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# United in Diversity: A Third Way of Constitutional Vision in Post-War Sri Lanka

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### ABSTRACT

Sri Lanka since independence has been seen to have designed its constitutional vision within the conceptual ideology of Sinhala-Buddhism. This gives insights into how and why a pluralist society should avoid engineering a one-sided constitutional vision. This article investigates the root causes of the Sri Lankan ethnic question from the perspective of its constitutional vision in terms of the nature of the state and the degree of power-sharing. It also seeks to draw a viable constitutional vision to accommodate the concern of all sections of Sri Lankan society from the existing international practice in post-conflict societies. This article shows the inevitability of adopting a germane third way of constitutional vision to reconcile the divided society of post-conflict Sri Lanka and to comply with some consociational elements to address minorities' issues within the minority region of Northeast Sri Lanka. The conclusions of this article suggest that a third way of constitutional vision would enhance the country's ability to keep intact its territorial integrity and preserve its diversity.

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## Introduction

Constitution-making has been the central debate in the recent history of Sri Lanka. This debate is fueled by two sets of rationales: the first is the conclusion of over twenty-six years of armed conflict between the armed forces of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE) in May 2009 with the defeat of the latter, and the second is the political landslide in Sri Lanka's parliamentary and presidential elections of 2015.<sup>2</sup> While the armed conflict has been concluded, the root causes of the armed conflict and atrocities committed during the hostility remain to be addressed and reconciled with. The newly instated government, however, has initiated a number of democratic reformations; *inter alia*, an integrated approach to address the root cause of the armed conflict through an inclusive process of creating a new constitution; national reconciliation; and steps to establish the good governance and restoration of the rule of law. These efforts, however, seem to be normative rather than pragmatic, largely due to the division among the major political parties as to how to address those issues.

On the other hand, the exclusive and partisan constitutional vision has been the legacy of each consecutive Government of Sri Lanka (GoSL) since independence in 1948 from the United Kingdom. The electoral politics coupled with the majoritarian democracy and the intention of the GoSL to ensure the Sinhala-Buddhist supremacism profoundly contributed to crafting the partisan constitutional vision. The constitutional vision of the consecutive GoSLs, therefore, mirrors the Sinhala-Buddhist ideology of the unitary state, one religion, and one ethnic group. In order to legitimize this notion, the consecutive GoSLs brought in a number of discriminatory and exclusive policies by disregarding the Tamils' claim to power-sharing through the federal form of the government, equal treatment, and equal opportunity. This, in turn, became the immensely fertile ground for the breeding of Tamil nationalism. Tamil

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<sup>2</sup> Post conflict Sri Lanka has been experiencing two different regimes. In the first phase, the President Mahinda Rajapaksa regime existed from 2009-2015, while in the second phase the Sirisena-Wickremasinghe government took office from January 2015 until the present. The current Sri Lankan President, Maithripala Sirisena, was elected on 8 January 2015 by the presidential election and the new government was formed in August 2015 after the general parliamentary election.

nationalists employed both violent and non-violent (*Satyagraha*) means in order to accomplish their rights. The GoSL not only suppressed the non-violent movement of Tamils but also further institutionalized its segregation agendas against Tamils. Consequently, Tamil youths formed different militant movements and have extended their demands beyond the federalism into an independent state since the 1970s. The non-violent ethnic struggle turned into violent conflict after 1983. The GoSL destroyed the LTTE and declared victory over them in May 2009 - at the expense of hundreds of thousands innocent Tamils' lives.

Numerous efforts to bring an end to the ethnic conflict since independence, however, had failed due to several reasons: the objection by the Buddhist monks and opposition Sinhalese parties, the half-hearted behavior of the GoSL, and, to some extent, Tamil parties. On the other hand, an inclusive constitutional vision immeasurably contributes to mitigate conflicts and to enhance democracy in plural societies. The recent experiences from South Africa to Bosnia depict the comprehensive input of constitution designing in restoring peace and stability in post-conflict settings (Lerner, 2011). A durable peace and reconciliation to disregard the ethnic mosaic feature of Sri Lanka so as to keep intact the territorial integrity and preserve the diversity of the country mostly depend on its future constitutional vision, along with other institutional and policy architectures of transitional justice considering the nature of the ethnic question and the atrocities committed in the armed conflict.

The exploratory, descriptive and analytical nature of this article employs the term 'third-way of constitutional vision to indicate the amalgamation of the first and second ways of constitutional vision of the unitary and federal forms of the state. The term further locates a pragmatic and syncretic approach to creating the nature of the state, as well as the degree of power-sharing by moving beyond the orthodoxy of the Sinhalese vs. Tamil dichotomy of the first and second ways of constitutional vision in Sri Lanka. This author believes that this outlook is crucial in order to find a way to reconcile the incompatibility between the first and second ways of constitutional vision in the new constitution. This third way of constitutional vision would mirror and embrace Sri Lanka's unique historical features of both communities,

as well as encompass a well-established contemporary practice of constitutional vision in other post-conflict societies to address the cohabitation of the Sri Lankan plurality within an undivided Sri Lanka.

This new vision is largely unaccounted for in the academic literature despite the fact that numerous existing literatures on Sri Lankan constitutionalism, ethnic conflict and conflict resolution have observed a number of issues and challenges of constitution-making, power sharing and equal protection of minority groups through numerous reformist visions (Bastian, 1999; De Votta, 2002; Imtiyaz, 2004; Kelegama, 2015; McConnell, 2008; Uyangoda, 2007, 2011). Notwithstanding this, a few scholars on contemporary Sri Lankan politics have underscored some ideal constitutional visions to settle the protracted conflict between the Sinhalese majority and Tamil minority from theoretical points of view. They, however, tend to focus on the second way of constitutional vision to address ethnic cleavage in Sri Lanka. For instance, according to Edrisinha (2005), the ‘shared rule and self-rule’ nature of multinational federalism would be an ideal solution to accommodate the Tamils’ demand for internal self-determination in Sri Lanka. Edrisinha (2015), concerned especially the appropriate constitutional vision, focuses on the counter-secessionist mechanism to uphold unity in diversity, autonomy and internal self-determination.

