

Charter for a Pluralistic Sri Lankan Society



January 2019

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This document is a collation of ideas and views expressed by
multi-sectoral groups in eight districts.

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Introduction

This national symposium is the culmination of a major initiative of the National Peace Council that will see the launch of a Pluralism Charter embodying the distillation of three years of consultations with multi religious and multi ethnic communities mobilized through work at the ground level. In discussions leading to drafting this charter, we have focused on best international experiences.

Over the past decade NPC has focused its attention on the creation of inter religious groups bound together by universal values of their religions and by shared experiences. At the symposium today we have representatives of new groups that were forged in the course of the project, and brought into active civil society life. These include local politicians, journalists, those differently abled, women and youth in addition to religious clergy.

The main problem, as we see it, is the unwillingness to shift from a focus on our own community and the exclusion of other communities. We see the other's gain as our loss. Our country has experienced severe ethnic and religious conflicts because members of each community tend to look at their own problems only. Most engage little with those of other communities. They do not get their point of view.

There is a need for a shift in thinking to one in which equal rights, equal citizenship and equal justice become the norm in our society.

The ideas of multi religiosity and multi ethnicity are necessary not only at the national level, but also at the provincial and local levels. At the National Peace Council we believe that the experiences, hopes and aspirations of our different communities will be known to each other through engagement. We must not work only for the rights and privileges of our own community. We believe that leaders should lead and transcend what divides us. They need to take the people along with them and provide them with inspired thoughts and actions that unify and not divide.

When this initiative commenced, the people of Sri Lanka had only recently voted in a government that committed itself to address post war issues of reconciliation. Accordingly, we intended this initiative to widen and broaden the band of civil society leaders who would bring about a more plural ethos amongst the general population to support the national reconciliation process.

Today once again our country is in the grip of a political crisis. Elections are looming and voices are being raised that focus more on the fear and mistrust of those of other communities. It is important that leaders should rise from our society, at the national, provincial and local levels, to meet the challenge. Those gathered here are a representative sample of the plural leadership our country in which diversity blooms and unity prevails.

Jehan Perera

Executive Director

January 2019

Vision:

To evolve a Sri Lankan society that acknowledges, accepts and upholds its diversity, enabling the multiple communities that live within its boundaries to coexist within a framework of inclusion and mutual respect.

We hope to share and advocate the contents of this Charter with political leaders, officers of the State, members of civil society and the public to collectively build a society that respects the rights of all and uphold the inclusion of all.

Purpose:

Sri Lanka is a country that is divided in many ways. It has divisions along ethnic lines and religious lines. These divisions have manifested themselves in violent conflict, sometimes continuous, and sporadic at other times. Underlying the physical violence are long held prejudices, suspicions and fears. Even where there is no actual conflict, there is tension simmering beneath the surface, that can easily be harnessed to unleash violence.

Much of the prejudice and attendant hate and suspicion is either sowed or fueled by politics. Since independence, the principle political platform has been and continues to be one that is enframed in ethnic nationalism.

Coexistence in Sri Lanka is on the basis of tolerance and not on engaged understanding and active nurturing of inter community relations. While communities live side by side, they do not necessarily engage with each other meaningfully. Rights are understood not in absolute and fundamental terms, but in relative terms. There are established hierarchies on the basis of race and/ or religion and the function of rule of law is impaired to that extent. Therefore, the purpose of this document is to highlight the need to embrace pluralism within a framework of enshrined laws and values.



Consultation Process:

The National Peace Council (NPC) carried out consultations from October 2016 to December 2018 with multiple groups in eight districts countrywide. These groups were religious leaders, community leaders including local politicians, media, women, youth and persons with disabilities. The geographic focus was Galle, Matara, Nuwara Eliya, Puttalam, Mannar, Kilinochchi, Mullaitivu and Ampara.

The consultations were carried out through a two-tier process – local and national. The contributors, approximately 800 were representative of diverse ethnic, religious, age and interest groups. The consultation was carried out on two themes – factors debilitating meaningful pluralistic coexistence and changes necessary to promote, uphold and nurture pluralism.

Factors Debilitating and Limiting Pluralism

This section has been presented on sub themes, evaluating impact and identifying particular limitations.

