

Main features of the Constitution proposed to be adopted by the United National Party Government

PREAMBLE

The Second Republican Constitution was adopted in 1978 to provide for the economic, political and social development of the country. It achieved the expected objectives including the socio-economic transformation of the country, to a great extent.

During the last several years under Mahinda Rajapaksa's regime, the office of Executive President has been completely desecrated, by destroying all the checks and balances that were built into the system. The dignity and the integrity of that office has been reduced to a despicable state as a result of the blatant abuse of power and the creation of an authoritarian regime marked with extreme nepotism and corruption, with gross disregard for democratic values and fundamental human rights.

There is now an urgent need to restore the dignity and sovereign rights to the People which were forcibly taken away by the present regime, and to adopt a new Constitution for:

- the establishment of a just and equitable society, creating an environment for all people to live in peace and harmony while enjoying their fundamental rights, irrespective of any difference of creed, religion, language or political opinion;
- the establishment of a vibrant and prosperous economy, (which has been completely destroyed in the recent past), including the creation of opportunities to generate income for the people;
- the restoration of the independence of the judiciary, law and order, which has been critically and unprecedentedly debilitated during the recent past;
- the restoration of the pristine glory previously enjoyed by Sri Lankans in the International arena.

1. Restoration of the People's Sovereignty

1. The Constitutional framework will enshrine the Rule of Law within a democratic framework. Not only the ruled but the rulers are also subject to the Rule of Law.
2. Buddhism will be given the foremost place while assuring the rights of all other religions in compliance with the International Covenant on Civil and Political Rights (ICCPR).
3. Fundamental human rights shall be guaranteed and secured for each and every person irrespective of any race, religion, language, caste, sex, political opinions or any other differences.

4. The Directive Principles of State Policy imposes the duty and the responsibility upon the State to provide necessary facilities for good health, opportunities for employment, access to education, protection of family rights, children and women's rights, rights of senior citizens and disabled persons.
5. The Constitution will guarantee the freedom of expression and will be strengthened to include the right to information.

02. Legislature

1. Parliament shall consist of 225 members elected on a mixed system where each constituency will elect its representative and the final result (seats in Parliament) will reflect the Party's true strength (i.e. total votes polled) at elections. This system will give value for every vote cast
2. The system of preference votes will be abolished.
3. The tenure of the Parliament and the Provincial Council is fixed at five years.
4. Elections for the Parliament and all Provincial Councils shall be conducted on one and the same day, and in the event the Head of State is also to be elected, that election will also be held on the same day.
5. Any Member of Parliament or a Member of any Provincial Council or a Member of any Local Government Institution who loses the party membership from whichever Party he/she is elected/appointed to that institution shall cease to be a Member of that institution forthwith.
6. If any Member of Parliament, or a Member of any Provincial Council or a Member of any Local Government Institution fails to submit Annual Declaration of Assets and Liabilities within the stipulated time period, he/she shall cease to be a Member of that body. Ministers and Deputy Ministers shall also be required to submit their Annual Declaration of Assets and Liabilities to the Speaker instead of the Executive as it is done now.
7. If any Member of Parliament, or a Member of any Provincial Council or a Member of any Local Government Institution is convicted for a crime irrespective of whether he/she serves a jail sentence or not, he/she shall cease to be a Member of that body.

03. Executive

1. Presidency will be abolished.
2. Instead of the Presidency, a Head of State will be substituted. The current powers conferred on the Executive Presidency will be divided among the Head of State, the Prime Minister, and the Speaker's Council.

Option 1: A Prime Minister elected by the people at an election to govern with the Cabinet. The Prime Minister and his Cabinet are responsible to Parliament.

Option 2: As a novel system the executive powers will be exercised on a political basis and to be subject to checks and balances.

2.1: To ensure direct exercise of the People's Sovereignty, the Head of State will be directly elected by the people.

2.2: The Head of State will be the Head of the Council of State (which will consist of the Prime Minister, Leader of the Opposition, the Leaders of the political parties represented in the Parliament and the Chief Ministers of the Provinces), and will act on the advice of the Council of State.

2.3: The Council of State shall decide on all political directions and national priorities. The Cabinet of Ministers headed by the Prime Minister and the Provincial Boards of Ministers shall be responsible for implementation of the decisions of the Council of State.

2.4: The decisions of the Council of State shall be by consensus. In the event there being no consensus the majority decision will prevail. This will pave the way to practice Lord Buddha's preachings on governance – peaceful assembly, peaceful dialogue and peaceful dispersion.

Option 3: To adopt a system similar to that of the Westminster system.

3. The Cabinet of Ministers will be restricted to 25 including the Prime Minister.
4. There shall be a Speaker's Councils consisting of the Speaker, the Prime Minister, and the Leader of the Opposition and representatives of all political parties represented in Parliament. The Speaker shall be the Chairman.
5. On recommendations of the Council of State, the Head of the State shall appoint members to Independent Commissions, Justices to the Constitutional Court and Superior Courts. Heads of State Institutions shall be appointed by the Head of State with the approval of the Speaker's Council.