On the other hand, issues of pluralism, democracy and good governance can be addressed by way of establishing ‘a genuine system of multilevel governments within a strong and united state’ in accordance with the view of Welikala (2016). Welikala (2015) further suggests the plurinational constitutional model to accommodate the different ethnic nationalisms and their diverse demands in post-conflict Sri Lanka from the theoretical, analytical and structural perspective. Uyangoda (2005, 2007, 2011), a prominent scholar in the conflict resolution studies in Sri Lanka, has written much about the state-reformation and challenges in addressing the ethnic issue in Sri Lanka. In order to deal with majoritarian democracy at ‘national’ and ‘sub-nation’ levels, as well as to federalize the country at national, regional and local stages, Uyangoda (2005) postulates the idea of ‘deep

federalization.’ This ‘deep federalization’ encompasses both territorial and non-territorial forms of federalism to restrict the ethnic imagination, as well as to recognize the legitimacy of ethnicity as an ‘organizing principle’ in the post-war power-sharing arrangement (p.985).

From the perspective of Galtung (2005), the combinatorial adoption of ‘federation and consociation would make Sri Lanka a very mature and robust’ (p.22), whereas Imtiyaz (2008) opines that the Tamils’ demand of an independent state could only be solved by means of consociational democracy due to the fact that this model has the ability to ensure the ‘one-nation-state but with several focal points of power’ (p.143). Likewise, some scholars argue the pertinence of other post-conflict models to the Sri Lankan context. Kingsbury (2007), for instance, proposes a greater regional autonomy model and democratic plurality to the Sri Lankan ethnic question, as in the case of Aceh in Indonesia. Similarly, according to Zuhair (2008), learning some lessons from the Northern Ireland model would be useful to Sri Lankan policy-makers to address the Sri Lankan ethnic conflict since the 1998 Belfast Agreement created the successful consociational power-sharing arrangement to resolve the dispute in Northern Ireland.

To some extent, this author agrees with the theoretical conclusions of the above scholars, owing to the fact that this second way of constitutional vision seems to be crucial to balance the majoritarian democracy and to encourage inclusiveness. A concern, nonetheless, rests on how to implement this second way of constitutional vision since the nature of the state is the very deep-rooted sensitive conflict between Sinhalese and Tamils in Sri Lanka. Therefore, it is essential to move beyond the second way of theoretical debates and find a compromise form of a third way of constitutional vision. This article, therefore, moves beyond the first and second ways of constitutional vision and intends to bridge the existing gap in the literature by providing valid pragmatic insights on how the third way of constitutional vision can address the untouchable dichotomy of the existing unitary vs. federalist perception of both the Sinhalese and Tamil communities. Further, this article investigates the root causes of the ethnic question from the perspective of the post-colonial

constitutional vision as to the nature of the state and the degree of power-sharing. Finally, this article seeks to draw a viable constitutional vision to accommodate the concern of all sections of Sri Lankan society from the existing international practice in post-conflict societies. The discussion in this article shows the inevitability of adopting an appropriate third way of constitutional vision to reconcile the divided society of postwar Sri Lanka, as well as accepting some consociational elements to address minorities' issues within North and Eastern (NE) Sri Lanka. For this purpose, this article draws some lessons from other post-conflict constitutional visions, including South Africa, Macedonia, Kosovo, and Britain.

This article is divided into three parts. The first part of this article illustrates the post-colonial constitutional vision of Sri Lanka, including the exclusive and partisan constitutional vision and discriminatory policies of the GoSL and its contribution to the ethnic cleavage between Sinhalese and Tamils, while the second part of this article investigates the unitary vs. federal antithesis and the factors that contribute to the dichotomy of the unitary and federalism perception between Sinhalese and Tamils. The final part of this article tests the viability of the third way of the constitutional vision in the Sri Lankan context.

### **I. Post-Colonial Constitutional Vision**

The post-independence Sri Lanka experienced three constitutions: the 1947 Soulbury, and the 1972 and 1978 first and second Republican Constitutions respectively. While the 1947 constitution was enacted prior to independence, it became the constitution of independent Sri Lanka and existed until the first republican constitution of 1972. All these three constitutions maintained the unitary form of the state and homogenized Sinhala-Buddhist ideology while ignoring the demand of minority Tamils to equal treatment, equal opportunity and a separate autonomy to maintain their unique cultural affairs in the NE. Alongside the constitutional discrimination against Tamils, the consecutive GoSL brought in some policies in favor of majority Sinhala-Buddhists to preserve the identity of the "unitary form of Sinhala-Buddhist state" with the sacrifice of the rights of minority Tamils. Both constitution and policy

were designed to endorse and legitimize the unitary state, one religion, and one language in a multiethnic society.

Sri Lanka composes 20.35 million people in ethnically diverse communities: Sinhalese (74.9%), Sri Lankan Tamils (11.2%), Indian Tamils (4.1%) (who were brought by the British in the 19th century as laborers to work in tea gardens), Sri Lankan Muslims (9.3%), and others (0.5%). The majority of the Sinhalese practice Buddhism (70.1%); most Tamils, including Sri Lankan Tamils and Indian Tamils, practice Hinduism (12.6%); while some Sinhalese and Tamils have adopted Christianity (7.6%). Sinhalese are the majority in all provinces, although other ethnicities are also adequately represented and indicate the nature of ethnic pluralities. Historically, Tamils are the majority in the NE provinces, yet a considerable percentage of Muslims and Sinhalese are now concentrated in the Eastern province. Sinhalese are the majority in other provinces, while Indian Tamils remain in the areas of their original settlements: the central provinces. While Sri Lankan Muslims are dispersed all over Sri Lanka, most of them are concentrated along the Eastern coast of the country (Department of Census and Statistics, 2012).

The post-independence Sri Lanka, however, flagrantly created two groups of people- “privileged” and “unprivileged”- within Sri Lanka. The majority Sinhalese were designated as the category of “privileged” and became eligible to be “in” the constitutional and policy architectures of Sri Lanka. On the other hand, the minority Tamils were put into the category of “unprivileged” and kept “out” of the constitutional and policy vision of Sri Lanka. The binary options, therefore, were given to Tamils by the GoSL: either to become “privileged” and “in” category by accepting a forceful means of assimilation, or remain as “unprivileged” and “out” of constitutional and policy architectures by embracing this forceful segregation by the GoSL.

In principle, there were a number of measures to protect minorities in the 1947 constitution. The practical reality immediately after independence, nevertheless, did not allow

the system to function as it was intended due to the proliferation of the crude Sinhala-Buddhist nationalism. The 1947 Soulbury constitution established the Westminster model of government while adopting various mechanisms to ensure protection, especially to minority groups. These mechanisms aimed to provide a 'check and balance' at the center by way of balancing representation through the distribution of seats in parliament, appointing the second chamber comprising minority representatives. The inclusion of a special clause in the constitution further guaranteed non-discrimination against any group (Wickramasinghe, 2010).