Ethnicity: Sri Lanka is in its 71st year of independence, but it is challenged by its inability to evolve a cohesive Sri Lankan identity. The primary reason for this is the continued contestation for dominance and hierarchy instead of equal citizenship based on pluralistic values. Pluralism has been articulated as being the cornerstone of a binding Sri Lankan identity. However, the failure to instill an ethos of mindful coexistence strengthened by the protection accorded through Fundamental Rights, has pushed meaningful pluralistic coexistence to the far future.



Key observations are:

- Ethnic communities live separately with little interaction.
- Ethnic, social and personal limitations to interactions between and/ or among ethnicities.
- Sinhalese, Tamils and Muslims have unaddressed prejudices against each other.
- Treating one race as being superior and others as being inferior with the attendant failure give equal recognition to all ethnicities and the failure to accord respect to all.
- Contestation over the ownership of the country, based on the concept of historic homelands.
- Frequent conflicts between ethnicities and the failure to uphold the law in equal terms.
- State policies that further and fuel ethnic divisions.
- Fomenting ethnic divisions as part of political strategy.

Religion: The contestation for space and identity is a key element of religious conflict. There is a hierarchical acknowledgement of religions resisting equal space to all. There is also little structured, focused effort to enable different communities to understand and appreciate each other's religious teachings.

Key observations are:

- Failure to understand or accept religious and ethnic diversity.
- Religious diversity is primarily viewed through a prism of hierarchy and dominance.
- Religious groups live in fear and suspicion of each other in the enframing environment for dominance.
- People have insufficient awareness of all religions or their clergy and therefore often fail to accord respect to clergy of religions that are not their own.
- Negative attitudes and outlook of religious leaders lead to violent conflict.
- Unethical conversions.
- Limitations affecting certain groups in the practice of their own religion.
- Religious leaders and community leaders presenting false analysis of their own religions and others.

Language: Language discrimination or insufficient affirmative action in relation to minority languages continues to be a key factor in the ethnic conflict. Non-equal recognition for Tamil in practical terms and its impact on the recognition given to the Tamil ethnic identity significantly debilitates pluralism.

Key observations are:

- The failure to effectively implement the National Languages Policy, undermining service delivery in State institutions, hospitals, police etc.

Factors Debilitating and Limiting Pluralism

- Limitations in both the public and private sectors serving minority populations in their own language, even in areas where they are the majority.
 - Populations speaking only in Tamil feeling vulnerable and living in fear during conflicts based on religion or ethnicity.
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Culture: Culture is also a sphere where there is contestation for predominance. This is linked to the establishment of a hierarchy based on ethnicity.

Key observations are:

- Greater likelihood of conflict due to contest for superiority in terms of culture.
 - Lack of awareness of each other's culture and consequent lack of respect, sometimes leading to insult.
 - No structured programme by the State to create awareness about the diversity of cultures.
 - Certain cultural practices limit the space for cultural coexistence.
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Political: Ethnically divisive politics has pervaded public life from the time of independence. Even today, political platforms are centred on fear and hate leading to increasing ethnic division and contest.



Key observations are:

- People are divided on party political lines and in some instances, political parties have taken on the mien of religions leading to fevered support resulting in frequent conflict.
- Political parties and affiliates having distinct religious and/ or tribal identities, work towards the benefit of particular groups and communities eroding the space for pluralism.
- The status of kings and even deities is accorded to political leaders creating a following so enslaved that they can be manipulated to conflict with other groups, where it is deemed to be politically advantageous.
- Promoting ethnic and religious strife to increase political support.

- Political leaders who promote ethnic nationalism/ racism as their principal political ideology do not promote pluralism and related values when elected to govern.
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Casteism: Caste is still a divisive factor in society and determines the progress or stagnation, especially through service ranks in the State sector. Even in social transactions like marriage caste is still very much factored in.

Key observations are:

- Caste is still a factor among Sinhalese and Tamil ethnicities. It is especially evident in social transactions and promotions in the State sector.
- Those considered to be of lower castes are discriminated against and sometimes marginalised.
- The insurgencies of 1971/ 88/ 89 were due in some part due to caste discrimination, according to social scientists.

Factors Debilitating and Limiting Pluralism

Law: There are many lacunae in the legal structure that have to be addressed if Sri Lanka is to be meaningfully pluralistic. It is also concerning that on issues of ethnic or religious differences, people act in violation of basic laws.

