

Constitutional Options towards preservation of the sovereignty and territorial integrity of Sri Lanka, while ensuring a lasting peace, to strengthen democratic institutions and advance the prosperity and fundamental rights of the people of Sri Lanka

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## **Preamble**

We the people of Sri Lanka; bearing in mind the experiences gained through continuous struggle for our national existence and statehood, recognising the rights of all citizens of Sri Lanka, endeavouring to ensure that all peoples will preserve and promote their respective identities and live with dignity as one nation, ratifying the principles of representative democracy and assuring to all people's freedom, equality, justice, fundamental human rights and the independence of the judiciary.

## **Fundamental Rights**

1. Right to life shall be added as a right to the Fundamental Rights Chapter
2. Article 12 (2) shall be reworded as

“No citizen shall be discriminated against on the grounds of race, religion, language, caste, gender, sex, sexual orientation, political opinion, place of birth, place of residence or any one of such grounds”

3. Article 13

“Any person arrested shall be informed of the reasons of his arrest, right to remain silent and not be compelled to be a witness against himself and shall enjoy the right to a speedy and public trial, to be confronted by the witnesses against him, to have compulsory process for obtaining witnesses in his favour and to have the assistance of an attorney at law.”

## **Fundamental Duties**

Article 27 (a): For the furtherance of such objectives the state, after appropriate nationwide consultation shall develop national policies which once ratified by Parliament shall be implemented, with provisions for monitoring the effective implementation of such policies at all levels of government.

Any inconsistencies with the provisions of these articles are subjected to the review of the Supreme Court of Sri Lanka.

## **Executive**

1. President:

No person who has three times contested for the office of President shall be qualified thereafter to contest such office.

The President shall hold office for a term of 5 years together with the Vice President chosen for the same term.

The Presidential Elections shall be held in the month of January and the President elect shall commence his term of office on the 4th of February

Any candidate contesting for the office of President shall keep a deposit of 5 million rs. and all candidates who fail to obtain a minimum of 1 per cent of the total valid casted votes at the election will not qualify to get the deposit refunded.

Every bill which shall pass the House of Representatives and the Senate shall before it becomes a law be presented to the President. If he assents it shall become law. If not it shall be passed by 2/3 majority of the House of Representatives and by a simple majority of the Senate before coming into law.

Remove the power of the President to dissolve Parliament before the end of its term.

## 2. Vice President:

The Vice President shall be elected in the same election as for the President and shall preside over the Senate.

If the office of the President be vacant due to his death or any inability to act, the Vice President shall act in the office of President until the elections for the office of the President be held in January the following year. Any Vice President succeeding to act as President shall be precluded for standing for such elections.

## 3. Cabinet of Ministers:

Members of the Cabinet shall not be Members of Parliament or any other elected legislative body/council, and shall not undertake any other employment. Any Member of Parliament or other elected body who assumes a Cabinet portfolio shall cease to be a member of such body.

Cabinet of Ministers shall be accountable to the Parliament and shall

- a. attend the consultative committee of the Ministry he is responsible for, held once in every month
- b. answer any question raised by Parliament on the matters related to his Ministry
- c. present financial estimates at such committees and answer and discuss such estimates and accounts at these meetings.

This provision shall come into effect after the next general election.

The Cabinet shall consist of not more than 25 Ministers.

Responsibility for the following functions shall be given to the Members of the Cabinet, though the President may reserve any subjects he chooses for himself. Where the President reserves any subject for himself, he shall appoint a Minister not of Cabinet rank who will liaise with the House of Representatives with regard to the subject for which he is responsible. Such Ministers shall not be Members of Parliament or other elected bodies, nor undertake any other position.