According to Section 29(2) of the Soulbury Constitution of 1947, no law enacted by the Ceylon shall:

- (a) prohibit or restrict the free exercise of any religion; or
- (b) make persons of any community or religion liable to disabilities or restrictions to which persons of other communities or religions are not made liable; or
- (c) confer on persons of any community or religion any privilege or advantage which is not conferred on persons of other communities and religions;

In practice, these mechanisms never gave any institutional security to Tamils due to the fact that the GoSL brought in a number of discriminatory policies against Tamils to fulfil the aspirations of the majority Sinhalese people. The electoral politics of the time irresistibly accorded in bringing in such discriminatory policies by the GoSL. The post-independent democratization system installed majoritarianism ('winner takes all democracies') and, therefore, Sinhalese elites made capital out of this system and manipulated the rules of the democracy through the number game. It contributed to enhancing the extreme nationalism in Sri Lanka. While there are some differences in ideology between the major Sinhalese-dominated parties, the United National Party (UNP) and the Sri Lanka Freedom Party (SLFP), both rival parties virtually follow the same policy towards Tamils.



After independence, the proponents of Sinhala nationalism demanded more opportunities and favoritism for their community in the areas of education, employment and distribution of state land, and special status for the Sinhala language and Buddhism. This was echoed in the 1956 election, which brought in a government promoting the Sinhala-Buddhist ideology. Accordingly, the Sinhala Only Act was introduced in 1956 by the S.W.R.D. Bandaranaike government (SLFP) to accomplish the desires of the Sinhala Buddhist nationalists. Pursuant to the Sinhala Only Act, Sinhala became the sole official language of Sri Lanka in substitution for English. Tamil public servants, hence, were required to learn the Sinhala language for promotion purposes, otherwise they faced dismissal from the public sector (McConnell, 2008). Further, the GoSL brought in the Citizenship Act (1948), sponsored a Sinhala colonization scheme in the NE provinces, and discriminated against Tamils in employment opportunities and admission to the University. Besides, the GoSL marginalized, segregated, and destroyed the cultural identities of Tamils through bureaucratic, political, economic, cultural and military penetration into the traditional homeland of the Tamils.

The creation of the 1972 first republican constitution by the SLFP government further legalized and strengthened forced assimilation and the forced segregation agenda of the GoSL. It enhanced the unitary structure of the state (sec.2). Several measures had been taken to do so. First, the removal of section 29(2) of the constitution of 1947 along with other forms of benefits, such as the check and balance system. In its place, central importance was given to the “supreme Assembly” (Parliament) beyond the “check and balance” system. All the safeguards with respect to minorities were eliminated in the 1972 constitution in comparison to the previous one (secs.4-5 & 14; Bastian, 1999; Imtiyaz, 2008). What is more, the 1972 constitution gave foremost priority to the Sinhala language and Buddhism (secs. 7-8; Bastian, 1999; Imtiyaz, 2008). The Constituent assembly did not accept any of the crucial demands of the Tamil parties, including giving national language status to Tamil, a secular state, protection of minorities, and power-sharing (Hellmann-Rajanayagam, 2009). In view of that, as interpreted by Imtiyaz (2008), the 1972 constitution was ‘created by the Sinhala people, for the Sinhala

people, who had effectively marginalized the other communities in the Island' (p.134). The exhausted Tamils extended their claim beyond the federal structure of government into a separate state after the first republican constitution.

6 years after the introduction of the first republican constitution, the UNP government created the second republican constitution in 1978 with many new perspectives, but the central features of the unitary state and the foremost place of Buddhism remained as they were in the 1972 constitution (arts. 2 & 9). The 1978 constitution introduced a number of new arrangements for the first time in Sri Lanka. First, it created the position of the executive president with extensive powers (chap.VII). Second, the constitution introduced some safeguards for minority groups, encompassing a new Proportional Representation to ensure the participation of minorities in national politics (art.99). Finally, the constitution introduced a chapter of fundamental rights (chap.III) to the Sri Lankan citizens and empowered the Supreme Court to have jurisdiction over the violations of such rights (art.126).

In reality, nevertheless, these safeguards were not enjoyed by Sri Lankans, especially by Tamils, due to the fact that this constitution also maintained a strong unitary form of government by disregarding the Tamils' demand for a power-sharing arrangement. Secondly, due to the proliferation of Tamil militants, the GoSL brought in two sets of emergency laws: the State of Emergency Regulations and the controversial legislation of the Prevention of Terrorism (Temporary Provisions) Act No.48 of 1979 (as amended by Act No.10 of 1982 and 22 of 1988) (PTA) to prevent and suppress dissenting Tamils' voices. Albeit that there was a rational justification for declaring the state of emergency to control militant groups, the regulation was not balanced to counter the possible abuses of the executive by the judiciary, and 'draconian measures taken by Sri Lanka have only enhanced the cycle of violence, leading to the destruction of the social and political fabric of a democratic society' (Coomaraswamy & Reyes, 2004, p. 272). Further, the *lex specialis* became a *lex generalis* in Sri Lanka as Sri Lanka was governed by the emergency regulations for nearly four decades till the state of emergency was ended in August 2011 (United Nations Treaty Collection). The PTA still remains

despite the fact that the GoSL on several occasions promised to the international community to repeal it.

The failure of the GoSL in creating an efficacious constitutional vision due to the short-sighted policies of forced assimilation and forced segregation of Tamils compelled the Tamils to respond by any means, either through non-violent or violent movements. The non-violent choice of Tamils turned into violent movements after 1983 due to the concerns of the Tamils in protecting their identities from the forced assimilation and forced segregation agenda of the GoSL. As observed by McGarry and O' Leary (2011):

Often assimilation through coercion is counterproductive because it is exactly the threat of the disappearance of a minority culture that makes ethnic minorities rebel and causes ethnic conflict. The use of forces against an established ethnic group in order to force them to abandon their way of life can provide references and memories to be used in the mobilization of resistance for generations afterwards. (p.260)

The various combinations of the practice of the consecutive GoSLs show that they had failed to build an inclusive constitutional vision. Instead, the GoSL designed the constitutional vision to ensure the dominance of the Sinhala-Buddhist identity, wellbeing, and security. The GoSL's tactics of forced assimilation and forced segregation compelled Tamils to adopt non-violent resistance at the beginning, and then to take up arms against the GoSL so as to ensure their existence and unique cultural identity.

