

THE PROPOSED
**CONSTITUTION OF
REPUBLIC OF SRI LANKA**

By
Nagananda Kodituwakku

A constitution of the People,
by the People,
for the People

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This publication is intended for people to share

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Foreword

Rule of law is arguably the most important element in a civil society as it enables a nation to maintain and strengthen the basic foundations of democracy and freedom. A strong and independent judicial system underpins this framework for a progressive society by ensuring the operation of law with equal treatment to all.

Sri Lanka is a nation that has failed to establish progress in the rule of law since its independence in 1948. And since independence Sri Lanka's progress towards peace, social order and democracy is at standstill. When one probes deeper into many of our systems he will find institutionalized corruption and exploitation of vulnerable segments of society by an unequal application of law. Thus, it questions how far Sri Lanka could have come by establishing the rule of law, a strong judicial system and selfless leadership from the time we became an independent nation. The bitter truth is that most constitutional law reforms and amendments have been brought in only to serve private interests of certain individuals, and not to serve the greater cause of national interest and prosperity of the nation.

Today, the concerned citizens have completely lost faith in all organs of the government, many opting for a choice between two worse situations at elections, while many others continue to blindly support individuals and parties without scrutinizing their honesty, integrity and commitment. This is not necessarily a fault of their own, especially when the ruling elites have established themselves as a clan of power and present their idolised places within the upper echelons of our hierarchical society – a contrary outlook to the public servants they once pledged to be.

The situation faced by our nation is grave, despite our resources. If the right-thinking people fail to realise the dangers faced by the nation and to act swiftly the livelihood and prosperity of our future generations is at a great risk.

Taking all of these into consideration, alongside my own experience over the last ten years as a public interest activist and an attorney, I ventured into designing a constitution - one that would restore the sovereignty in the people and one that shall be enacted by the people themselves. It is clear that the people occupying office in the legislature today are unlikely to adopt a constitution of this nature that leaves no room for the abuse of public office for selfish gain and unjust personal enrichment and not in the country's best interest.

The Constitution of the Republic of Sri Lanka

This proposed constitution was designed by retaining all acceptable provisions of the current constitution, while amending other provisions by always adhering to our core principles of equality, accountability, transparency and sovereignty in the people. Sri Lanka is a nation with rich cultural diversity, and our Constitution must embody this by having Sinhala Tamil and English as national languages. Therefore, it has been a conscious decision to use English as the principal medium of publication of the Proposed Constitution, in order to supersede any ambiguity in the interpretations of Sinhala and Tamil versions as it is of utmost importance to display due respect and equal treatment for all citizens regardless of language, cast, creed, religion or political opinion to ensure a fair society for all. It shall be a new Constitution that respects the will of the people, and can be proudly accepted by all Sri Lankans as their supreme law *of the people, by the people, for the people.*

I wish to thank all of my fellow citizens who supported and contributed to this project since its inception, and to my wife Shyamalie, for her patience, encouragement and undivided support, allowing me to dedicate my time and energy to complete this project. I must particularly extend my gratitude to Dr Joe Silva, Dr Sunil Coorey and Mr V K Nanayakkara, the former Secretary to the Prime Minister, for extending their advice and appreciative support in compiling this Proposed people's Constitution

Thank you

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Contents

Preamble	7
Chapter I: Sovereignty in the People and the Republic	8
Chapter II: Fundamental Rights	9
Chapter III: Directive Principles of State Policy.....	13
Chapter IV: Language.....	15
Chapter V: Citizenship.....	20
Chapter VI: Legislature	21
Parliamentary Procedure and Powers.....	25
Chapter VII: Executive	30
The Duties and Functions of the Prime Minister	33
The Cabinet of Ministers.....	33
The Constitutional Council	35
The Public Service	40
Chapter VIII: Judiciary	46
Judicial Service Commission	48
Regulatory Commission for Lawyers	51
The Supreme Court	52
The Court of Appeal	58
Chapter IX: Public Finance.....	63
Chapter X: Auditor General.....	68
Chapter XI: Public Security	72
Chapter XII: Commission To Investigate Allegations of Bribery or Corruption	75
Chapter XIII: Franchise and Elections	76
The Election Commission.....	80
Chapter XIV: The Referendum.....	88
Chapter XV: Attorney General	90

The Constitution of the Republic of Sri Lanka

Chapter XVI: National Police Commission	91
Chapter XVII: National Procurement Commission	97
Chapter XVIII: General	101
Chapter XIX: Transitional Provisions.....	105
Chapter XX: Interpretation	107
SCHEDULES	110
First Schedule.....	110
Second Schedule	111
Third Schedule	112
Fourth Schedule	113
Fifth Schedule	114

Preamble

We, the sovereign people of Sri Lanka, in order to realize our dream to stand as an inseparable nation, where one law is in force

to establish a Republic that truly respects our Sovereignty, the Rule of Law, Independence of the Judiciary and Social Harmony,

whilst promoting and protecting general welfare, human rights and securing the blessings of liberty to ourselves

do hereby adopt, ordain, enact and give unto ourselves

this

CONSTITUTION

on the _____

as the

SUPREME LAW

of the

REPUBLIC OF SRI LANKA

Chapter I: Sovereignty in the People and the Republic

1. Sri Lanka is an Independent Sovereign Democratic Republic. It is an indivisible unitary state and shall be known as the Republic of Sri Lanka. Governance of the Republic shall be based on the principles of Buddhist philosophy.
2. In the Republic, Sovereignty remains in the people and it is undeniable. The Sovereignty of the people includes Legislative power, Executive power, Judicial power, Fundamental rights and Franchise.
3. The **Legislative power** of the people shall be exercised by Members of Parliament elected by the people subject to the restraints imposed by law.
4. The **Executive power** of the people shall be exercised by the Prime Minister and the Cabinet of Ministers elected by the people subject to the restraints imposed by law.
5. The **Judicial power** of the people shall be exercised by the Judiciary with due respect to the undeniable Sovereignty vested in the people and subject to the restraints imposed by law.
6. The **Fundamental Rights** of the people shall be respected, secured and protected by the Judiciary, the Legislature and the Executive.
7. The **Franchise** shall be exercised by the citizens who have attained the age of 18 years and qualified to be an elector.
8. The territory of the Republic shall consist of the twenty-five administrative districts, the names of which are set out in the First Schedule and its territorial waters.
9. The National Flag of the Republic shall be the flag depicted in the Second Schedule.
10. The National Anthem of the Republic shall be the one depicted in the Third Schedule.
11. The National Day of the Republic shall be 22nd of May the day it became an independent sovereign state

Chapter II: Fundamental Rights

12. Every person has the right to life, self-respect and self-esteem, liberty and security.
13.
 - a) Every person has the right to freedom of thought, expression, conscience and religion and freedom to change his/her religion at free will.
 - b) Any person has right to obtain information not regarded as classified from the government within a stipulated time limit of 14 days.
14. Every citizen has the right to freedom of peaceful assembly and association and no person shall be compelled to belong to an association.
15. Every person is entitled to equal treatment and equal protection of the law. No person shall be subjected to discrimination.
16. No person shall be arrested except according to the procedure established by law. Any person arrested shall be informed of the reasons for arrest.
17. Every person detained or otherwise deprived of his personal liberty by any law enforcement agency permitted by law to arrest a suspect, shall be entitled to remain silent and to legal representation whilst in custody. No inhuman or degrading treatment shall be used against a suspect to obtain admission of guilt.
18. Every person taken into custody shall be brought before a competent authority within a period of 24 hours and the competent authority shall examine the suspect to ensure that suspect has not been subjected to inhuman or degrading treatment. The suspect shall also be afforded an opportunity to make a statement to the competent authority.
19. No competent authority shall order custody of a person except in accordance with the procedure established by law.
20. No person shall be held in custody for more than 14 days, unless duly charged under the Criminal Procedure Code or any other written law. Criminal proceedings against any person shall be heard and determined within a period of one year.

The Constitution of the Republic of Sri Lanka

21. Every person shall be presumed innocent until proven guilty.
22. No person shall be induced, threatened or promised in any manner to make an inculpatory statement admitting guilt.
23. Every person charged with an offence shall be entitled to be heard in person or by a lawyer at a fair trial by a competent authority.
24. No penal sanction shall be imposed against any person except by a competent authority established by law.
25. No offence shall be created with retrospective effect and no penal sanction shall be imposed for an act, which was not an offence at the time of committing it. However, this provision shall not apply to any act made criminal by general principles of law by the community of nations.
26. No person shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to protection of law against such interference or attacks.
27. Men and women of full age, without any limitation due to race, religion or nationality, have the right to marry and to found a family. Marriage shall be entered into only with the free and full consent of the intending spouses. The Family is the natural and fundamental group/unit of society, and is entitled to protection by society and the State.
28. Every citizen has the right to own property alone as well as in association with others without any hindrance or restriction in any part of Sri Lanka.
29. No person shall be subjected to double jeopardy.
30. No person shall be subjected to cruel, inhuman and degrading treatment.
31. The will of the people shall be the basis of the authority of government. This shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedure.
32. Every citizen, as a member of society, has the right to social security and is entitled to realization of economic, social and cultural rights

indispensable for his dignity and the free development of his personality.

33. Every citizen has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. Everyone, without any discrimination, has the right to equal pay for equal work. Everyone has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity and supplemented, if necessary, by other means of social protection.
34. Everyone has the right to form and join trade unions for the protection of his or her interests.
35. Every citizen has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.
36. Every citizen has the right to a standard of living adequate for the health and well-being of himself and his/her family, including food, clothing, housing, medical care, necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. Motherhood and childhood are entitled to social care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.
37. Every person has a right to the fundamental quality of life, air, water, food and shelter that they enjoy, and no person or body shall interfere with them in any manner.
38. Every citizen has the right to education. Education shall be free at the primary and secondary stages. Primary education shall be compulsory. Higher education shall be equally accessible to all on the basis of merit. Education shall be directed to the full development of the human personality and to the strengthening of respect for fundamental human rights and freedom. It shall promote understanding, tolerance and friendship among ethnic and religious groups. The parents shall have the prior right to choose the medium of instruction to be given to their children.
39. It shall be the duty of the State to provide protection and wellbeing to senior citizens of over 65 years of age, which include free healthcare and transport.
40. Every citizen shall have the right to participate freely in the cultural life of the community, to enjoy the arts and share scientific

advancement and its benefits. And every citizen shall also have the right to protection of the moral and material interests resulting from scientific, literature, conceptual or artistic production of which he is the author.

41. All written laws, personal laws and customs inconsistent with the provisions of the Constitution shall cease to exist.
42. Every person shall be entitled to apply to the Permanent High Court at Bar in respect of infringement or imminent infringement of their fundamental rights and the rights protected by directive principles of state policy by any person holding public office within a period of three months and the cost of legal representation shall be clearly expressed in writing in the proxy filed in Court which shall not exceed 20% of the pecuniary value of the relief afforded by the Court. And it shall be mandatory for the Court to hear and finally dispose of any such petition within a period of six months of filing of any such a petition.
43. The exercise of fundamental rights shall be subjected only to restrictions as may be prescribed by law, which shall not be in force for more than 90 days without the approval by the citizens at a referendum. The power of conducting such a referendum shall be vested in the Election Commission with power to formulate the regulations under this Article with provisions affording people to vest their voting power to delegates appointed by them.