04. Devolution of Powers

1. While Sri Lanka remains a Unitary State, powers will be genuinely devolved to Provincial Units taking into consideration:
2. The Joint Communiqué between the Government of Sri Lanka and the Secretary-General of United Nations in May 2009;
3. Resolutions on Sri Lanka at United Nations Human Rights Council;
4. Tissa Vitharana Report and the connected documents including papers exchanged at the talks between the SLFP and the TNA;

5. Recommendations of the Lessons Learnt and Reconciliation Commission
6. President Mahinda Rajapaksa's speech in Parliament in May 2009.

7. The Office of the Governors of the Provinces will be abolished and their powers and functions shall be performed by the Head of State.

8. The Member who commands the majority of a Provincial Council shall be appointed as the Chief Minister and the Leader of the political party which has secured the next highest number of seats shall be appointed as the Deputy Chief Minister.
9. The Boards of Ministers of the Provincial Councils will be appointed proportionately to the votes polled by the respective political parties in such Council.

05. Judiciary

1. There shall be an independent and separate Constitutional Court which shall be solely responsible for *inter-alia* the interpretation of the Constitution and the examination of the constitutionality of Bills and its decisions are final and conclusive. The Executive and the Legislature are bound to follow the decisions of the Constitutional Court.

2. The tenure, salaries, allowances and privileges of all the judicial officers shall be guaranteed. In the event of any impeachment against Justices of Superior Courts, the Constitutional Court is empowered to investigate into the charges leveled against such Justices, in compliance with the Commonwealth principles (Latimer House Declaration).

3. The Constitutional Court shall be empowered to hear and determine Parliamentary Election Petitions and there shall be a fixed time period within which the cases are to be concluded.

06. Good Governance

1. Independent Election Commission, Independent Police Commission, Independent Public Service Commission, Independent Judicial Service Commission and Independent Anti-Corruption Agency would be set-up as a matter of utmost priority.

2. All elections shall be conducted by the Independent Election Commission which shall have the powers to issue directions to all agencies involved in the election process including both State and Private media.

3. The State will promote and strengthen measures to prevent and combat corruption efficiently and effectively. The institutions of government will promote integrity, accountability and proper management of public affairs, public property and public resources.

4. A new anti-corruption law will be enacted to give effect to the United Nations Convention on Corruption.
5. There shall be codes of ethics for Parliamentarians, Members of the Council of State, Justices of the Constitutional Courts, Superior Courts, Members of the Judiciary and all other elected Members of the Provincial Councils and Local bodies in accordance with international criteria.
6. Anti-Corruption Agency law shall include Bribery and Corruptions in the private sector and shall apply retrospectively.
7. Parliamentary Oversight Committees such as Committee on Public Enterprises (COPE) and Public Accounts Committee (PAC) would be strengthened and Parliament shall take steps to ensure that their recommendations when approved by Parliament are implemented.
8. There shall be an independent secretariat with a data bank to facilitate investigations by COPE and PAC and they shall be empowered to examine the estimates of annual budgetary allocations before annual budgets are presented.
9. Any project or investment or contract exceeding the value of Rupees One Billion shall be examined by a specially constituted Select Committee of Parliament.

07. Participatory Democracy

Women's Rights:

1. There shall be an allocation of 25% for women's participation in Provincial Councils and Local Government Institutions.
2. There shall be a Women's Chamber representing all strata of women from all over the country to deal with the diverse women's interests. The Women's Chamber shall be an instrument of deliberative democracy to uphold and enforce women's rights. The Chamber will also exercise other powers vested by Parliament.

Community Council:

1. With a view to establishing participatory democracy and building national reconciliation, there shall be community based Councils in each *Grama Sevaka* Division which are obliged to perform and function on apolitical basis.

Within 6 months after the formation of a government by the United National Party, the draft constitution will be submitted for the approval of the people at a referendum. This will be the first Constitution to be adopted by the people of this country.

Source: <http://www.unp.lk/#>

References Documents :

01. United Nations Convention against Corruption

<http://www.unodc.org/unodc/en/treaties/CAC/>

02. Parliamentary Ethics

http://www.europarl.europa.eu/pdf/oppd/Page_8/codes_of_conduct_FINAL-ENforweb.pdf

03. Handbook on parliamentary ethics and conduct

http://www.wfd.org/upload/docs/political_guidebook_20100630.pdf

04. The Code of Conduct together with The Guide to the Rules relating to the conduct of Members

<http://www.publications.parliament.uk/pa/cm201012/cmcode/1885/188501.htm>

05. Parliamentary Commissioner for Standards

<http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/pcfs/>

06. Independent Parliamentary Standards Authority

<http://parliamentary-standards.org.uk/>

07. The Committee on Standards in Public Life

<http://www.public-standards.org.uk/>

08. Committee on public finance & oversight standing committee

Sinhala <http://unp.lk/images/documents/sinhala.pdf>

Tamil <http://unp.lk/images/documents/tamilscandoc.pdf>

English <http://unp.lk/images/documents/scan0140-1.pdf>