## **II. The Rhetoric of the Unitary Vs. Federal Antithesis**

The current endeavor of the government to foster an inclusive and participatory approach to constitution-making by moving away from the traditional legacy of exclusive and partisan constitution-making has been deadlocked after the submission of the Interim Report by the Steering Committee to the Constitutional Assembly on 21 September 2017. The deadlock was predominantly induced by the disagreement among major political parties over

the substantial vision of the constitution: whether it should be a 'unitary form' or a 'federal form.' The Sinhalese-Buddhist always sticks with the *status quo*, whereas Tamils demand to upset the *status quo* of the nature of the state. The Sinhalese prefers to have the first way of constitutional vision; the strong unitary form of government and a fear that power-sharing with Tamils by altering the unitary form of the state to a federal system is a stepping stone to the separation of the country. Conversely, Tamils invariably demand the second way of constitutional vision –the federal form of power-sharing or maximum autonomy (confederation) - by shifting the unitary structure of the government so as to ensure their existence. The Sinhalese-Buddhists' notion of the deep-rooted sense of the 'centralized unitary form of the state' and the Tamils' concept of 'maximum decentralized form of federal state' are embedded due to a number of ideological, historical and geographical factors, as well as the international political climate.

It has been observed that the ideology of the Sinhalese-Buddhists' idea of the unitary form of the state arose from different sources. As claimed by Wilson (1993), the notion of the Sinhalese Buddhist deep-seated sense of the unitary state is 'embedded in a history based on the Vijayan myth and the Legend of the Buddha, which together produce an inbuilt belief that Sri Lanka is the only abode of the Sinhalese on this planet'(p.147). Accordingly, 'the Sinhala ideological construction of the state was linked to the idea that the land, which had certain cosmic characteristics, belonged to the Sinhalese. This was linked to the idea of the Dhamma Deepa, the land in which Theravada Buddhism had been preserved in its pristine purity' (Tiruchelvam, 2000, p.199). Consequently, the Buddhist ontology created this hierarchical logic in defending the unitary and centralized form of the state in both colonial and post-colonial eras. This ideological conception deeply contributed to take the ownership of the state in the form of centralized and unitary power in the post-colonial constitution. That said, it has been argued that '[t]he striking characteristic of Sinhala-Buddhist nationalist historiography is its employment of a powerful idiom of centralisation of state power, through

an interpolation of the historical paradigm of the ancient Sinhala-Buddhist monarchy onto the institutions of the post-colonial republican state' (Welikala, 2016.p.18).

Sinhalese-Buddhists believe the strong and centralized unitary form of the state is the only way to maintain the supremacy of the Sinhala-Buddhist identity. Some observers, nevertheless, blame the Buddhist nationalism in the post-colonial era for selectively pinpointing the unitary element of the state's structure in the historical context without considering 'decentralised and fissiparous administrative realities' that existed in pre-colonial Sri Lanka (Welikala, 2016, p. 20; Wijeyeratne, 2007). The illusory effect of the ideology, however, was selectively inculcated by extremist Theravada Buddhists to maintain the unitary form of the state. The acumen of Buddhist nationalists may have been a result of the regional dimension as Sri Lanka is located in the Indian region. Sinhalese-Buddhists fear that the power-sharing that would be created by shifting the unitary form of the state would be a threat to the survival of Sinhala-Buddhism in Sri Lanka, as they perceive themselves as a 'minority' when compared to the Tamils, who are concentrated in *Tamilnadu* (a Tamil-dominated state) in India. The Sinhalese also believe that the secession would lead to the creation of a pan-Tamil state with South India and it would threaten the very existence of the Sinhala nation. Sinhalese-Buddhism, accordingly, relies on not only the historical perception but also the geographical dimensions of the NE (Imtiyaz, 2008; Wilson, 1993).

Additionally, the contemporary realities in some contexts, such as the secession claims of Ossetia and Abkhazia, Crimea, Scotland, Catalonia, and Iraqi Kurdistan, have encouraged Sinhala-Buddhists to outlaw any constitutional vision that undermines the centralized feature of the unitary state. Furthermore, the provocative behavior of the Northern Provincial Council (the only Tamil-dominated province), *inter alia*, to obtain justice for Tamils, made the Sinhalese suspect that the Tamils intended to move towards secession through the federal form of the state. For example, the Northern Provincial Council passed a resolution on September 1, 2015 calling for an international investigation into the genocide committed against Tamils by the consecutive GoSLs (Northern Provincial Council, Resolution, 2015).

Furthermore, some extreme elements of Tamil nationalists demanded that a referendum be held in the NE to determine the status of Tamils under the auspices of the United Nations (Senewiratne, 2016). Against this backdrop, the majority of Sinhalese vehemently oppose revamping the centralized unitary form of the state.

On the contrary, however, over the last few decades, Tamils have put forward a variety of demands: fifty-fifty; equal status; federalism; separation and internal self-determination. The first two demands were made before the independence of Sri Lanka, while the later three claims were put forward after independence. The changing character of the degree of the power and nature of the constitutional vision shows the intensity of state-sponsored violence against Tamils, historical injustice, and the development of international law, coupled with the geopolitics and international dimension.

Like the Sinhalese-Buddhists, Tamils also support their demand by basing it on their unique history. The historian asserts that Tamils first settled in Sri Lanka and Tamils arrived in Sri Lanka from South India in the early 5th century BC (Minority Rights Group International, 2008; Wilson, 1993). There is some evidence that over the two thousand year history of Sri Lanka, Sinhalese and Tamils had two different nations, which differed from each other by history, territory, language, religion, and tradition (e.g. Wilson, 1993; Manogaran, 1987). There were three different Kingdoms in Sri Lanka: two Sinhalese Kingdoms and one Tamil Kingdom based on Jaffna, which all functioned independently until colonization. After the Portuguese, the Dutch controlled the Sinhalese and Tamil Kingdoms and left the Kandyan Sinhalese Kingdom to function freely. But this was subsequently taken over by the British in 1833. Later, the British erased boundaries between Tamils and Sinhalese and brought the whole of Sri Lanka under the one unified administration (Wilson, 1993; Manogaran, 1987).

