a future constitution, a law approved by parliament should automatically be applicable countrywide, even if it concerns a provincial subject. If the constitution really is unitary, the legislative at the centre should be able to wield its power over the legislative at the provincial level without any hindrance.

The Governor Of A Province Should Be Appointed By The President Only

At present, the governor of a province is appointed by the president only. We hope this remains the case and the appointment of the governor will not be at the discretion of both the chief minister and the president since this will surely make the constitution federal in nature. If the constitution really is unitary, the executive at the centre should be able to wield its power over the executive at the provincial level without any hindrance.

No To Amendment Of The Public Security Ordinance

At present, if a provincial council acts out of line and declares unilateral independence, for example as in the case of the then chief minister Varatharaja Perumal, the president has the right to dissolved the said provincial council and govern that province from the centre using the relevant clauses of the Public Security Ordinance. We urge that the relevant clauses of the Public Security Ordinance remain intact and not be amended or deleted as the OHCHR's Prince Al Hussein, the TNA, other separatists, the US, EU, UK, Canada, Norway, Sweden and India wants. If the constitution really is unitary, the executive at the centre should be able to wield its power over the executive at the provincial level without any hindrance.

The Concurrent List Should Not be Abolished

At present, there is a concurrent list of subjects. Even countries such as India and Pakistan, which are federal, have concurrent lists. However, the TNA, other separatists, the US, EU, UK, Canada, Norway, Sweden and India want the concurrent list gone and this should not happen in a unitary state. The concurrent list is essential in a unitary state and should remain.

No To Fiscal Powers

Under no circumstances should land, police or fiscal powers be provided to provincial councils. There are grave fears that certain fiscal powers will be provided to the provinces. All fiscal matters should be decided by the central government or parliament since provision of even certain fiscal powers to a province will make the constitution federal in nature and only end up encouraging a separate state. In a small country like Sri Lanka, fiscal matters should be centrally planned and executed by the central government which would be the only efficient thing to do and make a lot of common sense. For example, what loans the country should obtain for what, from where and from who should be decided by the central government only. All foreign loans etc. should be channeled via the central government or parliament.

Certain taxation powers should not be handed over to the provincial councils since this will make the constitution federal in nature. Besides, nine different councils will then have nine different tax regimes. At present, industrial development has indeed happened in the Western province. However, with nine different tax regimes, a competition will be created between provinces to attract investment and to industrialize. However, a country is obliged to keep at least 30% of its land area forested as per the Sustainable and Millennium Development Goals of the United Nations. Besides, Sri Lanka is a predominantly agricultural country and therefore, most provinces should indeed devote themselves to agriculture. In order to promote tourism, nature reserves and forests should be preserved. Sri Lanka should plan at the central government level, where industries will be located. Location of industries can be in any number of locations in any number of provinces but the central government should decide this matter in a planned way. Sri Lanka should plan at the central government level where agriculture will be located and where nature reserves and forests will be located. Therefore, encouraging nine provinces to compete with each other to industrialize and in order to achieve that, provision of certain taxation powers to provincial councils, is not advisable at all.

No To Land Powers

Land powers should not be handed over to the provincial councils under any circumstances. A small country has only a small amount of land area, coastline and exclusive economic zone or EEZ (the ocean around Sri Lanka which belongs to Sri Lanka and which is four times the size of Sri Lanka) which every citizen has the right to fully utilize. If the present provincial councils are given land powers, political parties such as the Tamil National Alliance who are clearly separatist in nature will deny all other ethnic, religious and linguistic groups in the country, apart from Tamils, the right to live in the North or even in the East, if they can. This would then constitute a grave violation of a vast majority of the citizens of this country to fully enjoy the right to live in or utilize effectively 28% of the land area of the country, over 66% of the coastline and almost 66% of the EEZ (since the North and the East constitute 28% of the land area of the country, over 66% of the coastline and almost 66% of the EEZ). Since over 87% of the citizens of the country live outside the North and the East, this will effectively deny over 87% of the population of the country the right to live in the North and the East and most especially this will affect the Sinhala people, who are over 74.9% of the population, the most. This is not acceptable under any circumstances. Therefore the fundamental right of a citizen to live in any part of the island and the right to utilize the resources of the entire island should be guaranteed by the constitution without favouritism towards any particular ethnic, religious or linguistic group.