Key observations are:

- There is a conflict between Fundamental Rights and provisions of specific personal laws.
- Conflict between general laws of the country and specific provisions of personal laws.
Kandyan Law – inheritance rights and provisions for divorce etc.
Thesawalamai Law – ownership of land and contract law.
Muslim Law – age of consent for marriage, number of legal marriages, divorce and maintenance and commercial contracts.
- Archaic provisions in the law that target particular groups.
- The prevalence of multiple legal traditions can lead to distortion of rights and misinterpretation of legal provisions.
- Legal provisions that discriminate against women.
- Lack of equality on account of multiple legal systems.
- Lack of uniformity in provisions of personal laws leads to a lack of cohesion among communities.
- Lack of faith in the legal system due to the biased application of the law.
- Inadequate laws to protect the rights of persons with disabilities.
- Inadequate laws to protect the rights of persons with diverse sexual orientation - lesbians, gays, bisexuals, intersex and questioning.
- Failure to implement provisions of the Constitution which give recognition to ethnic pluralism in the country – some provisions of the 13 Amendment.
- Failure to uphold the rule of law leads to conflict.
- The legal system gives inadequate recognition to pluralism.
- Lack of awareness of fundamental laws and legal provisions that uphold rights in absolute terms.



Literature: Literature is a primary source in understanding the facets, particular to a community or a culture. Literature can address the heart and build bridges across mental divides. However, in Sri Lanka insufficient importance is given to literature as a source for bridge building between communities.

Key observations are:

- No formal policy on teaching or promoting cross cultural literature.
- Within the sphere of peace building and also education, literature is not given sufficient recognition as a tool for reconciliation and understanding. There is a devaluing of literature in general as being of 'no practical use'.
- History: History is at the centre of contestation for dominance by the major ethnicity. The history that is taught is limited to one tradition and ethnicity and has been interpreted to support the preeminence of the majority group in the country. Key observations are:
 - Distorting history and presenting it in favour of one community.
 - Insufficient teaching of minority history.

Factors Debilitating and Limiting Pluralism



Archaeology: The Sri Lankan State has largely focused on the archaeology of Sinhala history. There is evidence to suggest that Sri Lanka was cosmopolitan and diverse in terms of ethnic composition since ancient times given its location as a maritime hub.

Key observations are:

- Destruction of archaeological sites.
- Conflict over ownership of archaeological sites.
- Conflicting interpretation of archaeological evidence.

Regional: A practical detriment of the ethnic conflict is that certain regions have been over resourced while others are under resourced. There has been an ethnic dimension to the inequal allocation of resources.

Key observations are:

- Equality of citizenship as embedded in pluralism is not reflected in the distribution of resources. There is an evident regional/ ethnic bias.
- Minority areas receive less State support than majority areas.

Persons with Disabilities: PWDs represent a fair portion of society on both sides of the divide – Sinhala and Tamil, given the 30-year long civil war. There are policies in place to support PWDs. However, their delivery on the ground remains limited. Therefore, the reintegration of PWDs, especially in former war zones is an uphill task.

Key observations are:

- There is little mainstream discussion on the needs and issues of PWDs.
- There is a stigma around disability that leads to discrimination and marginalization.
- Failure to give equal recognition to PWDs has meant that they have inadequate facilities in public places and limited access to resources.
- PWDs face difficulties in accessing State services like education, health etc. and are also unable to find employment.
- The State provides inadequate protection to PWDs.

Persons with Diverse Sexual Orientations: LGBTIQ rights are receiving increased attention in Sri Lanka. There are influential and committed lobby groups working towards the decriminalization of certain sexual practices and legitimization of rights of these groups. However, the discourse remains very much in the margins and there is no formal effort or recognition of their right to choice.

Key observations are:

- Discrimination based on gender and sexual orientation including criminal punishment.
- Social ostracization.
- Limited space for mainstream public discourse on LGBTIQ rights and the failure to accord them dignity before the law.
- Although there has been some attention given to the rights and problems of these groups, State response has been negative.