Another reason for resentment among Tamils is that the reluctance of the GoSL to fully implement the 13th Amendment to the constitution, including the land and police power and the government action in recalling some of the crucial power of the 13th Amendment,

made them believe that the government would retake power if they devolved it under the unitary form of the state. Tamils, therefore, still argue that ‘the unitary state is inimical to proper power-sharing and must therefore be removed from any fair Sri Lankan constitutional settlement’ (Welikala, 2016, p. 2). The demerger of the NE through the decision of the Supreme Court of Sri Lanka (*Judgement on North East demerger*, 2006, October 16) further sustained the Tamils’ strong position in demanding the institutional arrangement to protect their homeland. The Supreme Court of Sri Lanka ruled that the temporary merger of the NE was ‘unconstitutional, illegal and invalid’ and the Proclamation made by the former President J.R. Jayewardene merging the NE provinces as one single unit had no force in law in the case brought on behalf of three residents of those provinces who asserted that they had been denied the right to vote in a referendum promised in 1987. This raised concern among Tamils and other civil activists as the NE provinces merged under the international agreement (the Indo-Sri Lanka Accord, signed in 1987 between India and Sri Lanka), and they questioned whether the Sri Lankan government breached its obligation under this Accord. Additionally, the aftermath of the end of the armed conflict, instead of addressing the concern of Tamil victims in the NE and building credibility among them, the government again made use of the opportunity to toe the line of suppressing Tamils by imposing the supremacy of Sinhala-Buddhism. The increased erection of Buddhist statues and temples in the areas where Tamils were predominant raised this concern.

What is more, by denying the police power, the consecutive GoSLs have been using law enforcement institutions, especially police, to carry out their agenda against minority Tamils. There are a number of allegations against police regarding torture, arbitrary detention, enforced disappearance and extrajudicial killings of Tamils, as well as other partisan practices (e.g. Report of the Office of the High Commissioner for Human Rights Investigation on Sri Lanka, 2015, September 16). The degree of control over the land claimed by Tamils was due to the fact that the consecutive GoSL carried out the Israeli method of militarized settlement in the NE Sri Lanka. Choking off the territorial contiguity of Tamil traditional homeland is the main

purpose of the government. This state-aided colonization of Sinhalese and Muslims in the predominant areas of Tamils created huge socio-economic and psychological problems among Tamils. As the GoSL has extensively succeeded in altering the demographic feature of Tamils in the eastern province, it now concentrates in particular on the Northern Province for the same purpose. According to Watchdog (2013):

One of the most “popularly” and “effectively” used strategies by Governments over the decades, has been that of “colonization” or “forcible settlements” of Southerners in the North. The marked difference between previous Governments and the current one is how blatantly and strategically it is utilizing both the military and civilians from the South, to fulfil its agenda. Currently, the modus operandi of the State seems to break the Tamil majority demographic of the North by settling Sinhala and Muslim settlers from the South along the Southern border of the Northern Province, whilst using the security forces and their families to secure the Northern border of the province.

The state-sponsored settlement initiated before the independence in 1940 had accelerated after the independence of Sri Lanka. While the fully-fledged armed confrontation by LTTE temporarily slowed down the internal colonization of Sinhalese in the NE, it has again been initiated after the defeat of LTTE.

These various reasons compelled Tamils to demand a separate state or federal form of governance. Notwithstanding this, the Tamil side later dropped their demand of external self-determination/ separate state by substituting internal self-determination (maximum power-sharing) considering the geopolitics and international political climate. The much expected cease-fire agreement of 2002 and the peace initiative between LTTE and the GoSL with the facilitation of the Norwegian government enabled an agreement to ‘explore a political solution founded on the principle of internal self-determination in areas of historical



habitation of the Tamil-speaking peoples, based on a federal structure within a united Sri Lanka' (Oslo Declaration Statement by the Royal Norwegian Government at conclusion of third session of peace talks between Sri Lanka and LTTE in Oslo, 2002, December 5). Therefore, it is reasonable to state that Tamils wish to find a solution to their grievances by means of an accommodative mechanism, especially territorial federalism, to enjoy maximum power within a united Sri Lanka.

In sum, the history, ideology, and geographical elements, along with the international incidents and provocative activities of Tamil nationalists, prepared Sinhalese-Buddhists to outlaw any constitutional vision that moved beyond the scope of the centralized nature of the unitary state. All these factors were influential in supporting their Sinhala-Buddhist identical constitutional vision. On the other hand, the historical injustice against the Tamils, along with their rich tradition and history, led them to insist that they be recognized as a nation and distinct group, and therefore they demanded the federal form of the constitutional vision to protect their tradition, culture, language and their homeland. However, it has to be noted that there are some cases that have resulted in the secession of some federal states from the central government. Simultaneously, others have experienced the separation of unitary states. Compared to these two experiences, a unitary state is very much more dangerous than a federal state (e.g. Bermeo, 2002). Therefore, both parties need to compromise to move forward a common ground to overcome the ideological constellation in order to design a viable constitutional vision to bring a sustainable reconciliation in Sri Lanka.

### **III. Towards A Third Way of Constitutional Vision**

The nature of ethnic conflict and the perceptions of each community suggest the inevitable need to design a viable constitutional vision lying between the centralized form of the unitary state and the maximum decentralized form of the federal state, by taking into account the concerns of both Sinhalese and Tamil communities. This would assist them to uphold the plurality of government, while maintaining a shared common vision of a united

and peaceful Sri Lanka. The failure of the previous attempts, such as the 1957 and 1965 agreements; the District Development Council of 1980; the Indo-Sri Lankan Accord of 1987; Mangala Moonesinghe Parliamentary Select Committee and its interim report of 1992, the President Chandrika Kumaratunga's proposal for the devolution of power of 1995 and Draft Constitution of 2000 and the All Parties Representative Committee of 2006 (Keethaponcalan, 2009), exemplifies how the GoSL ought to envision the future constitution. There were several reasons for the failure of the above agreements: the excessive pressure from hardline Buddhist monks, the half-hearted behavior of the GoSL, and, to some extent, Tamils' leadership due to the incompatibility over the constitutional vision.