Chapter III: Directive Principles of State Policy

44. Directive Principles of State Policy shall be governed by the Ten Royal Virtues (High Moral Standard of Governance) [Generosity (Dana), High Moral Character (Sila), Benevolence (Pariccaga), Uprightness (Ajjawa), Gentleness (Maddava), Self-control (Tapa), Calmness (Akkodha), Non-Violence (Ahimsa), Patience (Khanthi), Fairness (Avirodha)]. The state shall protect, honour and foster Buddhist cultural heritage whilst ensuring every citizen of their right to respect and follow their own religion, and to practice their respective cultures with no hindrance whatsoever. However, every citizen shall respect and devote to practice Loving-kindness, Compassion, Joy without jealousy, and Equanimity.
45. It shall be the duty and responsibility of every citizen to perform his chosen occupation conscientiously and combat abuse and waste of public property.
46. It shall be the duty of the state to promote harmony within all ethnic and religious communities and to provide facilities necessary to learn Sinhala, Tamil and English Languages.
47. It shall be the duty of the State to respect and honour undeniable fundamental rights, sovereignty in the people, the doctrine of public trust, separation of powers, accountability, transparency, the rule of law and the independence of the judiciary.
48. The State shall promote with special care, the interests of children and youth, so as to ensure their physical, mental, moral, religious and social development and protect them from exploitation and discrimination.
49. The State shall endeavour to eliminate economic and social privilege and disparity and exploitation.
50. The State shall ensure that there shall be no concentration of wealth and means of production to the common detriment.
51. It shall be the duty of the State to promote and foster the self-respect and pride of every citizen and take all measures necessary to provide required social security to alleviate poverty.
52. The State shall respect the citizen's right to know the international treaty obligations and their content with no restrictions.

The Constitution of the Republic of Sri Lanka

53. It shall be the duty of the State to protect and preserve the nature and environment that belong to present and future generations.
54. It shall be the duty of the State to stop ill-treatment of wild and domestic animals, and the State shall take all necessary measures to stop cruelty to animals.
55. The State shall repudiate all international treaties entered into that are detrimental to the national interest and no treaty will have force in law unless approved by the Parliament by a two-thirds majority.
56. The state shall ratify all international treaties formulated for public good with prospective effect.

Chapter IV: Language

57. The Official and National Languages of Sri Lanka shall be Sinhala Tamil and English. The English shall also be the link language. Parliament shall, by law, provide for the implementation of the provisions of this Chapter.

58. A Member of Parliament or a Local Authority shall be entitled to perform his/her duties and discharge his/her functions in Parliament or Local Authority in any of the National Languages.

59.

- 1) A person shall be entitled to be educated through the medium of either of the National, Official or the link Language:
- 2) Where one National or Official Language is a medium of instruction for or in any course, department or faculty of any University directly or indirectly financed by the State, the other National or Official Language shall also be made a medium of instruction for or in such course, department or faculty for students who prior to their admission to such University, were educated through the medium of such other National or Official Language:

Provided that compliance with the preceding provisions of this paragraph shall not be obligatory if such other National or Official Language is the medium of instruction for or in any like course, department or faculty either at any other campus or branch of such University or of any other like University.

- 3) In this Article “University” includes any institution of higher education.

60.

- 1) Sinhala and Tamil shall be the languages of administration throughout Sri Lanka and Sinhala shall be the language of administration and be used for the maintenance of public records and the transaction of all business by public institutions of all the Provinces of Sri Lanka other than the Northern, North Eastern, Central Eastern and Eastern Provinces where Tamil shall be so used:

Provided that the Prime Minister may, having regard to the proportion which the Sinhala or Tamil linguistic minority

The Constitution of the Republic of Sri Lanka

population in any unit comprising a division of an Assistant Government Agent, Divisional Secretary bears to the total population of that area, direct that both Sinhala and Tamil or a language other than the language used as the language of administration in the province in which such area may be situated, be used as the language of administration for such area.

- 2) In any area where Sinhala is used as the language of administration a person other than an official acting in his official capacity, shall be entitled:
 - a) to receive communications from and to communicate and transact business with, any official in his official capacity, in either Tamil or English;
 - b) if the law recognizes his right to inspect or obtain copies of or extracts from any official register, record, publication or other document, to obtain a copy of, or an extract from such register, record, publication or other document, or a translation thereof, as the case may be, in either Tamil or English;
 - c) where a document is executed by any official for the purpose of being issued to him, to obtain such document or a translation thereof, in either Tamil or English with no charge;
- 3) In any area where Tamil is used as the language of administration, a person other than an official acting in his official capacity, shall be entitled to exercise the rights and to obtain the services, referred to in paragraph (2) of this Article, in Sinhala or English.
- 4) A Local Authority which conducts its business in Sinhala shall be entitled to receive communications from and to communicate and transact business with, any official in his official capacity, in Sinhala and a Local Authority which conducts its business in Tamil shall be entitled to receive communications from and to communicate and transact business with, any official in his official capacity, in Tamil:

Provided, however, that a Local Authority, Public Institution or any official receiving communications from transacting business with any other Local Authority, Public Institution or an official functioning in an area in which a different language is used as the Language of administration shall be entitled to receive communications from and to communicate and transact business in English.

- 5) A person shall be entitled to be examined through the medium of either Sinhala or Tamil or a language of his choice at any examination for the admission of persons to the Public Service, Judicial Service, Local Government Service or any public institution, subject to the condition that he may be required to acquire sufficient knowledge of Tamil or Sinhala, as the case may be, within a reasonable time after admission to such service or public institution where such knowledge is reasonably necessary for the discharge of his duties:

Provided that a person may be required to have a sufficient knowledge of Sinhala or Tamil, as a condition for admission to any such service or public institution where no function of the office or employment for which he is recruited can be discharged otherwise than with a sufficient knowledge of such language.

- 6) In this Article “Official” means the Prime Minister, any Minister, Deputy Minister, or any officer of a public institution; local authority; and “Public Institution” means a department or institution of the Government, a public corporation or statutory institution.

61.

- 1) All laws and subordinate legislation shall be enacted or made and published in Sinhala and Tamil, together with a translation thereof in link language: Provided that Parliament shall, at the stage of enactment of any law determine which text shall prevail in the event of any inconsistency between texts: Provided further that in respect of all other written laws and the text in which such written laws were enacted or adopted or made, shall prevail in the event of any inconsistency between such texts.
- 2) All Orders, Proclamations, Rules, By-laws, Regulations and Notifications made or issued under any written law other than those made or issued by a Local Authority and the Gazette shall be published in Sinhala and Tamil together with a translation thereof in link language.
- 3) All Orders, Proclamations, Rules, By-laws, Regulations and Notifications made or issued under any written law by any Local Authority and all documents, including circulars and forms issued by such body or any public institution shall be published in the language used in the administration in the respective areas in which they function, together with a translation thereof in link language.

- 4) All laws and subordinate legislation in force immediately prior to the commencement of the Constitution shall be published in the Gazette in the Sinhala and Tamil Language within a year.

62.

- 1) Sinhala and Tamil shall be the languages of the Courts throughout Sri Lanka and Sinhala shall be used as the language of the courts situated in all the areas of Sri Lanka except those in any area where Tamil is the language of administration. The records and proceedings shall be in the language of the Court. In the event of an appeal from any court records shall also be prepared in the language of the court hearing the appeal, if the language of such court is other than the language used by the court from which the appeal is preferred:
- 2) Any party or applicant or any person legally entitled to represent such party or applicant may initiate proceedings and submit to court pleadings and other documents and participate in the proceedings in courts, in either Sinhala or Tamil.
- 3) Any judge, juror, party or applicant or any person legally entitled to represent such party or applicant, who is not conversant with the language used in court, shall be entitled to interpretation and translation into Sinhala or Tamil provided by the State, to enable him to understand and participate in the proceedings before such court and shall also be entitled to obtain in such language any such part of the record or a translation thereof, as the case may be, as he may be entitled to obtain according to law.
- 4) In this Article

“Court” means any court or tribunal created and established for the administration of justice including the adjudication and settlement of industrial and other disputes, or any other tribunal or institution exercising judicial or quasi-judicial functions or any tribunal or institution created and established for the conciliation and settlement of disputes;

“Judge” includes the President, Chairman, Presiding Officer and member of any court; and

“Record” includes Pleadings, Judgments, Orders and Other judicial and Ministerial acts.

- 63.** The State shall provide adequate facilities for the use of the languages provided for in this Chapter. In the event of any inconsistency between the provisions of any law and the provisions of this Chapter, the provisions of this Chapter shall prevail.

Chapter V: Citizenship

64.

- 1) There shall be one status of citizenship known as “the status of a citizen of Sri Lanka”.
- 2) A citizen of Sri Lanka shall for all purposes be described only as a “citizen of Sri Lanka”, whether such person became entitled to citizenship by descent or by virtue of registration in accordance with the law relating to citizenship.
- 3) No distinction shall be drawn between citizens of Sri Lanka for any purpose by reference to the mode of acquisition of such status, as to whether acquired by descent or by virtue of registration.
- 4) No citizen of Sri Lanka shall be deprived of his status of a citizen of Sri Lanka, except under and by virtue of the provisions of the Citizenship Act:
- 5) Every person who, immediately prior to the commencement of the Constitution was a citizen of Sri Lanka, whether by descent or by virtue of registration in accordance with any law relating to citizenship, shall be entitled to the status and the rights of a citizen of Sri Lanka as provided in the preceding provisions of this Article.
- 6) The provisions of all existing written laws shall be read subject to the preceding provisions of this Article.

Chapter VI: Legislature

65. There shall be 60 constituencies based on the population of the 10 provinces as depicted in the Schedule V of the Constitution to which 60 members of parliament shall be elected who shall be accountable to their constituents.
66. The Parliamentary election for the sixty members will be held under the first past the post system once in five years and the expiry of the said term of five years shall operate as the dissolution of Parliament and no Member of Parliament shall be entitled to hold public office for more than two terms.
67. In addition to the 60 members elected by the people, there shall be twenty members directly elected by the people to the office of the Executive Prime Minister and the Cabinet of Ministers for a period of five years from a list of names in which the leader of the group shall be the Prime Minister which shall be published simultaneously with the nominations for the election by each political party with the respective ministries allocated for each minister clearly specified. The names so short-listed shall contain at least 5 additional names. In the event a vacancy arises in the Cabinet of Ministers the Election Commission on the recommendation of the Prime Minister, may appoint a person from the short-list approved by the people to fill that vacancy.
68. No person with any interest in government business is qualified to be elected as a Member of Parliament or to be a member of the Cabinet of Ministers. This disqualification also applies if immediate family members of the relevant Member of Parliament or a Cabinet of Minister who have any interest in the government business.
69. No person shall qualify to contest parliamentary elections unless such a person is qualified to be an elector, with a good standing, repute and character and possesses a degree from a recognized university or equivalent qualification with experience at management or executive level with ten years experience. Those who excel in any particular field and have made a significant contribution for public good also qualify to stand at parliamentary elections.
70. No member of parliament is permitted to crossover to another party after his election to public office. Such action would be tantamount to a violation of his duty to the constituents that would result in the automatic removal from office. However, members of parliament are

entitled to express their views freely and vote according to their conscience.