Cabinet portfolios:

1. Labour and Human Resource Development
2. Health
3. Agriculture and Irrigation
4. Fisheries
5. Disaster Management
6. Human Rights and Reconciliation
7. Transport and Highways
8. Trade and Cooperatives
9. Environment
10. Land and Urban Development
11. Defence
12. External Affairs
13. Home Affairs and Media
14. Economic Development and Industries
15. Local Government and Public Administration
16. Justice
17. Finance
18. Aviation and Shipping
19. Energy, Petroleum and Mineral Resources
20. Archaeology and National Heritage
21. Posts and Telecommunications
22. To be decided by the government in power
23. To be decided by the government in power
24. To be decided by the government in power
25. To be decided by the government in power

4. Appointments for High Posts and Independent Commissions:

Appointments for High Posts and Independent Commissions shall be appointed by the President on approval of the Senate.

## Legislature

### 1. Parliament:

All legislative powers of the people shall be exercised by the Parliament which shall consist of a Senate and a House of Representatives.

### 2. House of Representatives:

The House of Representatives shall be 200 members elected every 5 years of whom a half shall be elected from territorial constituencies on FPP basis and the balance shall be chosen by a separate vote to determine support for individual parties.

There shall be a running mate from every party that contest in an electorate. The running mates of the electorates in which the Party vote was the highest percentage will be elected on the list based on the party vote.

25 persons shall be selected proportionately by the political parties represented in parliament with particular regard to women, youth and demographics not represented adequately in parliament.

All bills for raising revenue shall originate in the House of Representatives.

Budget: In the event of non approval of the budget for the year, the budget of the previous year will continue to be in effect

Parliament shall have exclusive powers to make laws on subjects mentioned in the reserved list

### 3. The Senate:

Four Senators shall be elected at a separate election to represent each province, by the people for a term of five years. The election of the senate shall take place at the same time each province elects their Provincial Council. Such election shall take place two years after each election to the House of Representatives.

The Senate has the sole power to try impeachment. When sitting for that purpose they shall be on oath or affirmation. When the President or the Vice President shall be tried the Chief Justice shall preside. When a Justice of the Supreme Court shall be tried the Vice President shall preside. No person shall be convicted except with the concurrence of 2/3 of the Senate. Judgement in cases of impeachment shall be limited to the removal of office.

The Senate shall hold office for five years

The Vice President of Sri Lanka shall be the head of the Senate

#### 4. Referendum:

Removal of Article 83(b) that provides space for the approval of a bill to extend the term of office of the President (Article 30 (2)) or the duration of Parliament (Article 62 (2))

## **Judiciary**

#### 1. Appointments and Removals:

The Chief Justice, the President of the Court of Appeal and every other Judge, of the Supreme Court and Court of Appeal shall be appointed by the President SUBJECT TO APPROVAL BY THE SENATE

Every such Judge shall hold office during good behavior, and shall not be removed except by THE ASSENT OF THE PRESIDENT FOLLOWING THE IMPEACHMENT PROPOSED BY THE HOUSE OF REPRESENTATIVES supported by a majority of the total number of Members of the House of Representatives (including those not present)<sup>1</sup> AND TRIED BY THE SENATE AND RATIFIED BY THE PRESIDENT.

Provided that no resolution for the presentation of such an address shall be entertained by the Speaker or placed on the Order Paper of Parliament, unless notice of such resolution is signed by not less than one-third of the total number of Members of House of Reprs and sets out full particulars of the alleged misbehaviour or incapacity.

124 (Amended): The judicial Power shall extend to all Cases arising out of this Constitution and the Laws of the republic. If the supreme court declares a law enacted prior to the coming into force of this provision to be unconstitutional, the law shall remain in force for a period of 3 years or until such time in which such unconstitutionality be corrected.

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<sup>1</sup> Upon conviction by the Senate for such removal on the ground of proved misbehavior or incapacity

## Devolution

### 1. Nature of the power sharing unit:

The Centre shall share powers with the Provinces and Local Government Bodies, with a Provincial Council established in each province and Local Government Bodies in each divisions<sup>2</sup>. The centre and the devolved units should be supreme in their respective spheres of competence in the executive and legislative spheres. Judicial powers shall be devolved through provincial high courts.