The post-conflict war, however, produced a positive environment in order to build trust among different ethnic groups. Whilst the majority of Tamils feel that they are the losers after the elimination of LTTE and they perceive a power vacuum on their side, the post-conflict situation also molded a powerful opportunity to persuade the majority Sinhalese to give up their firm position and create a constitutional arrangement to promote the co-existence of both communities, along with other minorities. The internationalization of the post-conflict situation, along with the concern of the international community to reconcile the Tamil issue through a proper constitutional arrangement, further generated optimism and positioned the government to reach an acceptable constitutional vision. The existence of the UNP and SLFP coalition/unity government and the willingness of the Tamil National Alliance (TNA), an official opposition represented by many Tamil political factions and parties from the NE, to support constitution-making and reconciliation further facilitated an unprecedented opportunity to solve the ethnic question through an appropriate institutional arrangement.

The international and regional factors also concern a realistic solution to the ethnic question in Sri Lanka through a pertinent form of the constitutional vision. According to Uyangoda (2011), the international and regional realities reflect 'three sets of focus, namely, accommodating the autonomy rights claims of the Tamil minority, protecting the sovereignty and territorial unity of the state of Sri Lanka, and containing the impact of the civil war on the

regional and global political-security order'(p.46). Without restricting either model, Sri Lanka, therefore, has the prerequisites to embrace contemporary practices since the older tradition of the strict division of the 'unitary' and 'federalism' has now almost disappeared. On the other hand, a third way constitutional vision has been designed in a number of post-conflict contexts, including South Africa, Macedonia, Kosovo, and Bosnia. Sri Lanka, accordingly, would gain inspiration in some useful lessons from those post-conflict settings.

From the South African experience, Sri Lanka can adopt useful strategies based on the concept of 'united in diversity' in managing plural societies. In the post-apartheid context of South Africa, the central debate with regard to the vision of the country has finally been sorted out by framing a 'cooperative government.' The African National Congress (ANC) favored a unified central authority with the aim of overcoming discrimination, as well as preventing apartheid at regional levels, whereas the National Party (*Afrikaans: Nasionale Party*) and the *Inkatha* Freedom Party (IFP) demanded federalism or local autonomy with the aim of protecting ethnic or local groups from the center (Klug, 2011, p.76). Accordingly, the drafters of the constitution framed the vision of the country by taking into account both demands, in the sense that it neither reflects 'unlimited majoritarianism' nor a 'binational state.' To some extent, the South African model reflects 'quasi-federalism' despite the fact that the word 'federalism' does not appear in the constitution (Murray & Simeon, 2008). By adopting this model, Sri Lanka would solve the very sensitive issues of the structure of a state. That is to say, the fear of Tamils for the 'rule of the majority' and the Sinhalese concern about 'federalism and its potential threat to be separated' can be addressed in a compromise.

The constitution-making attempts of Sri Lanka in 2000 and in 2017 exhibit the intention of the government to go beyond the existing structure of the constitutional vision to reach a compromise between both 'unitary vs. federalist' demands. Article 1 of the Sri Lanka Constitution Bill-An Act to Repeal and Replace the Constitution of the Democratic Socialist Republic of Sri Lanka (2000, August 3) states that Sri Lanka is 'one, free, sovereign, and independent State consisting of the institutions of the Centre and the Regions'. Likewise,

Article 2 of the Interim Report of the Steering Committee (2017, September 21) provides that ‘Sri Lanka (Ceylon) is a free, sovereign and independent Republic which is an *aekiya rajyaya / orumiththa nadu*, consisting of the institutions of the Centre and of the Provinces...’ The interpretation of the words of the local languages have different meanings in English: the Sinhala name *aekiya rajyaya* means ‘unitary state,’ while the Tamil word of ‘*orumiththa nadu*’ can be translated as ‘united country or a country formed by amalgamation’ (Bandarage, 2017).

Both these documents seem to be important steps towards solving the constitutional vision in Sri Lanka as they look like moving away from their original position. The strenuous exertions to reconcile both the ‘unitary vs. federalism’ in both instruments, however, did not completely convince the majority of Sri Lankans in both groups. Yet, it has to be acknowledged that the effort of the government shows that it has recognized the need to settle these two words by means of a ‘third way’ form of the constitutional vision in order to bring an end to the enduring issue of ethnic reconciliation. It is, therefore, sufficient to come to the conclusion that either the unitary or the federal form of the state would not be a peaceable form of state in the context of Sri Lanka. The concerned parties require to find a proper ‘third way’ method. Even if the South African model of a constitutional vision would be ideal for Sri Lanka, the threshold of a ‘hybrid/third way’ does not necessarily require as a precondition that it reflects the South African model. Sri Lanka needs to discover its own third way model of a constitutional vision to respect and accommodate the plurality of Sri Lankan society. It is essential that parties to the conflict abandon their maximalist and minimalist demands to move forward to a common ground in conflict resolution. Hence, the majority Sinhalese need to renounce the elusive interpretation of state sovereignty and accept the distinct status of minorities, especially Tamils, while Tamils also have to give up their demand, which could endanger the peaceful coexistence of the state.

A doubt, nevertheless, remains as to whether this South African model would fulfil the legitimate aspiration of Tamils to have the NE recognized as their undivided traditional

homeland. The South African model does not organize provinces along ethnic lines despite the fact that there was an intense debate in this regard during the constitution-making process. The final design of the geographical boundaries of the provincial system had been closely demarcated as it was developed in 1980 for the continuation of the industrialization and development of the country. There was no effort to demarcate provinces based on linguistic or cultural homogeneity, though a number of provinces are divided by the obvious linguistic majority (Murray and Simeon, 2008). Thus, South Africa's constitutional vision reflects the German system by reducing the significance of the geographical autonomy and giving 'more on the integration of geographic jurisdictions into separate, functionally determined roles, in a continuum of governance over specifically defined issues' (Klug, 2011, p.77). Additionally, the sensitive issue of the form of the state further crystalizes through the adoption of the National Council of Provinces. As pointed out by Klug (2011), '[t]he eventual adoption of the National Council of Provinces, modeled on the Bundesrat, and the conception of co-operative government as a uniquely South African form of regionalism provided a means to achieve agreement on what at first seemed a non-negotiable conflict' (p.77).

In Sri Lanka, as observed by Uyangoda (2011), 'federalism or devolution of Sri Lanka into two ethnic unities was not seen as a politically acceptable or viable policy option' (p.42). Uyangoda is right, in the sense that it will further fuel the sentiment of the majority Sinhalese. Additionally, Sri Lanka has already divided into nine provinces and the 13th Amendment had already devolved some limited administrative power to all of these provinces. The legitimate claim of Tamils to have a special status of 'undivided traditional homeland of NE' different from that of other provinces, however, cannot be denied considering their past experience and historical claims of the traditional homeland. As revealed by Wolff (2011), the territory is vital for identity groups in a number of ways 'as a crucial component of their identity. Territory is then conceptualised more appropriately as place, bearing significance in relation to the group's history, collective memories and 'character'' (p.1787). The traditional homeland claim of the Tamils was recognized before and after the independence of Sri Lanka. Thus, the

Tamils' demand for reasonable power over the land and law and order to protect and uphold their homeland and their cultural identities can no longer be ignored.