71. Parliament has only limited legislative power to amend the Constitution adopted by the people exercising their legislative power through direct democracy. Amendment to the Constitution that affects the spirit of the Constitution which include the Chapter I to III or repeal the Constitution shall require approval by the people at a referendum. Any other ordinary amendment that may be necessary to fill any lacuna is permitted with a two-thirds majority including the members not present in the Parliament. However, the people are entitled to challenge any such Bill or Amendment made to the Constitution before the Supreme Court for its Constitutionality.
72. The role of the Members of Parliament is restricted to parliament business only and no Member of Parliament is permitted to interfere with the affairs of the executive in any manner. Such interference by any member of Parliament shall result in the removal of the member from office with immediate effect subject to a disciplinary inquiry thereafter.
73. No Member of Parliament against whom a reasonable suspicion exists for commission of any criminal offence is entitled to claim any privilege or right over arrest and where legal proceedings are instituted against a Member of Parliament for a criminal offense including the offence of bribery or corruption, the MP shall be placed under suspension immediately and on conviction shall be removed from the office forthwith and punished with confiscation of property and or life imprisonment depending on the gravity of the offence.
74. All MPs are required to perform the public office with due respect to the rule of law and sovereignty in the people. Except for the purpose of electing the Speaker, no Member shall sit or vote in parliament until he makes a pledge to the people to respect the public trust doctrine and to perform public office faithfully according to their conscience as per the fourth Schedule.
75. The parliament shall, at its first meeting elect a speaker and deputy speaker for the term of the parliament.
76. The Prime Minister shall appoint a Secretary General to the parliament. The Secretary General shall appoint his staff with the approval of the Speaker and their salaries shall be charged on the consolidated fund. The Secretary General shall retire at the age of 60 years.

77. Where the Secretary-General is unable to discharge the functions of his office, the Prime Minister shall appoint a suitable person to perform the functions of the Secretary General.
78. Members of parliament are not entitled to any salary, pension, perks or any other privileges. They may be paid an allowance equivalent to the salaries paid to the Judges in the Court of Appeal. If any party intends to change the allowance, such intention shall be notified to the people through their election manifesto, and no such change can be enforced unless approved by the people at the general election.
79. The seat of a Member shall become vacant if he fails to take part in sittings of parliament for a continuous period of 30 days.
80. Parliament shall have power to act notwithstanding any vacancy in its membership and its proceedings shall be valid notwithstanding that it is discovered subsequently that a person who was not entitled so to do sat or voted or otherwise took part in the proceedings.
- 81.
- 1) Parliament shall, at its first meeting after a General Election, in addition to the Speaker, the Deputy Speaker who is also the Chairman of Committees (hereinafter referred to as the “Deputy Speaker”) appoint the Deputy Chair persons of Committees thereof.
 - 2) A member holding office as the Speaker or Deputy Speaker or the Deputy Chairman of Committees shall, unless he/she earlier resigns his/her office by writing under his/her hand addressed to the President or ceases to be a Member, vacate his/her office on the dissolution of Parliament.
 - 3) Whenever the office of Speaker, Deputy Speaker or Deputy Chairman of Committees becomes vacant otherwise than as a result of a dissolution of Parliament, Parliament shall at its first meeting after the occurrence of the vacancy elect another Member to be the Speaker, the Deputy Speaker or the Deputy Chairman of Committees, as the case may be.
 - 4) If Parliament, after having been dissolved, is summoned thereafter those who held office as mentioned before shall, notwithstanding anything therein, resume and continue to hold office while that Parliament is kept in session.

- 5) The Speaker, or in the absence of the Speaker, the Deputy Speaker, or in their absence the Deputy Chairman of Committees, shall preside at sittings of Parliament. If none of them is present, a Member elected by Parliament for the sitting shall preside at the sitting of Parliament.

82. The seat of a Member shall become vacant –

- (1) upon death;
- (2) if, by writing under his/her hand addressed to the Secretary-General of Parliament, resigns;
- (3) if he/she is found guilty of any criminal offence or becomes subject to any other disqualification;
- (4) if found to be a person with a dual citizenship in which case the member shall pay back all perks and privileges or face custody in remand pending prosecution;
- (5) if he/she becomes a member of the Public Service or an employee of a public corporation or in any form of private practice, being a member of the Public Service or an employee of a public corporation, does not cease to be a member of such Service or an employee of such corporation, before he/she sits in Parliament;
- (6) if his/her election as a Member is declared void under the law in force for the time being;
- (7) upon the dissolution of Parliament; or
- (8) upon a resolution for his/her expulsion being passed in Parliament.

83. The privileges, immunities and powers of Parliament afforded by the Parliament (Powers and Privileges) Act, shall not be abused in any manner and no Member of Parliament is protected by law for any such abuse and such members are liable to be prosecuted.

Parliamentary Procedure and Powers

84.

- 1) The President may with the concurrence of the Prime Minister, by Proclamation, summon, prorogue or dissolve Parliament, and shall summon to meet at least once every three months.
- 2) A Proclamation proroguing Parliament by the President shall fix a date for the next session, not being more than three months after the date of the Proclamation:

Provided that at any time while Parliament stands prorogued, the President may, with the concurrence of the Prime Minister by Proclamation, summon Parliament for an earlier date, not being less than three days from the date of such Proclamation, or subject to the provisions of this Article, dissolve Parliament.

- 3) All matters which, having been duly brought before Parliament, have not been disposed of at the time of prorogation of Parliament, shall be proceeded with during the next session.
- 4)
 - a. A Proclamation dissolving Parliament shall fix a date or dates for the election of Members of Parliament, and shall summon the new Parliament to meet on a date not later than three months after the date of such Proclamation.
 - b. Upon the dissolution of Parliament, the President with the concurrence of the Prime Minister shall forthwith by Proclamation fix a date for dates for the election of Members of Parliament.
 - c. The date fixed for the first meeting of Parliament by a Proclamation under Subparagraph (a) or (b) may be varied by subsequent Proclamation, provided that the date so fixed by the subsequent Proclamation shall be a date not later than three months after the date of the original Proclamation.
- 5) If at any time after the dissolution of Parliament, the President is satisfied that an emergency has arisen of such a nature that an earlier meeting of Parliament is necessary, he may with the concurrence of the Prime Minister by Proclamation summon the

Parliament which has been dissolved to meet on a date not less than three days from the date of such Proclamation and such Parliament shall stand dissolved upon the termination of the emergency or the conclusion of the General Election, whichever is earlier.

85. Parliament may adjourn from time to time as it may determine by resolution or Standing Order, until it is prorogued or dissolved.

86.

- 1) Save as otherwise provided in the Constitution any question proposed for decision by Parliament shall be decided by a majority of votes of the Members present and voting.
- 2) The person presiding shall not vote in the first instance but shall have and exercise a casting vote in the event of an equality of votes.

87. If at any time during a meeting of Parliament, the attention of the person presiding is drawn to the fact that there are fewer than twenty Members present, the person presiding shall, subject to any Standing Order, adjourn the sitting without question being put.

88.

- 1) Subject to the provisions of the Constitution, Parliament may by resolution or Standing Order provide for –
 - i. the election and retirement of the Speaker, the Deputy Speaker and the Deputy Chairman of Committees, and
 - ii. the regulation of its business, the preservation of order at its sittings and any other matter for which provision is required or authorized to be made by the Constitution.
- 2) Until Parliament otherwise provides by law, or by resolution, the Standing Order of the Parliament, operative immediately prior to the commencement of the Constitution, shall, *mutatis mutandis*, be the Standing Orders of Parliament.

89. Parliament shall have power to make laws, including laws having retrospective effect.

90. Parliament shall not abdicate or in any manner alienate its legislative power and shall not set up any authority with any legislative power.

The Constitution of the Republic of Sri Lanka

- 1) It shall not be a contravention of the provisions of paragraph (1) of this Article for Parliament to make, in any law relating to public security, provision empowering the Prime Minister to make emergency regulations in accordance with such law.
- 2) It shall not be a contravention of the provisions of paragraph (1) of this Article for Parliament to make any law containing any provision empowering any person or body to make subordinate legislation for prescribed purposes, including the power to create a legal person, by an order or an Act.

91. The Speaker shall endorse on every Bill passed by Parliament a certificate in the following form: –

“This Bill (here state the short title of the Bill) has been duly passed by Parliament.”

Such certificate may also state the majority by which such Bill was passed but always subject to judicial review

92.

- 1) Subject to the provisions of paragraph (2) of this Article, a Bill passed by Parliament shall become law when the certificate of the Speaker is endorsed thereon subject to the judicial review at any time thereafter.
- 2) Where any Bill submitted to the People by the Prime Minister, such Bill or such provision shall become law upon being approved by the People at a Referendum only when the Prime Minister certifies that the Bill or provision thereof has been so approved by the people. The Prime Minister shall endorse on every Bill so approved a certificate in the following form:

“This Bill/provision has been duly approved by the People at a Referendum.

No such certificate shall be endorsed by the Prime Minister on a Bill –

- (1) in any case where petition is filed in Court within 3 clear days challenging the validity of the Referendum at which such Bill was approved by the People, until after the expiration of the period within which a petition may be filed, under the law applicable in that behalf, challenging the validity of such referendum;

- (2) in any case where a petition is filed challenging the validity of the Referendum at which such Bill was approved by the People, until after the Supreme Court determines that such Referendum was valid.

Every such certificate shall be subject to judicial review.

93.

- 1) No Special Presidential Commission of Inquiry shall be established under any written law without power to impose penal sanctions. Such commissions consisting of a member each of whom is a Judge of the Supreme Court, Court of Appeal, High Court or the District Court recommends that any person should be made subject to civic disability by reason of any act done or omitted to be done by such person before or after the commencement of the Constitution, Parliament may by resolution passed by not less than two-thirds of the whole number of Members (including those not present) voting in its favour –
 - a) impose civic disability on such person for a period not exceeding seven years, and
 - b) expel such person from Parliament, if he is a Member of Parliament.

Where a Special Presidential Commission of Inquiry consists of more than one member, a recommendation made by the majority of such members, in case of any difference of opinion, shall be deemed for all purposes to be, the recommendation of such Commission of Inquiry.

- 2) No such resolution shall be entertained by the Speaker or placed on the Order Paper of Parliament unless introduced by the Prime Minister with the approval of the Cabinet of Ministers.
- 3) The Speaker shall endorse on every resolution passed in accordance with the preceding provisions of this Article a certificate in the following form: –

“This resolution has been duly passed by Parliament in accordance with the provisions of Article 93 of the Constitution.”

Every such Certificate shall be conclusive for all purposes and shall not be questioned in any court, and no court or tribunal shall

The Constitution of the Republic of Sri Lanka

inquire into, or pronounce upon or in any manner call in question, the validity of such resolution on any ground whatsoever.