The same goes for decisions regarding who can in the future be relocated to the North and the East. Surely, the TNA will deny the above mentioned right to the Sinhala people or to those of the Buddhist faith especially or anyone else who is not Tamil. This is a violation of the fundamental right of a citizen of this small island to live anywhere in the island which should be guaranteed by the constitution by ensuring that land powers remain with the central government.

In the early 1980's, the ethnic cleansing of the entire Sinhala people of the North took place at the behest of the LTTE leader Prabhakaran. In the 1990's, the ethnic cleansing of the entire Muslim people of the North took place at the behest of Prabhakaran. Over 65,000 Sinhala people and over 75,000 Muslim people were ethnically cleansed from the North. Until 2009, these desperate and unfortunate people were living in small tin roofed huts in the Puttalam District and in other parts of the country for over 26 years. The LTTE also ethnically cleansed the entire Sinhala population of the Batticaloa District in the East of over 25,000 Sinhala people.

Today, the Sinhala people and their descendants of over 135,000 are yet to be resettled in the North and in the Batticaloa District and Muslim people and their descendants of over 115,000 are yet to be resettled in the North. We demand that the over 135,000 Sinhala people and their descendants ethnically cleansed from the North and the Batticaloa District be resettled immediately. Similarly, the over 115,000 Muslim people and their descendants ethnically cleansed from the North should also be resettled immediately. According to the most recent census carried out in 2012, over 32,000 Sinhala people and over 32,000 Muslim people have been resettled in the North. Therefore, the majority of the Sinhala and Muslim people displaced from the North are yet to be resettled. The majority of the Sinhala people displaced from the Batticaloa District are yet to be resettled too. If their original lands and houses have been granted by the LTTE to family members of LTTE cadres, then these Sinhala and Muslim people displaced from the North should be provided with alternative lands, adequate alternative housing facilities and resettled immediately.

Many Buddhist archaeological sites are located all over the dry zone, inclusive of the over 273 important Buddhist archaeological sites present in the North and in the East, and in particular the over 21 Buddhist archaeological sites in Jaffna in the North. We urge that the over 273 important Buddhist archaeological sites present in the North and in the East, and in particular the over 21 Buddhist archaeological sites in Jaffna, be preserved and to ensure their security. The preservation and the security of hundreds of minor Buddhist archaeological sites in the North too should be ensured.

No To Police Powers

Police powers should be with the central government and not the provincial councils. This is due to the fact that we cannot have nine different police forces in the country answerable to the chief ministers of nine different provincial councils. In a small country like Sri Lanka there should only be one police force, modernized, with the police administrative system computerized and connected electronically. The police force should be answerable to the entire public of the entire country via such a system. Since there is an independent police commission, as a counterbalance, there is no need to change the system that there is at present. Considering the fact that, for example, the Northern provincial council is very likely to be governed by the TNA which is separatist in nature, what would happen if a separate police force in the North answerable only to the chief minister of the North commence harassing for example Sinhala people or those of the Buddhist faith in the North?

Already, TNA councillors have threatened Sinhala villagers in the Bogamuyaya village in Vavuniya. The TNA councillors have threatened the chief priest of the Nagadeepa Buddhist temple not to build a Buddha statue. The TNA constantly makes complaints even if a few Buddha statues are built in the North. Buses going on pilgrimage to Nagadeepa have been attacked with stones on a number of occasions. Very recently, the leader of the opposition R. Sambandan has by force entered an army camp and made threats to the army to vacate the camp. Imagine if the Northern provincial council was given police powers. They will ethnically cleanse all the Sinhala people from the North. If the Northern provincial council was given land powers, they will ensure that no Sinhala person ever lives in the North since they will ethnically cleanse all the Sinhala people from the North.

No To Non-Existent (According To History) And Bogus Homelands

The clause in the 13th amendment which states that the Northern and Eastern provinces are the homelands of the Tamil speaking people is totally incorrect as attested by the history of the island.

The Sinhala Buddhist Kingdom of Rajarata (600BC-1400AD) which encompassed the North Central, North Western and Northern provinces was situated in the dry zone of the country (please refer to *The National Atlas of Sri Lanka, 2007* printed by The Survey Department for a map of the thousands of irrigation reservoirs located in the dry zone of Sri Lanka). The Eastern Province was part of the Sinhala Buddhist Kingdom of Ruhuna (600BC-1400AD) which encompassed today's Eastern, Uva, Central and Southern Provinces. There was a third Sinhala Buddhism Kingdom called Malayarata (600BC-1400AD) which encompassed the rest of the island. The Kandyan Kingdom (1400AD -1815AD) encompassed most of the island inclusive of the Eastern and 90% of the Northern province. So it is very clear that this island always was a unitary state. The present provincial boundaries were drawn up by the British colonialists as per their divide and rule policies in order to suppress the

rebellious Sinhala people who they did not like at all (1815-1818 and the 1848 rebellions made the British very vary of the Sinhalese).