### 2. The Provincial Council:

The Provincial Council shall consist of the Chief Minister; and one member elected by every Local Government institution within the Province to the Council. This can be done through amending the Provincial Councils act.

#### Chief Minister:

Chief Minister shall be elected directly by the people and along with the 5 Board of Ministers appointed by the Chief Minister approved by the PC shall exercise executive power for the province. Members of the Board of Ministers shall not be Members any other legislative elected body, and shall not undertake any other employment. Any Member of such an elected body who assumes duty as a member of the Board of Ministers shall cease to be a member of such body.

#### Land Powers:

National land policy to be developed prior to passing of new legislation at any level with regard to land. The National Policy shall clearly set out the mechanism of central government monitoring the implementation of the policy and ensuring corrective action if the policy is breached. Foreign ownership of land shall be approved directly ONLY by the president.

#### Law and Order:

The Provincial police force shall come directly under the Provincial police Commission. National Policy on Police powers shall be developed prior to the assumption of the police powers by the Provinces. The National Policy shall clearly set out the mechanism of central government monitoring the implementation of the policy and ensuring corrective action if the policy is breached.

#### Legislative Powers:

Provincial Councils shall have exclusive power to make provincial laws as regard subjects mentioned in the provincial list in accordance with the constitution and the national policy framework

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<sup>2</sup> Pradeshiya Sabhas and Urban Councils shall be for one division each, Municipal Councils can have one or more divisions.

### 3. Divisional Coordinating Committees

Divisional Coordinating Committee shall be established by the constitution for every administrative division as coordination mechanisms between the Centre, Provinces and Local Government and the administration, with the participation of;

- a. Members of the House of Representatives representing the Division (Government + Opposition)
  - b. Member of the Provincial Council who represents the respective Division
  - c. Chairman of the Local Government authority and the Leader of Opposition of that authority
  - d. Divisional Secretary and the District Secretary
4. Concurrent list of the present constitution to be done away with as far as possible and the powers will be distributed between the Province, the Centre and Local Government
5. Local Government:

Local authorities shall be recognised by the constitution as a tier of government and shall be given areas of responsibility as specified in the constitution.

Local Government bodies shall have constitutionally entrenched powers within each province. Every Grama Niladhari Division shall set up Grama Sabhas as consultative mechanisms with regard to issues such as development and social services. The deliberations of such sabhas must be reported to elected and appointed members of such divisions who shall report them to the Local Government and the Divisional Secretariat in writing. Such Officials shall take such reports in to consideration at Administrative Coordinating Committees and the Divisional Coordinating Committees and report back to Grama Sabhas in writing.

### **Decentralisation:**

Provincial Chief Secretary shall implement administrative functions in the provincial list via district and divisional secretariat.

Central Government shall implement administrative functions in the reserved list, through the District and Divisional Secretaries.

## **Distribution of powers between the Centre and the Provinces**

### 1. National List

- I. National Defence and national Police Force
- II. Foreign Affairs
- III. National Fiscal Policy/currency
- IV. Immigration/Emigration
- V. Citizenship
- VI. Customs
- VII. Posts/stamps
- VIII. Telecommunications
- IX. International Airports
- X. Major Harbours
- XI. Railways
- XII. National Highways
- XIII. Maritime Zones
- XIV. Planning and Plan implementation
- XV. National Policy on all matters
- XVI. National Qualifying Examinations
- XVII. Monitoring and Evaluation
- XVIII. National Authorities responsible for implementation of National Policy in specified areas.