Chapter VII: Executive

Prime Minister and the Cabinet of Ministers

94. There shall be a Prime Minister elected by the People who shall be the Head of the State, Head of the Cabinet of Ministers and the Government and the Commander-in-Chief of the Armed Forces. The Prime Minister shall appoint the Heads of the Army, the Navy and the Air Force.
95. The Prime Minister and the Cabinet of Ministers also elected by the people shall hold office for a term of five years.
96. There shall be a Secretary to the Prime Minister who shall be appointed by the Prime Minister on the recommendation of the Constitutional Council. The Secretary shall perform and discharge the duties and functions of his office, subject to the directions of the Prime Minister.
97. The Prime Minister shall be the Head of the Cabinet of the Ministers, which shall not consist of more than 20 members, and the Cabinet of Ministers shall collectively be responsible to the Parliament and the Cabinet of Ministers shall be in charge with the direction and control of the Government of the Republic.
98. There shall be a secretary to the Cabinet of Ministers who shall be appointed by the Prime Minister on the recommendations of the Constitutional Council. The Secretary shall, subject to the direction of the Prime Minister discharge and perform such other functions and duties as may be assigned to him by the Prime Minister.
99. There shall be a ceremonial President who shall be appointed by the Cabinet of Ministers who shall hold office for a period of six years. All appointments made by the Constitutional Council except judges, and appointments made by the Cabinet of Ministers to represent Sri Lanka abroad, which shall be limited to the Foreign Service shall take an oath of allegiance as per the fourth Schedule before the President. The ceremonial President is empowered to receive and recognize, and to accredit Ambassadors, High Commissioners, Plenipotentiaries and other diplomatic agents.
100. The Prime Minister shall invite the President to preside the ceremonial sittings of the Parliament.

- 101.** In the event the office of the Prime Minister shall become vacant upon death, resignation or removal, or unable to discharge the functions of his office, the Cabinet of Ministers shall nominate a suitable person from the Cabinet of Ministers to the office of the Prime Minister for the unexpired period of the term of the office, who shall be appointed by the President.
- 102.** In the event a member of the Cabinet of Ministers shall become vacant upon death, resignation or removal, or unable to discharge the functions of his office, or by promotion to the office of the Prime Minister, a person shall be appointed for the unexpired period by the President from the short-list approved by the people at the general election.
- 103.** In addition to the powers, duties and functions expressly conferred or imposed on, or assigned to the ceremonial President with the concurrence of the Prime Minister will also have the power
- i. to make the Statement of Government Policy in Parliament at the commencement of each session of Parliament;
 - ii. to summon, prorogue and dissolve Parliament;
 - iii. to appoint as President's Counsel, as recommended by the Judicial Services Commission on its own initiative, who have reached eminence in the profession and have maintained high standards of conduct and professional rectitude;
 - iv. to keep the Public Seal of the Republic, and to use the Public Seal for sealing all things whatsoever that shall pass that Seal;
 - v. to make and execute under the Public Seal, the acts of appointment of the Prime Minister and the Cabinet of Ministers;
 - vi. grants and dispositions of lands and other immovable property vested in the Republic;
 - vii. to declare war and peace; and
 - viii. to do all such acts and things, not inconsistent with the provisions of the Constitution or written law, as by international law, custom or usage the Republic of Sri Lanka is authorized or required to do.
- 104.** The Minister in charge of public finance is directly responsible for exercising of powers vested in him/her including the exemptions or

waivers authorized by any written law. For any form of abuse of public finance, the minister in charge of public finance shall be held liable in his personal capacity.

105. Where legal proceedings are instituted against any person holding office in the Executive for a criminal offense including the offence of bribery or corruption such a person shall be placed under suspension immediately and on conviction shall be removed from the office forthwith and punished with confiscation of property and or life imprisonment depending on the gravity of the offence.

106.

- 1) The Prime Minister shall determine the subject allocation and functions to the Cabinet of Ministers.
- 2) The Prime Minister may at any time change the assignment of subjects and functions of the Cabinet of Ministers. Such changes shall not affect the continuity of the Cabinet of Ministers and the continuity of its responsibility to Parliament.

107.

- 1) The Cabinet of Ministers functioning immediately prior to the dissolution of Parliament shall, notwithstanding such dissolution, continue to function and shall cease to function upon the conclusion of the General Election. They shall comply with the criteria set out by the Chairman of the Election Commission and shall not cause any undue influence on the General Election.
- 2) Notwithstanding the death, removal from office or resignation of the Prime Minister or any other Minister, during the period intervening between the dissolution of Parliament and the conclusion of the General Election, the Cabinet of Ministers shall continue to function until the conclusion of the General Election.

108. If Parliament rejects the Statement of Government Policy or the Appropriation Bill or passes a vote of no confidence in the Government, the Cabinet of Ministers shall stand dissolved, and the President shall dissolve the Parliament.

109.

- 1) There shall be a permanent secretary for every Ministry of a Minister of the Cabinet of Ministers, who shall be appointed by the

Prime Minister on the recommendations of the Constitutional Council.

- 2) The Permanent Secretaries shall, subject to the directions of the Ministers, exercise supervision over the departments of government and other institutions in charge of the Cabinet of Ministers. No Permanent Secretary shall be removed unless resolution passed in that regard by the Parliament.

110. Every person appointed or elected to any office referred to in this Chapter shall not enter upon the duties of his office until he takes and subscribes the oath, or makes and subscribes the affirmation, set out in the Fourth Schedule before the President

The Duties and Functions of the Prime Minister

111.

- 1) The Prime Minister shall be responsible to Parliament for the due exercise, performance and discharge of his powers, duties and functions under the Constitution and any written law, including the law for the time being relating to public security.
- 2) The Prime Minister shall have the power to appoint such other officers and staff as are in his opinion necessary to assist him in the exercise, performance and discharge of the powers, duties and functions of his office, and to determine their terms and conditions of service.
- 3) All other public officers shall always be subject to direct control of the Public Service Commission.

The Cabinet of Ministers

112.

- 1) The Cabinet of Ministers shall be charged with the direction and control of the Government.
- 2) The Cabinet of Ministers shall be collectively responsible to the Prime Minister and answerable to Parliament for the due performance of their office.

- 3) The Prime Minister shall be a member of the Cabinet of Ministers and shall be the Head of the Cabinet of Ministers.

113.

- 1) Subject to the stipulated guidelines, the Prime Minister shall assign the Ministries to such Ministers strictly in accordance with the list approved by the people at the General Election.
- 2) The Prime Minister shall continue to hold office throughout the period during which the Cabinet of Ministers continues to function under the provisions of the Constitution unless he –
 - a) resigns his office by writing under his hand addressed to the ceremonial President; or
 - b) ceases to be a Member of Parliament.
- 3) Provided that if after the Prime Minister so ceases to hold office and Parliament is dissolved, the Cabinet of Ministers shall continue to function with the other Ministers of the Cabinet as its members, until the conclusion of the General Election.
- 4) A Minister of the Cabinet of Ministers, shall continue to hold office throughout the period during which the Cabinet of Ministers continues to function under the provisions of the Constitution unless he–
 - a) is removed from office under the hand of the Prime Minister in the event any form of abuse of office;
 - b) resigns from office by writing under his hand addressed to the Prime Minister; or
 - c) ceases to be a Member of Parliament.
- 5) Whenever a Minister of the Cabinet of Ministers is temporarily unable to discharge the functions of his office for not more than 30 days, the Prime Minister shall appoint a Member of Cabinet to act in the place of such Minister.

114.

- 1) For the purposes of this Article, the office of the Secretary to the President, the office of the Secretary to the Cabinet of Ministers, the office of the Auditor-General, the office of the Director

General of Customs, the Office of the Commissioner General of Inland Revenue, the Office of the Commissioner General of Excise, the office of the Parliamentary Commissioner for Administration (Ombudsman), the office of the Secretary-General of Parliament, the Constitutional Council, and the Commissions established by law shall be deemed not to be departments of Government.

Every person appointed to any office referred to in this Chapter shall not enter upon the duties of his office until he takes and subscribes the oath, or makes and subscribes the affirmation, set out in the Fourth Schedule.

The Constitutional Council

115.

- 1) There shall be A Constitutional Council appointed by the Cabinet of Ministers which shall consist of ten members approved by the people at the General Election and the Council may appoint one member to be the Chairman in it.
- 2) Every member of the Council shall hold office for a period of five years from the date of appointment unless the member earlier resigns his office by writing addressed to the prime minister, is removed from office by the Cabinet of Ministers forming an opinion that such member is physically or mentally incapacitated and is unable to function further in office or is convicted by a court of law for any offence involving moral turpitude.
- 3) In the event of there being a vacancy among the members, the Cabinet of Ministers shall, within fourteen days of the occurrence of such vacancy appoint another person to succeed such member from the short list approved by the people at the General Election. Any person so appointed, shall hold office during the unexpired part of the period of office of the member whom he succeeds.
- 4) No member appointed to the Constitutional Council shall be eligible for re-appointment in the event he has served the full term.

116.

- 1) It shall be the duty of the Constitutional Council to recommend to the Prime Minister fit and proper persons for appointment as Chairmen or members of the Commissions specified in the

Schedule to this Article, whenever the occasion for such appointments arises, and such recommendations shall endeavour to ensure that such recommendations reflect the pluralistic character of Sri Lankan society, including gender. In the case of the Chairmen of such Commissions, the Council shall recommend three persons for appointment, and the Prime Minister shall appoint one of the persons recommended as Chairman.

- 2) The Prime Minister shall appoint the Chairman and the members of the Commissions specified in the Schedule to this Article, within seven days of receiving the recommendations of the Council for such appointments. In the event of the Prime Minister failing to make the necessary appointments within such period of fourteen days—
 - a) the persons recommended under paragraph (1), to be appointed as members of a Commission, shall be deemed to have been appointed as the members of the Commissions; and
 - b) the person whose name appears first in the list of names recommended under paragraph (3), to be appointed as the Chairman of a Commission shall be deemed to have been appointed the Chairman of the respective Commission, with effect from the date of expiry of such period.
- 3) No person appointed under paragraph (1) or a person appointed to act as the Chairman or a member of any such Commission, shall be removed except as provided for in the Constitution or in any written law, and where there is no such provision, such person shall be removed only with the prior approval of the Constitutional Council.
- 4) All the Commissions referred to in the Schedule to this Article, other than the Election Commission, shall be responsible and answerable to Parliament.

SCHEDULE

- (a) The Election Commission.
- (b) The Public Service Commission.
- (c) The National Police Commission.
- (d) The Audit Service Commission.
- (e) The Human Rights Commission of Sri Lanka.

- (f) The Commission to Investigate Allegations of Bribery or Corruption.
- (g) The Delimitation Commission.
- (h) The National Procurement Commission.

117.

- 1) No person shall be appointed by the Prime Minister to any Offices specified in the Schedule to this Article except on the recommendation of the Constitutional Council.
- 2) The provisions of paragraph (1) of this Article shall apply in respect of any person appointed to act for a period exceeding seven days, in any Office specified in the Schedule to this Article:

Provided that no person shall be appointed to act in any such office for successive periods not exceeding seven days, unless such acting appointment has been duly approved by the Council on a recommendation by the Prime Minister.
- 3) No person appointed under this article shall be removed except with the prior approval of the Constitutional Council.
- 4) In the discharge of its functions relating to the appointment of Judges of the Supreme Court and the Judges of the Court of Appeal, the Council may obtain the views of the Chief Justice if it deems necessary.

