

## THE MAKING OF A NEW CONSTITUTION

*Lakshman Marasinghe\**

### ABSTRACT

The 1978 Constitution of Sri Lanka declares its Sovereignty in Article 3 and the exercise of that Sovereignty is declared in an extensive manner in four sub-Articles in Article 4 of the Constitution. The Constitution provides an amending formula for its amendment at two levels. It provides at the first level an amending formula in Article 82(5) which requires a two third majority of the members of the Parliament. The latter (Article 83) prescribes for the amendment of some listed provisions in the Constitution a two-thirds majority and an approval of the people at a referendum.

Presently, in Sri Lanka, a much discussed area of constitutional governance is the difference between a “Unitary State with devolved powers”, and a “Federal State”. The framers of a new Constitution should make that difference clear in the provisions that they draft in a new Constitution.

The 13<sup>th</sup> Amendment to the Constitution established a group of bodies referred to as Provincial Councils in Article 154 A to Article 154 S.

The author brings out certain features which will be useful for the proposed new constitution. They are: *First*, Constitution framers should approach to protect and secure fundamental rights of every citizen; *Second*, Maintain a “Bill of Rights” along the lines of the Canadian Bill of Rights; *Third*, A new Constitution should provide the means by which there should be a facilitation of “self-reliant development”; *Fourth*, A Constitution must facilitate people’s access to justice; *Fifth*, The status of the language of the Minority Tamil people should be provided with a specific recognition in the new Constitution; *Sixth*, Carefully consider including a fair and less complex method of voting; *Seventh*, The new Constitution should consider the importance of bridging the chasm that presently exists between the minorities and the majorities.

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\* Emeritus Professor of Law, University of Windsor; Of the Inner Temple, England, Barrister-at- Law; Attorney-at-Law, Sri Lanka Bar