## 2. Provincial List

- I. Health and indigenous medicine
- II. Education and Educational services, including higher education and universities awarding degrees
- III. Vocational education and training
- IV. Agriculture and agrarian services
- V. Irrigation within the Province
- VI. Animal Husbandry
- VII. Fisheries marine resources and aquatic resources
- VIII. Coast conservation
- IX. Forests
- X. Industries and Industrial development
- XI. Energy
- XII. Transport
- XIII. Minor Ports and Harbours
- XIV. Roads and waterways
- XV. Housing and construction
- XVI. Urban planning
- XVII. Rural Development
- XVIII. Local Government
- XIX. Supply and distribution of food
- XX. Trade and commerce
- XXI. Tourism
- XXII. Licensing Media and broadcasting outlets including television
- XXIII. Relief, Rehabilitation and Reconstruction
- XXIV. State land and its alienation (State land within the Province required for the purpose of the Centre in respect of reserved subject may be utilized by the Centre in consultation with the Provincial Council and in accordance with such procedures as may be established by law.)
- XXV. Provincial Police and law and order, Provincial Police Services Commission
- XXVI. Prisons, Borstal and reformatory institutions
- XXVII. Provincial Public Service, Provincial Public Services Commission
- XXVIII. Sports
- XXIX. Domestic and International borrowing (international borrowing above a defined limit would require the concurrence of the Centre)
- XXX. The regulation and promotion of foreign direct investment, international grants and developmental assistance to the Province
- XXXI. Provincial financial and credit institutions
- XXXII. Motor vehicles license fees
- XXXIII. Stamp duties on transfer properties, such as land and motor cars
- XXXIV. Fines imposed by courts

- XXXV. Court fees, including stamp fees on documents produced in courts
- XXXVI. Land revenue, including the assessment and collection of revenues, and maintenance of land records for revenue purposes
- XXXVII. Taxes on mineral rights
- XXXVIII. Offences against laws with respect to any of the matters specified in this list
- XXXIX. Fines in respect of the matters in this list
- XL. Planning at Provincial and Local government level
- XLI. Land surveys and other surveys in respect of all matters specified in this list
- XLII. All other matters that are 'provincial' in nature

**\*FDI, International Borrowing, Land, Prison and Police powers shall be exercised in accordance with National Policies.**

### 3. Local Government List

- I. Pre-schools
- II. Adult and non-formal education, vocational training
- III. Agrarian services
- IV. Co-operatives and co-operative banks
- V. Promotion of religion and culture
- VI. Community centres, libraries and reading rooms
- VII. The regulation of cultural activity, including public performances
- VIII. Urban development (implementation) and Buildings
- IX. Assessment and collection of land revenues
- X. Supply of electricity
- XI. Water supply
- XII. Drainage and flood control
- XIII. Lakes and canals
- XIV. Thoroughfares
- XV. Local transport services and roads
- XVI. Bus-stops and vehicle parks
- XVII. Public health
- XVIII. Prevention of diseases
- XIX. Public sanitary and health services
- XX. Licensing and regulation of inns, rest houses, lodging houses, bakeries, restaurants, hotels etc
- XXI. Dairies and the sale of milk
- XXII. Abattoirs
- XXIII. Markets and fairs
- XXIV. Licensing of laundries, beauticians, hairdressers, forges
- XXV. Licensing and regulation of small industries, mills, brokers, public entertainment
- XXVI. Protection of Environment
- XXVII. Facilities to fisherman, farmers and other industries
- XXVIII. Local government housing
- XXIX. Social welfare schemes: Poverty eradication, youth and elderly welfare
- XXX. Parks, gardens, playgrounds, cremations, burial grounds
- XXXI. Regulation of sale and supply of alcohol and breweries
- XXXII. Emergency services
- XXXIII. Advertisements displayed in public places
- XXXIV. Regulation of processions and assemblies
- XXXV. Regulation of unincorporated associations and societies
- XXXVI. Charities and charitable institutions charitable and religious endowments and religious institutions
- XXXVII. Archaeological sites and remains
- XXXVIII. Excise duties

- XXXIX. Turnover taxes on wholesale or retail sales
- XL. Betting taxes, taxes on prize competitions and lotteries other than National Lotteries
- XLI. Fines in respect of the matters in this list
- XLII. All other matters that are 'local' in nature

**\*\*The above functions shall be exercised in line with the National Policies and in consistency with the regulations of the provincial councils**

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