SCHEDULE

- a) The Chief Justice and the Judges of the Supreme Court.
- b) The President and the Judges of the Court of Appeal.
- c) The Members of the Judicial Service Commission, other than the Chairman.
- d) The Attorney-General.
- e) The Auditor-General.
- f) The Inspector-General of Police.
- g) The Parliamentary Commissioner for Administration (Ombudsman).
- h) The Secretary-General of Parliament.
- i) The Permanent Secretaries to the Ministries.

- j) The Director General of Customs.
- k) The Commissioner General of Inland Revenue.
- l) The Commissioner General of Exercise.

118.

- 1) There shall be a Secretary-General to the Council who shall be appointed by the Council for a term of five years. Upon the expiration of his term of office, the Secretary-General shall be eligible for reappointment.
- 2) The Council may appoint such officers as it considers necessary for the discharge of its functions, on such terms and conditions as shall be determined by the Council.

119.

- 1) The Council shall meet at least twice every month, and as often as may be necessary to discharge the functions assigned to the Council by the provisions of this Chapter or by any law, and such meetings shall be summoned by the Secretary General to the Council on the direction of the Chairman of the Council.
- 2) The Chairman shall preside at all meetings of the Council and in his absence the Council shall appoint an acting Chairman.
- 3) The quorum for any meeting of the Council shall be five members.
- 4) The decisions made by the Council shall not be valid, unless supported by not less than five members of the Council present at such meeting.
- 5) The Chairman or the other member presiding shall not have an original vote, but in the event of an equality of votes on any question for decision at any meeting of the Council, the Chairman or other member presiding at such meeting, shall have a casting vote.
- 6) The procedure in regard to meetings of the Council and the transaction of business at such meetings shall be determined by the Council,
- 7) Any member of the Council, who without obtaining prior leave of the Council absents himself from three consecutive meetings of the

Council, shall be deemed to have vacated office with effect from the date of the third of such meetings.

- 8) The Council shall have the power to act notwithstanding the fact that it has not been fully constituted or that there is a vacancy in its membership, and no act, proceeding or decision of the Council shall be or deemed to be invalid by reason only of the fact that the Council has not been fully constituted or that there has been a vacancy in its membership or that there has been any defect in the appointment of a member.

120. Notwithstanding the expiration of the term of office of the members of the Council or of the members of any Commission, the members of the Council or of such other Commission shall continue in office until the assumption of office by the new members of the Council or of such other Commission.

121.

- 1) The Council shall, once every three months, submit to the Cabinet of Ministers

a report of its activities during the preceding three months.

- 2) The Council shall perform and discharge such other duties and functions as may be imposed or assigned to the Council by the Constitution, or by any other written law.
- 3) The Council shall have the power to make rules relating to the performance and discharge of its duties and functions. All such rules if any, made by the Council shall be published in the government gazette.

122. The expenses incurred by the Council shall be charged on the Consolidated Fund.

123. Except the fundamental rights jurisdiction, no court shall have the power or jurisdiction to entertain, hear or decide or call in question, on any ground whatsoever, or in any manner whatsoever, any decision of the Council or any approval or recommendation made by the Council, which decision, approval or recommendation shall be final and conclusive for all purposes.

124. The holders of the Offices of Attorney-General, the Inspector-General of Police, the Director General of Customs, the Commissioner General of Inland Revenue and the Commissioner General of Excise shall

retire from their respective Office, upon their attaining the age of sixty-five years.

The Public Service

125.

- 1) There shall be a Public Service Commission (in this Chapter referred to as the “Commission”) which shall consist of nine members appointed by the Prime Minister on the recommendation of the Constitutional Council, of whom not less than three members shall be persons who have had over fifteen years’ experience as a public officer. The President on the recommendation of the Constitutional Council shall appoint one member as its Chairman.
- 2) No person shall be appointed as a member of the Commission or continue to hold office as such member if he is or becomes a member of Parliament or a local authority.
- 3) Every person who immediately before his appointment as a member of the Commission was a public officer in the service of the State or a judicial officer, shall, upon such appointment taking effect ceases to hold such office and shall be ineligible for further appointment as a public officer or a judicial officer:

provided that any such person shall, until he ceases to be a member of the Public Service Commission, or while continuing to be a member, attains the age at which he would, if he were a public officer or a judicial officer, as the case may be, be required to retire, be deemed to be a public officer or a judicial officer and to hold a pensionable office in the service of the State, for the purpose of any provision relating to the grant of pensions, gratuities and other allowances in respect of such service.

- 4) Every member of the Commission shall hold office for a period of three years from the date of appointment, unless the member becomes subject to any disqualification under paragraph (2) or earlier resigns from his office by writing addressed to the Prime Minister or is removed from office by the Prime Minister with the approval of the Constitutional Council or is convicted by a court of law of any offence involving moral turpitude or if a resolution for

the imposition of civic disability upon the member has been passed or is deemed to have vacated his office.

- 5) A member of the Commission shall be eligible for reappointment as a member, but shall not be eligible for appointment as a public officer or a judicial officer after the expiry of his term of office as a member. No member shall be eligible to hold office as a member of the Commission for more than two terms.
- 6) A member of the Commission who without obtaining prior leave of the Commission absents himself from three consecutive meetings of the commission, shall be deemed to have vacated office with effect from the date of the third of such meetings, and shall not be eligible thereafter to be reappointed as a member of the Commission.
- 7) The Prime Minister may grant a member leave from the performance of his duties relating to the Commission for a period not exceeding two months and shall, for the duration of such period, on the recommendation of the Constitutional Council, appoint a person qualified to be a member of the Commission, to be a temporary member for the period of such leave.
- 8) A member of the Commission shall be paid such emoluments as may be determined by Parliament. The emoluments paid to a member of the Commission shall be charged on the Consolidated Fund and shall not be diminished during the term of office of such member.
- 9) The Commission shall have the power to act notwithstanding any vacancy in its membership, and no act, proceeding or decision of the Commission shall be or be deemed to be invalid by reason only of such vacancy or any defect in the appointment of a member.
- 10) There shall be a Secretary to the Commission who shall be appointed by the Commission.
- 11) The members of the Commission shall be deemed to be public servants, within the meaning and for the purposes of the Penal Code.

126.

- 1) The Cabinet of Ministers shall provide for and determine all matters of policy relating to public officers, including policy

relating to appointments, promotions, transfers, disciplinary control and dismissal.

- 2) The appointment, promotion, transfer, disciplinary control and dismissal of all Heads of Department shall vest in the Cabinet of Ministers which shall not be applied to the appointments made by the Constitutional Council.
- 3) Subject to the provisions of the Constitution, the appointment, promotion, transfer, disciplinary control and dismissal of public officers shall be vested in the Public Service Commission.
- 4) The Commission shall be responsible and answerable to Parliament in accordance with the provisions of the Standing Orders of Parliament for the exercise and discharge of its powers and functions. The Commission shall also forward to Parliament in each calendar year, a report of its activities in respect of such year.

Delegation of Powers to Committee

127.

- 1) The Commission may delegate to a Committee consisting of three persons (not being members of the Commission) appointed by the Commission, the powers of appointment, promotion, transfer, disciplinary control and dismissal of such categories of public officers as are specified by the Commission.
- 2) The Commission shall cause the appointment of any such Committee to be published in the Gazette.
- 3) The procedure and quorum for meetings of any such Committee shall be as determined by the Commission by rules made in that behalf. The Commission shall cause such rules to be published in the Gazette.
- 4) There shall be a Secretary to each Committee, who shall be appointed by the Commission.

Delegation of Powers to a Public Officer

128.

- 1) The Commission may delegate to a public officer, subject to such conditions and procedures as may be determined by the Commission, its powers of appointment, promotion, transfer, disciplinary control and dismissal of such category of public officers as are specified by the Commission.
- 2) The Commission shall cause any such delegation to be published in the Gazette, including the conditions and procedure determined by the Commission for such purpose including the hearing and determination of an appeal which shall be concluded in six months.

129.

- 1) Any public officer aggrieved by an order relating to a promotion, transfer, dismissal or an order on a disciplinary matter made by a Committee or any public officer, may appeal to the Commission against such order in accordance with such rules made by the Commission from time to time, relating to the procedure to be followed in the making, hearing and determination of an appeal which shall be concluded within six months by the Commission.
- 2) The Commission shall have the power upon such appeal to alter, vary, rescind or confirm an order against which an appeal is made, or to give directions in relation thereto, or to order such further or other inquiry as to the Commission shall seem fit.
- 3) The Commission shall cause to be published in the Gazette the rules made by it under paragraph (1) of this Article.

130. Upon delegation of any of its powers to a Committee or a public officer as the case may be, the Commission shall not, while such delegation is in force, exercise or perform its functions or duties in regard to the categories of public officers in respect of which such delegation is made.

131.

- 1) The quorum for a meeting of the Commission shall be five members.

- 2) All decisions of the Commission shall be made by a majority of votes of the members present at the meeting. In the event of an equality of votes, the member presiding at the meeting shall have a casting vote.
- 3) The Chairman of the Commission shall preside at all meetings of the Commission and in his absence, a member elected by the members present from amongst themselves, shall preside at such meeting.

132.

- 1) There shall be an Administrative Appeals Tribunal appointed by the Judicial Service Commission.
- 2) The Administrative Appeals Tribunal shall have the power to alter, vary or rescind any order or decision made by the Commission.
- 3) The constitution, powers and procedure of such Tribunal, including the time limits for the preferring of appeals, shall be provided for by law and the Tribunal shall hear and determine such appeals within a period of six months.

133. The Court of Appeal is empowered to inquire into, or pronounce upon or in any manner call in question any order or decision made by the Commission, a Committee, or any public officer, in pursuance of any power or duty conferred or imposed on such Commission, or delegated to a Committee or public officer, under this Chapter or under any other law.

134. Until the Commission otherwise provides, all rules, regulations and procedures relating to the public service as are in force on the date of the coming into operation of this Chapter, shall, *mutatis mutandis*, be deemed to continue in force as rules, regulations and procedures relating to the public service, as if they had been made or provided for under this Chapter.

135. Every person who, otherwise than in the course of such person's lawful duty, directly or indirectly by himself or by or with any other person, in any manner whatsoever influences or attempts to influence or interferes with any decision of the Commission, or a Committee or a public officer to whom the Commission has delegated any power under this Chapter, or to so influence any member of the Commission or a Committee, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand Rupees or to imprisonment for a term not exceeding seven years, or to both such

fine and imprisonment and the High Court shall have jurisdiction to hear and determine any matter referred to in this Article.

- 136.** A person appointed to any office referred to in this Chapter shall not enter upon the duties of his office until he takes and subscribes the oath or makes and subscribes the affirmation set out in the Fourth Schedule to the Constitution.
- 137.** For the purposes of this Chapter “public officer” does not include a member of the Army, Navy, or Air Force, an officer of the Election Commission appointed by such Commission, a scheduled public officer appointed by the Judicial Service Commission or a member of the Sri Lanka State Audit Service appointed by the Audit Service Commission.