Further, Sinhala Prakrit writing written using the Brahmi script has been found all over the island inclusive of the North and the East, earliest being 600BC. Buddhist statues, relics, remains have been found all over the island, inclusive of the North and the East, dating back to earlier than 300BC. Other remains have been found all over the island dating back to earlier than 900BC. Even in 900BC Anuradhapura was a large village and expanded into a city by 600BC. Actually our tribal ancestors, *Vaddho*, have been living in the island since 37,000 years ago as earliest human remains found on the island date back 37,000 years. So it is very clear that all parts of the island is the homeland of all its citizens. This includes the North and the East. Therefore the clause which states that the Northern and Eastern provinces are the homelands of the Tamil speaking people is totally incorrect.

This should be replaced by a clause which states that the entire island is the homeland of all its citizens in total. This not only historically accurate but is only just and fair towards all the citizens of the country.

There is also the irrigation system built by the Sinhala Buddhist civilization consisting of over 10,000 large, medium and small scale irrigation reservoirs located in the dry zone of the country (please refer to *The National Atlas of Sri Lanka, 2007* printed by The Survey Department for a map of the thousands of irrigation reservoirs located in the dry zone of Sri Lanka). For example, the Yodha Wewa in the North in the Mannar District was built by the Sinhala King Dathusena, the Pavatkulam irrigation reservoir in the North was built by the Sinhala King Mahasen and the Kanthale irrigation reservoir in the East was built by the Sinhala King Agbo II.

Further, the history of the Tamils commence mainly with the Dutch and the British bringing in large numbers of people from Tamil Nadu to work in tobacco and Indigo plantations commenced by the Dutch and the British in Jaffna. There was the Jaffna Kingdom set up by an invader, Aryachakrvarthi, just prior to the arrival of the Portugese. However, that kingdom was confined to the Jaffna Peninsula only and was very sparsely populated. However, people such as the chief minister of the Northern province Mr. Vigneshwaran, is creating his own fake history.

Therefore we urge that the history and archaeology of the island be taught at school as a subject based on actual historical and archaeological finds so that the next generation is taught our very long history, who then will acquire a good idea of the actual factual history and archaeology of the island.

No To The Merger Between Any Two Provinces

The 13th amendment allows for the merger between any two provinces. Is this not a cynical ploy by the TNA, other separatists, the US, EU, UK, Canada, Norway, Sweden and India to somehow merge the North and the East, two disparate and unrelated provinces, just to ensure that a large separate state is created? Therefore, for the sake of justice and fairplay by all citizens, the clause in the 13th amendment which states that any two provinces can be merged should be deleted.

A Unitary State Should Be Guaranteed

The state should be unitary since Sri Lanka is a small country. Almost all small countries of the world are unitary for good reason. When considering the history of Sri Lanka, it has always been a unitary state. A constitution should reflect the history of a country too and considering the above mentioned evidence of the unitary nature,

the independence and freedom of the country for over 2600 years, it is only right, just and fair that Sri Lanka remains a unitary state.

Only a unitary state will create an impression amongst all the ethnic, religious and linguistic groups living in this country that we are indeed living together in one country. If the country is in pieces (very powerful provincial councils for example will only break this small country apart considering the separatist nature of the Tamil National Alliance, for example) and will not do justice to the fact that, as shown above, that during the very long history of this island, it has always been unitary, independent and free. Therefore if provincial councils are provided further powers than at present, the unitary nature of Sri Lanka will collapse and Sri Lanka will fall apart especially since the separatist TNA and the like are likely to hold power in the North, for example.

If the constitution really is unitary, the executive at the centre should be able to wield its power over the executive at the provincial level without any hindrance. If the constitution really is unitary, the legislative at the centre should be able to wield its power over the legislative at the provincial level without any hindrance. Further, there is a suspicion that a special constitutional court will be set up to deal with disputes that may arise during the implementation of the new constitution. We strongly urge that the present judicial system be used to resolve to any legal conflicts that may arise during the implementation of the new constitution and not a special constitutional court. This is since this special constitutional court may consist of personnel who, in the past, have been under the pay of foreign dollar funded NGOs, who would then be concerned about the welfare of those countries who have paid them in the past i.e. the US, EU, UK, Canada, Sweden, Norway and India.