Territorial autonomy, accordingly, is one of the best options to answer the Tamils' self-determination question in Sri Lanka. As encapsulated by Wolff (2011), territorial autonomy (territorial self-governance-TSG) would contribute in a number of ways in engineering a resolution of the post-conflict institution in divided societies:

First, territorial options for state building extend beyond federal and federacy (autonomy) arrangements. Devolution and decentralised local government offer viable alternatives that can satisfy self-determination demands without potentially endangering the continued territorial integrity of an existing state. Second, TSG arrangements are adopted not only as negotiated settlements after civil wars but also in the course of settling non-violent disputes. Hence many arguments against the viability of TSG arrangements include a selection bias. (P.1795-6)

The Tamils' claims, therefore, would address through the adopting the territorial autonomy. Territorial autonomy is one of the main pillars of the consociational democracy. It is the balanced form between federalism and self-determination. According to Lijphart (2002), 'consociational democracy is not only the optimal form of democracy for deeply divided societies, but also for the most deeply divided countries, the only feasible solution' (p.38). Therefore, Lijphart (1977) has identified four pillars of institutional mechanisms in order to optimally address these issues in divided societies: (i) ensure the executive and legislative power sharing among the representatives of diverse groups through a grand coalition; (ii) segmental autonomy for an ethnic group, for those who require self-regulation in terms of managing their cultural and political affairs; (iii) proportionality not only in the electoral system, but also applicable to other civil administrative systems, security apparatus, and the courts; (iv) consociationalist grand mutual vetoes for all portions of groups, including constitutional

minorities, to be used in the decision making process for important issues that are directly related to their survival and wellbeing (pp.25-44). Lijphart (2002, 2004), however, in his latest work has streamlined this consociationalism by classifying its primary and secondary features. The primary characters are power-sharing and group autonomy. Power-sharing indicates the political decision making, principally at the executive level with the participation of representatives of all major ethnic groups, while group autonomy allows a group to deal with all other internal affairs, especially their cultural and educational affairs. The other two secondary elements- proportionality and minority veto- reinforce the first two primary features of consociationalism.

It is not essential for Sri Lanka to employ all elements of the consociational model; it can embrace the appropriate model in the context of Sri Lanka, including the territorial autonomy claim. Minority groups can fulfil their aspirations through territorial autonomy, which reflects the principle of equality of all people and is a vehicle through which the obligation of states to respect the right of self-determination may be fulfilled (Wright, 1999). Territorial autonomy can also accommodate a wide range of aspirations within the territory. Through this, minorities can enjoy protection from discrimination and they can enjoy an entitlement to full and equal participation in social, economic, cultural and public life (Weller, 2005).

International law, therefore, has recognized the internal aspect of self-determination through territorial autonomy to ensure the equality of minority peoples and to prevent the secession of the country. This has been the case in Canada, in the case of *Reference re Secession of Quebec* (1998). In this case, the Canadian Supreme Court concluded that the French-speaking people of Quebec do not have the right to unilaterally secede under the Canadian Constitution and international law. The Court stated that the people within the country can exercise their right to self-determination through internal arrangement 'on a basis of equality and without discrimination,' while ensuring territorial integrity (*Reference re Secession of Quebec*, 2 S. C.R. 217, Case No 25506, 1998, August 20, paras. 113-147).

For that reason, the claim of Tamils under international law to have a territorial autonomy to determine their destiny is well established. Interestingly, for the first time in the history of Sri Lanka, the Sri Lankan Supreme Court (*Hikkadu Koralalage Don Chandrasoma Vs Mawai S. Senathirajah, Secretary, Illankai Thamil Arasu Kadchi, et al.* 2017, August 4) also recognized the Tamils as people and their right of internal self-determination in 2017. This case was filed by Don Chandrasoma under article 157A (4) of the Constitution (as amended by the Sixth Amendment to the Constitution), by seeking proscription of the *Illankai Thamil Arasu Kadchi* (Federal Party), one of the major constituent partners of the TNA coalition, as its 'aims' and objects' were the achievement of a separate state within the territory of Sri Lanka. However, the Court dismissed the petitioner's claims and stated that '[a]dvocating for a federal form of government within the existing state could not be considered as advocating separatism.' The Court also indicated the restriction of the ITAK in demanding the self-governing arrangement to the NE Tamils 'within the framework of a united and undivided Sri Lanka.' In order to reach this decision, the Supreme Court of Sri Lanka depended on some international sources, including the Canadian Court decision of the *Reference re Secession of Quebec* (1998) and the International Court of Justice Advisory Opinion on Kosovo (2010).

It is important to note here that the cutting-edge approach of the Sri Lankan judiciary challenged the common misperception of the Sinhala-Buddhists due to the fact that the word 'federalism' had always been interpreted as a 'separation' among the Sinhalese. As indicated by Edrisinha (2005), in the context of Sri Lanka, 'those who advocate a departure from the unitary model are often perceived as advocates of the division of the country and secession' (p.246). The Supreme Court's role makes obvious that it can play a paramount role in terms of constitution-making in future in Sri Lanka.

Many conflicts around the world have been resolved by means of internal self-determination or autonomy to avoid secession. However, it is essential to stress here that the creation of the various autonomy arrangements does not follow any general pattern, so it can be built in many ways. For instance, Northern Ireland, the Swiss federal system, and the



Canadian and Belgium federal systems, reflect diverse forms of autonomy, which depend on the nature of the problem and the governmental structure. The right of self-determination of Tamils through regional territorial autonomy, therefore, can no longer be denied. According to Wolff (2005), 'emerging international norms on the treatment of minority populations and an increasing willingness to enforce them (such as in Bosnia and Herzegovina, Kosovo, East Timor) encourage the application of regional consociationalism as a mechanism to resolve self-determination conflicts' (p.106). The Tamils' issues, therefore, can be addressed through a suitable autonomy arrangement. While the government can draw some lessons from other post-conflict societies to design its constitutional vision, it is obligatory to take into consideration the peculiarity of the Sri Lankan context and design its own pragmatically oriented model to address the Tamils question.