Chapter VIII: Judiciary

138. The Judiciary shall ensure that the sovereignty in the people is prevailed over all organs of the government, including the Judiciary. All courts shall protect, vindicate and enforce the judicial power of the people independently and strictly according to the Constitution and the law and no court or tribunal shall dismiss any matter merely on technical grounds without considering the merits.
139. The Supreme Court and the Court of Appeal shall consist of judges nominated by Prime Minister subject to ratification by the Constitutional Council. The maximum number of judges so appointed shall not exceed 11 in each Court and the age of retirement of judges in the Supreme Court and the Court of Appeal shall be 65 years.
140. The Supreme Court has jurisdiction to review, revoke or nullify any law enacted by the Parliament including any personal laws and customs inconsistent with the Constitution.
141. There shall be a strict accountability system in place concerning the administration of justice. The Chief Justice is responsible for the maintenance and upkeep of such a system.
142. Any matter initiated before the Supreme Court and the Court of Appeal shall be adjudicated and finally disposed of within six (6) months of the initiation of such actions.
143. All fundamental rights violation petitions, including civil and political rights (ICCPR) violations shall be dealt with by the permanent High Court at Bar which shall be adjudicated and finally disposed of within six (6) months of the initiation of such actions.
144. All matters initiated before the High Court shall be adjudicated and finally disposed of within one year of commencement of court proceedings.
145. All matters initiated before the District Court shall be adjudicated and finally disposed of within one year of commencement of court proceedings.
146. All matters initiated before the Magistrate's Court or any other Court or tribunal shall be adjudicated and finally disposed of within one year of commencement of court proceedings.

147. Failure to meet the deadline imposed in articles 142, 143, 144, 145, 146 ensuring strict compliance with the accountability mechanism imposed by law shall result in the removal of judges from office on the grounds of want of accountability, incompetence and inefficiency.
148. No judge is qualified to be considered for any public office after retirement.
149. Judicial service shall be strictly limited only to judges in the judicial service and all promotions shall be strictly on the basis of competence and efficiency.
150. There shall be no vacation system for Courts. Abuse of judicial hours for non-judicial purposes shall be strictly prohibited. The Supreme Court is vested with powers to make rules and making of such rules shall only be limited to ensure effective and speedy administration of justice.
151. Where legal proceedings are instituted against any person holding office in the Judiciary for a criminal offense including the offence of bribery or corruption such a person shall be placed under suspension immediately and on conviction shall be removed from the office forthwith and punished with confiscation of property and or life imprisonment depending on the gravity of the offence.
152. There shall be a compulsory case management system in place. Court shall have two court sessions and shall function for a minimum of 6 hours a day.
153. All Court productions shall be disposed of within a month. Failure to comply with this requirement shall result in the automatic removal of the respective judges from public office on the grounds of inefficiency and incompetence.
154. All judges appointed to the Supreme Court and the Court of Appeal may take their constitutional oaths as per the fourth Schedule before a person authorized to administer oaths. All judges who hold judicial office are accountable to the people for their actions and required to honour the doctrine of public trust, transparency and the doctrine of separation of powers.

Judicial Service Commission

155.

- 1) There shall be a Judicial Service Commission (in this Chapter referred to as the “Commission”) consisting of the Chief Justice and the two most senior Judges of the Supreme Court appointed by the President, subject to the approval of the Constitutional Council.
- 2) Where the Chief Justice and the two most senior Judges of the Supreme Court are Judges who have not had any judicial experience serving as a Judge of a Court of First Instance, the Commission shall consist of the Chief Justice, the senior most Judge of the Supreme Court and the next most senior Judge of such Court, who has had experience as a Judge of a Court of First Instance.
- 3) The Chief Justice shall be the Chairman of the Commission.

156.

- 1) The quorum for any meeting of the Commission shall be two members of the Commission.
- 2) A Judge of the Supreme Court appointed as a member of the Commission shall, unless he earlier resigns his office or is removed there from as hereinafter provided or ceases to be a Judge of the Supreme Court, hold office for a period of three years from the date of his appointment, but shall be eligible for re-appointment.
- 3) All decisions of the Commission shall be made by a majority of the members present, and in the event of an equality of votes, the Chairman of the meeting shall have a casting vote.
- 4) The Commission shall have power to act notwithstanding any vacancy in its membership and no act or proceeding of the Commission shall be, or be deemed to be invalid by reason only of such vacancy or any defect in the appointment of a member.
- 5) The Prime Minister may grant to any member of the Commission leave from duties and may appoint subject to the approval of the Constitutional Council, a person qualified to be a member of the

Commission to be a temporary member for the period of such leave.

- 6) The Prime Minister may, with the approval of the Constitutional Council, and for cause assigned, remove from office any member of the Commission.

157. A member of the Commission shall be paid such allowances as may be determined by Parliament. Such allowances shall be charged on the Consolidated Fund and shall not be reduced during the period of office of a member and shall be in addition to the salary and other allowances attached to and received from, the substantive appointment:

Provided that until the amount to be paid as allowances is determined under the provisions of this Article, the members of the Commission shall continue to receive as allowances, such amount as they were receiving on the day immediately preceding the date on which this Chapter comes into operation.

158. There shall be a Secretary to the Commission who shall be appointed by the Commission from among senior judicial officers of the Courts of First Instance.

159.

- 1) The Judicial Service Commission is hereby vested with the Power to –
 - a) transfer judges of the High Court;
 - b) appoint, promote, transfer, exercise disciplinary control and dismiss judicial officers and scheduled public officers
- 2) The Commission may make –
 - a) rules regarding training of Judges of the High Court, the schemes for recruitment and training, appointment, promotion and transfer of judicial officers and scheduled public officers;
 - b) provision for such matters as are necessary or expedient for the exercise, performance and discharge of the powers, duties and functions of the Commission.
- 3) The Chairman of the Commission or any Judge of the Supreme Court or Judge of the Court of Appeal as the case may be,

authorized by the Commission shall have power and authority to inspect any Court of First Instance, or the records, registers and other documents maintained in such Court, or hold such inquiry as may be necessary.

- 4) The Commission may by Order published in the Gazette delegate to the Secretary to the Commission the power to make transfers in respect of scheduled public officers, other than transfers involving increase of salary, or to make acting appointments in such cases and subject to such limitations as may be specified in the Order.

160. Any judicial officer or scheduled public officer may resign his office by writing under his hand addressed to the Chairman of the Commission.

161. No suit or proceeding shall be instituted against the Chairman, Member or Secretary or Officer of the Commission for any lawful act which in good faith is done in the performance of his duties or functions as such Chairman, Member, Secretary or Officer of the Commission.

162.

- 1) Every person who otherwise than in the course of such persons lawful duty, directly or indirectly, alone or by or with any other person, in any manner whatsoever, influences or attempts to influence any decision or order made by the Commission or to so influence any member thereof, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a term not exceeding three years or to both such fine and imprisonment:

Provided however that the giving of a certificate or testimonial to any applicant or candidate for any judicial office or scheduled public office shall not be an offence.

- 2) Every High Court shall have jurisdiction to hear and determine any matter referred to in paragraph (1).

163.

In this Chapter –

“Appointment” includes the appointment to act in any office referred to in this Chapter.

- a) “Judicial officer” means any person who holds office as judge, presiding officer or member of any Court of First Instance, tribunal or institution created and established for the administration of Justice or for the adjudication of any labour or other dispute, but does not include a Judge of the Supreme Court or of the Court of Appeal or of the High Court or a person who performs arbitral functions or a public officer whose principal duty is not the performance of functions of a judicial nature; and
- b) “Scheduled public officer” means the Registrar of the Supreme Court, the Registrar of the Court of Appeal, the Registrar, Deputy Registrar or Assistant Registrar of the High Court or any Court of First Instance, the Fiscal, the Deputy Fiscal of the Court of Appeal or High Court and any Court of First Instance, any public officer employed in the Registry of the Supreme Court, Court of Appeal or High Court or any Court of First Instance included in a category specified in the Fifth Schedule or such other categories as may be specified by Order made by the Minister in charge of the subject of Justice and approved by Parliament and published in the Gazette.
- c) No court, tribunal or institution shall have jurisdiction to entertain or to determine the question whether or not a person is a judicial officer within the meaning of the Constitution, but such question shall be determined solely by the Commission, whose decision thereon shall be final and conclusive.
- d) No act of such person or proceeding held before such person, prior to such determination as is referred to in sub paragraph (c), shall be deemed to be invalid by reason of such determination.

Regulatory Commission for Lawyers

164.

- 1) There shall be a Regulatory Commission for lawyers, which shall consist of three members appointed by the Minister of Justice with the concurrence of the Judicial Service Commission who shall have a minimum of twenty years experience in legal practice. The Regulatory Commission shall have power to make regulations to upkeep the legal profession, which shall be published in the Gazette. The Supreme Court shall have no authority to inquire into any allegation of contempt, professional misconduct or any other

abuse of office by lawyers and it shall refer such complaints to the Regulatory Commission.

- 2) The Commission will have power to;
 - a) formulate the rules of conduct and etiquette for lawyers
 - b) regulate both the private and the official bar
 - c) conduct investigations and inquiries into complaints made against lawyers by the judiciary such as allegations of contempt and also complaints made by the members of public
 - d) remove, suspend and impose penalties against the lawyers
- 3) The investigations and inquiries against complaints made against lawyers shall be inquired into and its determination shall be made within six months from the date of receipt of a complaint and published in the website of the regulatory commission for the information of the public.
- 4) A member of the Commission shall be paid such allowances as may be determined by Parliament. Such allowances shall be charged on the Consolidated Fund and shall not be reduced during the period of office of a member and shall be in addition to the salary and other allowances attached to and received from, the substantive appointment:
- 5) There shall be a Secretary to the Commission and staff who shall be appointed by the Commission and their allowances shall be charged to the Consolidated fund.

The Supreme Court

165. The Supreme Court of the Republic of Sri Lanka shall be the highest and final superior Court of record in the Republic and shall subject to the provisions of the Constitution exercise –

- a) jurisdiction in respect of constitutional matters;
- b) final appellate jurisdiction;
- c) consultative jurisdiction;

- d) jurisdiction in respect of any breach of the privileges of Parliament; and
- e) jurisdiction in respect of such other matters which Parliament may by law vest or ordain.

166.

The Supreme Court shall have power to act notwithstanding any vacancy in its membership and no act or proceeding of the Court shall be, or shall be deemed to be, invalid by reason only of any such vacancy or any defect in the appointment of a Judge.

- 167.** The Supreme Court shall have sole and exclusive jurisdiction to determine any question as to whether any Bill or any Act of Parliament or any provision thereof is inconsistent with the Republican Constitution. Once a Bill is challenged before the Court by any citizen after it is placed in the Order Paper of the Parliament, the Speaker shall not proceed with the Bill in any manner until the Supreme Court makes its final determination on the constitutionality of the Bill. The determination of the Court shall be published forthwith in its website for the information of the people with a copy sent to the Speaker. The Speaker shall act upon the final determination of the Court, which shall be made as expeditiously as possible, and where the Court determines a law enacted by Parliament or any Customs is inconsistent with the Republican Constitution the Court shall declare the same void and no force in law.

168.

- 1) The Supreme Court shall have sole and exclusive jurisdiction to hear and determine any question relating to the interpretation of the Constitution and accordingly, whenever any such question arises in the course of any proceedings in any other court or tribunal or other institution empowered by law to administer justice or to exercise judicial or quasi-judicial functions, such question shall forthwith be referred to the Supreme Court for determination. The Supreme Court may direct that further proceedings be stayed pending the determination of such question.
- 2) The Supreme Court shall determine such question within a month of the date of reference and make any such consequential order as the circumstances of the case may require and publish its determination for the information of the people.