We are also gravely concerned that due to the pressure of the TNA, other separatists, the US, EU, UK, Canada, Sweden, Norway and India, Sri Lanka is in grave danger of being divided up on ethnic lines into two, three or even four different pieces. Is this not crazy? There are suspicions that the TNA proposals were drawn up by experts whom the TNA hired from the UK, Canada, Belgium, Norway, the US and the like. Is this not interference in Sri Lanka's internal affairs by foreign powers, even to the extent of trying to draw up Sri Lanka's constitution?

The State Religion Should Be Buddhism

As stated in the present constitution, Buddhism should be safeguarded and be provided a foremost place. This is reconfirming the historical reality that since 300BC, Buddhism has indeed been the state religion whether it was during the Rajarata period (600BC-1400AD) or during the Kandyan Kingdom period (1400AD-1815AD). A constitution should reflect the history of a country too and provide due respect to that history. Therefore it is only right and proper that Buddhism is provided a foremost place in the constitution and going further, be safeguarded as the state religion.

If Buddhism becomes the state religion, promoting, fostering and the safeguarding of Buddhism, as at present, will be a duty of the state. As such, Buddhism must be taught at school as a subject (those of other faiths should be taught their own religions) as at present. If this is not done, knowledge of Buddhism will disappear from the island altogether, which cannot be accepted. It will also lead to deterioration of morals, values and ethics in society. There are fears among the Sinhala Buddhists and the Sinhala people that a secular constitution will be brought in. However, when looking at the history of the island, it is amply clear that Sri Lanka was at the forefront of preserving Buddhism being one of the first countries to write down the Buddhist

scriptures and then propagating Buddhism to South and South East Asia. Scholars from all over the world came to Sri Lanka to take back the Buddhist scriptures to their own countries during ancient times. Sri Lanka was one of the foremost centres of Buddhism in the ancient world. In fact, we would say that Buddhism is, without any doubt whatsoever, the foremost and primary identity of the country or the soul of the country. Therefore Buddhism should be provided the foremost place in the constitution and be made the state religion. We are sure that almost no one will object to this.

Considering the Lal Wijenayake Committee regarding acquiring public views with regard to drawing up of the new constitution, some of our own members forwarded our views too. However, it is very clear that the members of this committee are very partisan and many suspect that they have, in the past, been under the pay of foreign dollar funded NGOs. Therefore, are they really interested in the welfare of Sri Lanka or those countries who paid them i.e. the US, EU, UK, Canada, Sweden, Norway and India. Many Sinhala Buddhists and the Sinhala people have no faith in this exercise, as a result. There were only 3,655 responses from individuals and organizations with heavy inputs from the five Northern Districts, the Eastern Districts and the Colombo District. Surely this tells us that Sinhala Buddhists and the Sinhala people's views are in no way represented in this committee report. The report provides a very distorted view since 3,655 responses can in no way represent over 20.3 million people's views.

Further, the entire parliament has become a constitution making assembly, drawing up the new constitution. Can 225 parliamentary members, some of whom who lost at the general election but have since been appointed via the national list, draw up a new constitution in secret and even that, in a few months? Surely it takes at least a few years to draw up a new constitution and the widest possible views of the entire Sri Lankan public must be sought, not 225 members drawing up a new constitution in secret.

There are suspicions among the Sinhala Buddhists and the Sinhala people that a new constitution has already been drawn up in secret by known federalists such as Dr. Jayampathi Wickremarathna and other federalists along with the US, EU, UK, Canada, Sweden, Norway and India at their behest.

If there is to be a new constitution we would urge the preservation of the unitary state, a strong central government, no to bogus homelands, no to merger between any two provinces and enhanced civic rights as a must in the new constitution. Surely, as long as citizens are provided enhanced civic rights within the new constitution, even the minorities will have no reason to complain.

There is a view that the general Sri Lankan public does not want a new constitution and that it is the TNA, other separatists, the US, EU, UK, Canada, Sweden, Norway and India who want a new constitution. We are personally of the view that in order to preserve the unitary state, it is best that the presidential system remains and that the proportional representation system is the most fairest. Therefore, is drawing up a new constitution an extremely urgent matter or even necessary at present? Does the government not have other pressing and urgent matters to attend to, like governing the country? Can amendments not be brought in as necessary, if any need arises to change a certain matter in the present constitution?

Yours faithfully,

Chairman,
Sri Lankan Solidarity Movement