The establishment of autonomy in the NE to solve the Tamil issue, however, raises a question as to how to accommodate the aspirations of Muslims and Sinhalese within the NE since it would make them minorities and they would also be subject to the majoritarian rule of Tamils within the region. The bipolar ethnic conflict between Tamils and Sinhalese has been turned into a multipolar one by embroiling Muslims since 1990. It, however, created the cleavage between Tamils and Muslims in the NE provinces of Sri Lanka. Muslims have always cooperated with the Sinhalese leaders regardless of who holds the power in the government since independence, and they also publicly acknowledge their preference for the unitary nature of the state. The fundamental reason behind Muslims' association with the government is commercial interest and fear of physical security (Imtiyaz, 2008).

Many Tamils believe that Muslims did benefit from both sides, Tamils and Sinhalese, by means of trading and collaborating with the Sinhala machinery to crush their struggle. This perception did result in the eviction of the Muslim community from the Northern Province in 1990 by LTTE. Muslims exhibit fear towards Tamils in the NE provinces with regard to their fundamental rights such as civil, political, social and economic rights. Muslims, therefore, have put forward claims for a separate regional autonomy in the NE (Fordinands, Rupesinghe,

Saravanamuttu, Uyangoda, & Ropers, 2004). Yet, the destruction of LTTE and the post-conflict situation in the eastern part of Sri Lanka has completely reversed the situation at the moment. In addition, the Sinhalese (mostly settled under the state-aided colonization scheme) who live in the NE also prefer a strong unitary form of the state to protect them from the majority Tamils in the NE.

The constitutional vision, therefore, takes into account the minorities' concern and their safety so as to attain a durable peace and ensure the territorial integrity and sovereignty of Sri Lanka. There are a number of institutional mechanisms within the consociational framework, including a non-territorial form of institution and other means, such as veto. In a number of previous contexts, non-territorial autonomy had been designed to accommodate dispersed minorities to protect their linguistic, cultural and religious identities. Non-territorial autonomy, however, mostly applied to regulate the linguistic minority; Belgium and Canada are cases in point. In the context of the NE, Muslims and Tamils speak the same language and share some cultural values, whereas they differ in terms of their religions. Thus, a non-territorial form of autonomy may not be a vibrant solution to the NE minorities of Muslims and Sinhalese.

Nevertheless, other arrangements can be put in place within a territorial autonomy to protect minority rights within the framework of democracy by respecting the individual rights of inhabitants irrespective of their ethnicity, as well as the collective rights of minorities in addition to the general protection (Smith, n.d). According to Edrisinha (2015), 'a constitutionally entrenched, nationally applicable bill of rights with strong individual-rights guarantees that is binding on all tiers of government is vital to build confidence among the minorities within a minority'(p.316). Besides, the abuse of the minority within the territorial autonomy can be prevented through power-sharing within territorial autonomy, as well as empowering the regional majority to respect minorities (Wolff, 2011). The same would be applicable to protect and safeguard the interest of minorities in the NE. More importantly, by

means of a 'veto' mechanism, as suggested by consociationalism, minorities' interests at both regional and national levels can be maintained.

The Ohrid Agreement (2001, August 13) in the post-conflict context of Macedonia provides such an arrangement within the unitary form of a state by requesting minorities' consent to pass key decisions in the parliament (Bieber, 2005). The mutual veto has also been granted in the context of Kosovo. However, it has to be noted here that the mutual veto has been constrained to specific areas. For instance, in Macedonia, the veto has been restricted to use in case of major alteration of the nature of the state (constitution, territorial organization) and an issue that threatens the non-dominant groups (Galyan, 2014; Bieber, 2005). However, in Sri Lanka, the mutual veto could be assigned to both territorial autonomy and the central parliamentary levels as it has been the option chosen in Macedonia. Restricting the veto in some crucial areas, nonetheless, is appropriate, as the veto power can be misused, and would be an impediment to development agendas. This has already been experienced in Kosovo and Macedonia.

The nature of the Sri Lankan ethnic conflict and the actors involved in this conflict suggest the adoption of a third way model of constitutional vision in terms of the formation of the state and the degree of power-sharing in order to reach a solution based on a 'win-win' position to prevent the feeling of loss on either side and to encourage them to focus on the inclusiveness of their aspiration within the constitutional vision and persuade them to realize their sense of ownership.

## **Conclusion**

The current context, as ever, is decisive in creating a constitution in Sri Lanka that can reconcile the deeply divided societies, as well as to rectify the past injustices, and to prevent the occurrence of future atrocities. Sri Lanka since independence has been seen to have designed a constitutional vision and formulated public policy within the conceptual ideology of Sinhala-Buddhism. The foremost place for one privileged group in constitutional and policy

architectures laid the bedrock for Sinhala-Buddhist supremacism. These short-sighted constitutional and policy architectures created a vortex of violent sectarianism in the country. The abject failure of the GoSL to build an inclusive constitutional vision gives insights into how and why a pluralist society should avoid a one-sided and exclusive constitutional vision in a multiethnic society.

Accordingly, the GoSL is obliged to design an inclusive constitutional vision in post-war Sri Lanka to reconcile the divided groups. The past experience, perceptions of different groups and the surrounding aspect of the ethnic conflict, however, has offered a lesson to avoid relying entirely on either a unitary or a federal form of state or a power-sharing arrangement. In parallel, experiences from some post-conflict settings, such as South Africa, Macedonia, and Kosovo, illustrate the adoption of a 'third way' form of constitutional vision. The firm maintenance of either the *status quo* or completely upsetting the *status quo*, therefore, would not be a pragmatic solution. Rather, adopting a 'third way' constitutional vision would be a viable solution to the ethnic problem in Sri Lanka.

While Sri Lanka can take inspiration from some lessons in terms of incorporation of a 'third way' form of an institution from other post-conflict constitutional visions, the threshold of strategies would be determined by the peculiarity of the Sri Lankan context, history, territorial connection, past injustice, minorities' issues within the NE, and regional and international dimensions. The recognition of a 'third way' nature of a state, territorial autonomy, and mutual veto, accordingly, are useful in order to build sustainable peace and reconciliation in Sri Lanka. These 'third way' strategies would also facilitate in democratizing the country, promoting human rights, the rule of law, good governance and greater economic prosperity. It would keep intact its territorial integrity and preserve the diversity of the country.

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