169.

- 1) The Supreme Court shall, subject to the Constitution, be the final Court of civil and criminal appellate jurisdiction for and within the Republic for the correction of all errors in fact or in law which shall be committed by the Court of Appeal or any Court of First Instance, tribunal or other institution and the judgements and orders of the Supreme Court shall in all cases be final and conclusive in all such matters.
- 2) The Supreme Court shall, in the exercise of its jurisdiction, have sole and exclusive cognizance by way of appeal from any order, judgement, decree, or sentence made by the Court of Appeal, where any appeal lies in law to the Supreme Court and it may affirm, reverse or vary any such order, judgement, decree or sentence of the Court of Appeal and may issue such directions to any Court of First Instance or order a new trial or further hearing in any proceedings as the justice of the case may require and may also call for and admit fresh or additional evidence if the interests of justice so demands and may in such event, direct that such evidence be recorded by the Court of Appeal or any Court of First Instance.

170.

- 1) An appeal shall be made to the Supreme Court against any final order, judgement, decree or sentence of the Court of Appeal in any matter or proceedings, whether civil or criminal, which involves a substantial question of law, if the Court of Appeal grants leave to appeal to the Supreme Court *ex mero motu* or at the instance of any aggrieved party to such matter or proceedings.
- 2) The Supreme Court may, in its discretion, grant special leave to appeal to the Supreme Court from any final or interlocutory order, judgement, decree, or sentence made by the Court of Appeal in any matter or proceedings, whether civil or criminal, where the Court of Appeal has refused to grant leave to appeal to the Supreme Court or where in the opinion of the Supreme Court, the case or matter is fit for review by the Supreme Court : Provided that the Supreme Court shall grant leave to appeal in every matter or proceedings in which it is satisfied that the question to be decided is of public or general importance.

- 3) An appeal shall lie directly to the Supreme Court on any matter and in the manner specifically provided for by any other law passed by Parliament.

171. If at any time it appears to the Prime Minister of the Republic that a question of law or fact has arisen or is likely to arise which is of such nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer that question to that Court by way of an application filed in Court for consideration and the Court may, after such hearing as it thinks fit, shall make its opinion within the period of two weeks, and publish it for the information of the people with a copy sent to the Secretary to the Prime Minister.

172. The Supreme Court shall have the power to hear and determine and make such orders as provided for by law on –

- a) any legal proceeding relating to validity of a referendum;
- b) any appeal from an order or judgement of the Court of Appeal in an election petition case:

Provided that the hearing and determination of a proceeding relating validity of a referendum shall be by at least five Judges of the Supreme Court of whom, unless he otherwise directs, the Chief Justice shall be one and the Court shall hear and determine any such application within two months from filing the same.

173.

- 1) The jurisdictions of the Supreme Court shall be ordinarily exercised at Colombo unless the Chief Justice otherwise directs.
- 2) The jurisdiction of the Supreme Court may be exercised in different matters at the same time by the several Judges of that Court sitting apart:

Provided that its jurisdiction shall, subject to the provisions of the Constitution, be ordinarily exercised at all times by not less than three Judges of the Court sitting together as the Supreme Court.

- 3) The Chief Justice may –
 - i. of his own motion; or
 - ii. at the request of two or more Judges hearing any matter; or

- iii. on the application of a party to any appeal, proceeding or matter if the question involved is in the opinion of the Chief Justice one of general and public importance, direct that such appeal, proceeding or matter be heard by a Bench comprising five or more Judges of the Supreme Court.
- 4) The judgement of the Supreme Court shall, when it is not a unanimous decision, be the decision of the majority.

174.

- 1) If at any time there should not be a quorum of the Judges of the Supreme Court available to hold or continue any sittings of the Court, the Chief Justice may with the previous consent of the Constitutional Council request in writing the attendance at the sittings of the Court as an *ad hoc* Judge, for such period as may be necessary, of the President of the Court of Appeal or any Judge of the Court of Appeal.
- 2) It shall be the duty of such a Judge who had been so requested, in priority to other duties of his office, to attend the sittings of the Supreme Court at the time and for the period for which his attendance is required and while so attending he shall have all the jurisdictions, powers and privileges and shall perform the duties of a Judge of the Supreme Court. And no judge is permitted to avoid hearings of matters come before them but should proceed with the hearing impartially.

175.

- 1) Any party to any proceedings in the Supreme Court in the exercise of its jurisdiction shall have the right to be heard in such proceedings either in person or by representation by an attorney-at-law.
- 2) The Supreme Court may in its discretion grant to any other person or his legal representative such hearing as may appear to the Court to be necessary in the exercise of its jurisdiction under this Chapter.

176. The Registry of the Supreme Court shall be in charge of an officer designated the Registrar of the Supreme Court who shall be responsible for safe keeping of all case records and subject to the supervision, direction and control of the Chief Justice.

177.

- 1) Subject to the provisions of the Constitution and of any law the Chief Justice with any three Judges of the Supreme Court nominated by him, may, from time to time, make rules regulating generally the practice and procedure of the Court including –
 - a) rules as to the procedure for hearing appeals and other matters pertaining to appeals including the terms under which appeals to the Supreme Court and the Court of Appeal are to be entertained and provision for the dismissal of such appeals for non-compliance with such rules;
 - b) rules as to the proceedings in the Supreme Court and Court of Appeal in the exercise of the several jurisdictions conferred on such Courts by the Constitution or by any law, including the time within which such matters may be instituted or brought before such Courts and the dismissal of such matters for non-compliance with such rules;
 - c) rules as to the granting of bail;
 - d) rules as to the stay of proceedings;
 - e) rules as to the electronic recording of all court proceedings in the Court of Appeal and the Supreme Court which shall be mandatory
 - f) rules as to the safe keeping of all case records by the respective Registrar of the Court concerned
 - g) rules providing for the summary determination of any appeal or any other matter before such Court by petition or otherwise, which appears to the Court to be frivolous and vexatious or brought for the purpose of delay;
 - h) the preparation of copies of records for the purpose of appeal or other proceedings in the Supreme Court and Court of Appeal;
 - i) the admission and enrolment of attorneys-at-law
 - j) attire of judges, attorneys-at-law, officers of Court and persons attending the Courts in Sri Lanka whether

- established by the Constitution, or by Parliament or by existing law;
- k) the manner in which panels of jurors may be prepared and the mode of summoning, empanelling and challenging of jurors;
 - l) proceedings of fiscals and other ministerial officers of such courts and the process of such courts and the mode of executing the same;
 - m) the binding effect of the decisions of the Supreme Court
 - n) all matters of practice and procedure, including the nature and extent of costs that may be awarded, the manner in which such costs may be taxed and the stamping of documents in the Supreme Court, Court of Appeal, High Court and Courts of First Instance not specially provided by or under any law.
- 2) Every rule made under this Article shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in such rule.
 - 3) All rules made under this Article shall as soon as convenient after their publication in the Gazette be brought before Parliament for approval. Any such rule which is not so approved shall be deemed to be rescinded as from the date it was not so approved, but without prejudice to anything previously done thereunder.
 - 4) The Chief Justice and any three Judges of the Supreme Court nominated by him may amend, alter or revoke any such rules of court and such amendment, alteration or revocation of the rules will operate in the like manner as set out in the preceding paragraph with reference to the making of the rules of court.

The Court of Appeal

- 178.** The Court of Appeal shall consist of the President of the Court of Appeal and not more than eleven other Judges who shall be appointed by the Constitutional Council

179.

- 1) The Court of Appeal shall have and exercise subject to the provisions of the Constitution or of any law, an appellate jurisdiction for the correction of all errors in fact or in law which shall be committed by the High Court, in the exercise of its appellate or original jurisdiction or by any Court of First Instance, tribunal or other institution and sole and exclusive cognizance, by way of appeal, revision and *restitutio in integrum*, of all causes, suits, actions, prosecutions, matters and things of which such High Court, Court of First Instance tribunal or other institution may have taken cognizance :

Provided that no judgement, decree or order of any court shall be reversed or varied on account of any error, defect or irregularity, which has not prejudiced the substantial rights of the parties or occasioned a failure of justice.

- 2) The Court of Appeal shall also have and exercise all such powers and jurisdiction, appellate and original, as Parliament may by law vest or ordain.

180.

- 1) The Court of Appeal may in the exercise of its jurisdiction, affirm, reverse, correct or modify any order, judgement, decree or sentence according to law or it may give directions to such Court of First Instance, tribunal or other institution or order a new trial or further hearing upon such terms as the Court of Appeal shall think fit.
- 2) The Court of Appeal may further receive and admit new evidence additional to, or supplementary of, the evidence already taken in the Court of First Instance touching the matters at issue in any original case, suit, prosecution or action, as the justice of the case may require.

181. Subject to the provisions of the Constitution, the Court of Appeal shall have full power and authority to inspect and examine the records of any Court of First Instance or tribunal or other institution and grant and issue, according to law, orders in the nature of writs of *certiorari*, prohibition, *procedendo*, *mandamus* and *quo warranto* against the judge of any Court of First Instance or tribunal or other institution or any other person regardless of any provision of law state otherwise.

182. The Court of Appeal may grant and issue orders in the nature of writs of *habeas corpus* to bring up before such Court –

- a) the body of any person to be dealt with according to law; or
- b) the body of any person illegally or improperly detained in public or private custody,

and to discharge or remand and person so brought up or otherwise deal with such person according to law:

Provided that it shall be lawful for the Court of Appeal to require the body of such person to be brought up before the most convenient Court of First Instance and to direct the judge of such court to inquire into and report upon the acts of the alleged imprisonment or detention and to make such provision for the interim custody of the body produced as to such court shall seem right ; and the Court of Appeal shall upon the receipt of such report, make order to discharge or remand the person so alleged to be imprisoned or detained or otherwise deal with such person according to law and the Court of First Instance shall conform to and carry into immediate effect, the order so pronounced or made by the Court of Appeal:

Provided further that if provision be made by law for the exercise by any court of jurisdiction in respect of the custody and control of minor children, then the Court of Appeal, if satisfied that any dispute regarding the custody of any such minor child may more properly be dealt with by such court, direct the parties to make application in that court in respect of the custody of such minor child.

183. The Court of Appeal may direct –

- i. that a prisoner detained in any prison be brought before a court-martial or any Commissioners acting under the authority of any Commission from the Prime Minister of the Republic for trial or to be examined relating to any matters pending before any such court-martial or Commissioners respectively; or
- ii. that a prisoner detained in prison be removed from one custody to another for purposes of trial.

184. The Court of Appeal shall have the power to grant and issue injunctions to prevent any irremediable mischief which might ensure before a party making an application for such injunction could prevent the same by bringing an action in any Court of First Instance. :

Provided that it shall not be lawful for the Court of Appeal to grant an injunction to prevent a party to any action in any court from appealing to or prosecuting an appeal to the Court of Appeal or to prevent any party to any action in any court from insisting upon any ground of action, defence or appeal, or to prevent any person from suing or prosecuting in any court, except where such person has instituted two separate actions in two different courts for and in respect of the same cause of action, in which case the Court of Appeal shall have the power to intervene by restraining him from prosecuting one or other of such actions as it may seem fit.