Recommendations for Building a Pluralistic Sri Lanka

1. Political leaders and State officials have a key role to play in building a pluralistic society in which there is equal voice irrespective of number and in which members of diverse ethnic, racial, religious, or social groups maintain and develop their traditional culture or special interest within the sphere of a common citizenship.
2. It is important that the state acts with justice and equity at all times in serving the people.
3. Religious leaders have a key role to play in embedding the concept of pluralism in the larger community. They necessarily need to be trained in the idea of pluralism so that they in turn can share their learning through the lens of social cohesion and religious coexistence.
4. Review existing laws and introduce necessary amendments in alignment with pluralistic values.
5. Minimise regressive provisions in traditional laws, aligning them with accepted fundamental principles, international standards and provisions in the Constitution.
6. All provisions in the Constitution for power sharing should be implemented in full without favour to any particular religion/ community or region.
7. Ensuring equity in the distribution of resources and equality in delivering services – all State services including police, health, education etc.
8. Strengthening Independent Commissions established through the 19th Amendment to the Constitution to ensure that the public sector acts without fear or favour.
9. The State should create sufficient awareness concerning the powers and functions of the Independent Commissions among State officials, the private sector and members of the public to maximise their effectiveness and create the environment necessary for them to function freely.
10. The State should create sufficient awareness on laws and policies that relate to the protection of ethnic identities, diversity and the administration of justice, among State officials, the private sector and members of the public to ensure that fundamental freedoms are upheld.
11. Ensuring there are adequate legal frameworks at district and provincial level to enable the sharing of marine resources, drinking water, and land equitably across populations.
12. All ethnicities should enjoy freedom of expression equally. It is especially important that equal space is ensured in mainstream discourse.
13. Sufficient laws should be introduced to bar hate speech or expression inciting violence against a particular group or community. Article 14(1) (a) of Chapter 3 of the Constitution guarantees the right to free speech and expression. However, if it is to be enjoyed in the intended spirit of the provision, it is necessary for the State to ensure safe space.
14. Punish all politicians, religious leaders or any other groups or individuals inciting religious and/ or ethnic hate, without exception.
15. Legal action against hate speech should be swift and adequate. Social media has become a principal source of information for the public. There is both positive and negative aspects to the role of social media as a primary news and information platform.
16. The State should ensure that all media hold to principles of objectivity in disseminating news and information. The public should also be made aware to consider news and information with sufficient critical evaluation.
17. The State should adopt an effective process to identify and proscribe political parties or organisations that promote divisions along religion or race.

Recommendations for Building a Pluralistic Sri Lanka

18. Early warning mechanisms should be a necessary element of government and administration to pre-empt possible conflict and to proactively deal with problems. The existing practice of the Sri Lankan State is reactive where action is taken once the problem has grown to the point of tension or conflict. The State leadership, policymakers and State institutions should be trained in the use of the early warning tool.
19. Including pluralism in the school curriculum. It is necessary for Sri Lankans to understand the values that underpin pluralism if it is to consciously take root as an effective response to ethnic divisions.
20. The State should abandon the practice of setting up education institutions on the basis of ethnicity or religion, which vitiates efforts to create a more engaged, cohesive and reconciled society.
21. The State should necessarily educate the public on the values and cultural practices of all communities and the need to respect diversity.
22. Elevating the Police service to be more sensitised and effective in the performance of its duties. The Police force should have sufficient awareness of the cultural practices and sensitivities of the communities that it serves and also the ability to communicate in Sinhala or Tamil, as necessary. The police force should be sufficiently diverse, in its ethnic composition to serve all populations equally.
23. The State should make it compulsory for all Sri Lankan citizens to learn Sinhala and Tamil. It should be ensured that the language skill is of sufficient functionality to serve meaningfully, in the search for pluralistic reconciliation.
24. Recruiting trilingual – Sinhala, Tamil and English, officers to the health sector to ensure an effective service. This falls within the broader category of deficiencies in the implementation of the Official Languages Policy. Part of the action to remedy this would be the recruitment of doctor/ patient-interpreters locally.
25. Adopting special mechanisms to include youth in the country's development process. Youth were the primary victims of the insurgencies of 1971-72, 1987-1990 and the ethnic war from 1980-2009. There is a need to include youth through an equitable process that takes into account education and skills.
26. Affirmative action should be taken in terms of Article 12(4) of Chapter 3 of the Constitution to empower those with special needs. There should be adequate provisions to include matters particular to them in development plans at sub national level – provincial and district.
27. Adequate resources should be provided to enable persons with special needs to fulfill their basic needs. Institutions should be established at district/ provincial level to strengthen education, health and welfare services to these sectors. A special cadre of trained officers should be introduced to support this community.

Establish a Pluralism Commission on the lines of the Independent Commissions, whose members would be appointed by the Constitutional Council, and whose mandate would be aligned to the observations and recommendations sketched out above.

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