185. The Court of Appeal shall have and exercise jurisdiction to try election petitions in respect of any election conducted by the Election Commission in terms of any law for the time being applicable in that behalf.

186. The Court of Appeal may, *ex mero motu* or on any application made, call for, inspect and examine any record of any Court of First Instance and in the exercise of its revisionary powers may make any order thereon as the interests of justice may require.

187.

- 1) The Court of Appeal shall ordinarily exercise its jurisdiction at Colombo:

Provided however that the Chief Justice may from time to time when he deems it so expedient direct that the Court of Appeal shall hold its sittings and exercise its jurisdiction in any judicial zone or district, specified in the direction.

- 2) The jurisdiction of the Court of Appeal may be exercised in different matters at the same time by the several judges of the Court sitting apart:

Provided that –

- i. its jurisdiction in respect of –
 - a) judgements and orders of the High Court pronounced at a trial at Bar, shall be exercised by at least three Judges of the Court; and
 - b) other judgement and orders of the High Court, shall be exercised by at least two Judges of the Court;

- ii. its jurisdiction in respect of other matters, shall be exercised by a single Judge of the Court, unless the President of the Court of Appeal by general or special order otherwise directs.
 - 3) In the event of any difference of opinion between two Judges constituting the Bench, the decision of the Court shall be suspended until three Judges shall be present to review such matter.
 - 4) The judgment of the Court of Appeal, shall when it is not a unanimous decision, be the decision of the majority.
- 188.** The Registry of the Court of Appeal shall be in charge of an Officer designated as the Registrar of the Court of Appeal who shall be subject to the supervision, direction and control of the President of the Court of Appeal.

Chapter IX: Public Finance

189. Parliament shall have full control over public finance. No tax, rate or any other levy shall be imposed by any local authority or any other public authority, except by or under the authority of a law passed by Parliament or of any existing law and the distribution of the government revenue the Treasury shall have regard to the development of each province, ensuring no disparity between the provinces.

190.

- 1) The funds of the Republic not allocated by law to specific purposes shall form one Consolidated Fund into which shall be paid the produce of all taxes, imposts, rates and duties and all other revenues and receipts of the Republic not allocated to specific purposes.
- 2) The interest on the public debt, sinking fund payments, the costs, charges and expenses incidental to the collection, management and receipt of the Consolidated Fund and such other expenditure as Parliament may determine shall be charged on the Consolidated Fund.

191.

- 1) Save as otherwise expressly provided in paragraphs (3) and (4) of this Article, no sum shall be withdrawn from the Consolidated Fund except under the authority of a warrant under the hand of the Minister in charge of the subject of Finance.
- 2) No such warrant shall be issued unless the sum has by resolution of Parliament or by any law been granted for specified public services for the financial year during which the withdrawal is to take place or is otherwise lawfully, charged on the Consolidated Fund.
- 3) Where the President dissolve the Parliament on the advice of the Prime Minister before the Appropriation Bill for the financial year has passed into law, he may, unless Parliament shall have already made provision, authorize the issue from the Consolidated Fund and the expenditure of such sums as he may consider necessary for the public services until the expiry of a period of three months from the date on which the new Parliament is summoned to meet.

- 4) Where the Parliament is dissolved with a date fixed for a General Election the Prime Minister may, unless Parliament has already made provision in that behalf, authorize the issue from the Consolidated Fund and the expenditure of such sums as he may, after consultation with the Commissioner of Elections, consider necessary for such elections.

192.

- 1) Notwithstanding any of the provisions of Articles set out in Chapter, Parliament may by law create a Contingencies Fund for the purpose of providing for urgent and unforeseen expenditure.
- 2) The Minister in charge of the subject of Finance, if satisfied –
 - a) that there is need for any such expenditure; and
 - b) that no provision for such expenditure exists, may, with the consent of the Prime Minister, authorise provision to be made therefore by an advance from the Contingencies Fund.
- 3) Within a week after every such advance, a Supplementary Estimate shall be presented to Parliament for the purpose of replacing the amount so advanced.

National Audit Service Commission

193.

- 1) There shall be an Audit Service Commission (in this Chapter referred to as “Commission”), which shall consist of the Auditor-General who shall be the Chairman of the Commission, and the following members appointed by the Prime Minister on the recommendation of the Constitutional Council: -
 - a) two retired officers of the Auditor-General’s Department, who have held office as a Deputy Auditor- General or above;
 - b) a retired judge of the Supreme Court, Court of Appeal or the High Court of Sri Lanka; and
 - c) a retired Class I officer of the Sri Lanka Administrative Service

The Constitution of the Republic of Sri Lanka

- 2) A person appointed as a member of the Commission shall hold office for three years, unless he, –
 - i. earlier resigns from his office, by letter addressed to the President;
 - ii. is removed from office as hereinafter provided; or
 - iii. becomes a Member of Parliament or any local authority.

A person appointed as a member of the Commission shall be eligible to be appointed for a further term of office, on the recommendation of the Constitutional Council.

- 3) The Prime Minister may for cause assigned and with the approval of the Constitutional Council, remove from office any person appointed as a member of the Commission under paragraph (1).
- 4) The Chairman and the members of the commission shall be paid such allowances as are determined by Parliament. Such allowances shall be charged on the Consolidated Fund and shall not be diminished during the term of office of the Chairman or members.
- 5) The Chairman and the members of the Commission shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.
- 6) There shall be a Secretary to the Commission who shall be appointed by the Commission.

194.

- 1) The quorum for any meeting of the Commission shall be three members of the Commission.
- 2) Parliament shall, subject to paragraph (1), provide by law for meetings of the Commission, the establishment of the Sri Lanka State Audit Service and such other matters connected with and incidental thereto.

195.

- 1) The power of appointment, promotion, transfer, disciplinary control and dismissal of the members belonging to the Sri Lanka State Audit Service, shall be vested in the Commission.

The Constitution of the Republic of Sri Lanka

- 2) The Commission shall also exercise, perform and discharge the following powers, duties and functions: -
 - a) make rules pertaining to schemes of recruitment, the appointment, transfer, disciplinary control and dismissal of the members belonging to the Sri Lanka State Audit Service, subject to any policy determined by the Cabinet of Ministers pertaining to the same;
 - b) prepare annual estimates of the National Audit Office established by law; and
 - c) exercise, perform and discharge such other powers, duties and functions as may be provided for by law.
- 3) The Commission shall cause the rules made under paragraph (2) to be published in the Gazette.
- 4) Every such rule shall come into operation on the date of such publication or on such later date as may be specified in such rules.
- 5) Every such rule shall, within three months of such publication in the Gazette be brought before Parliament for approval. Any rule which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.

196.

- 1) A person who otherwise than in the course of his duty, directly or indirectly, by himself or through any other person, in any manner whatsoever, influences or attempts to influence any decision of the Commission, any member thereof or any officer of the Sri Lanka State Audit Service, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.
- 2) Every High Court established under the Constitution shall have jurisdiction to hear and determine any matter referred to in paragraph (1).

197. Subject to the jurisdiction conferred in the Permanent High Court at Bar to inquire into allegations of Fundamental Rights and the rights and responsibilities referred to Chapter II and Chapter III, no court or tribunal shall have the power or jurisdiction to inquire into, pronounce

upon or in any manner whatsoever call in question any order or decision made by the Commission, in pursuance of any function assigned on such Commission under this Chapter or under any law.

- 198.** The costs and expenses of the Commission shall be a charge on the Consolidated Fund.
- 199.** Any officer of the Sri Lanka State Audit Service who is aggrieved by any order relating to the appointment, promotion or transfer of such officer or any order on a disciplinary matter or dismissal made by the Commission, in respect of such officer, may appeal therefrom to the Administrative Appeals Tribunal, which shall have the power to alter, vary, rescind or confirm any order or decision made by the Commission.
- 200.** The Commission shall be responsible and answerable to Parliament in accordance with the provisions of the Standing Orders of Parliament for the discharge of its functions and shall forward to Parliament in each calendar year a report of its activities in such year.

Chapter X: Auditor General

201. There shall be an Auditor-General who shall be a qualified Auditor, and subject to the approval of the Constitutional Council, be appointed by the Constitutional Council and shall hold office during good behaviour.

202.

- 1) All forms of financial transactions by the Prime Minister, Cabinet of Ministers and Members of Parliament shall be subjected to Government audit.
- 2) There shall be no restrictions imposed on the office of the Auditor General, who shall have free access to any government account for the purpose of conducting an independent and credible audit on behalf of the people and findings shall be published.
- 3) All Government tenders shall follow the guidelines of the National Procurement Commission with a face value of over ten million and shall be subjected to direct scrutiny of the Auditor General.
- 4) All government projects with a face value of ten million rupees shall be subjected to the inspection of the Auditor General. For any project with a face value of over ten million rupees it shall be mandatory to obtain indemnity insurance from an international insurer sanctioned by the Auditor General. Awarding of tenders shall be backed by indemnity insurance valid for a period of 20 years.
- 5) Interference in any manner with the duties of the Auditor General, which includes non-cooperation with investigations or inquiries, will be a non-bailable offence that attracts 1-year rigorous imprisonment. The Auditor General is empowered to arrest and produce any such suspect before a magistrate and only the High Court is empowered to grant bail under exceptional circumstances.
- 6) The salary of the Auditor-General shall be determined by Parliament, shall be charged on the Consolidated Fund and shall not be diminished during his term of office.
- 7) The office of the Auditor-General shall become vacant –
 - a) upon his death;

- b) on his resignation in writing addressed to the President;
 - c) on his attaining the age of sixty five years;
 - d) on his removal by the President with the concurrence of the Prime Minister on account of ill health or physical or mental infirmity; or
 - e) on his removal by the President with the concurrence of the Prime Minister upon an address of Parliament.
- 8) Whenever the Auditor-General is unable to discharge the functions of his office, the Prime Minister may, subject to the approval of the Constitutional Council, appoint a person to act in the place of the Auditor-General.

203. The Auditor-General shall audit any government fund, all departments of the Government, the Office of the Secretary to the Prime Minister, the Offices of the Cabinet of Ministers, the Judicial Services Commission, the Constitutional Council, the Commissions established by law, the Parliamentary Commissioner for Administration, the Secretary-General of Parliament, local authorities, public corporations, business and other undertakings vested in the Government under any written law and companies registered under the Companies Act in which the Government or a public corporation or local authority holds fifty per cent or more of the shares of that company including the accounts thereof.

204. Notwithstanding the provisions of the Article 203, Auditor-General may appoint a qualified auditor or auditors to audit the accounts of such public corporation business or other undertaking or a company and thereupon such auditor or auditors shall act under the direction and control of the Auditor-General.

205. The Auditor-General shall also perform and discharge such duties and functions as may be prescribed by Parliament by law.

206.

- i. The Auditor-General may for the purpose of the performance and discharge of his duties and functions engage the services of a qualified auditor or auditors who shall act under his direction and control.

The Constitution of the Republic of Sri Lanka

- ii. If the Auditor-General is of opinion that it is necessary to obtain assistance in the examination of any technical, professional or scientific problem relevant to the audit, he may engage the services of –
 - a) a person not being an employee of the department, body or authority the accounts of which are audited, or
 - b) any technical or professional or scientific institution not being an institution which has any interest in the management of the affairs of such department, body or authority.

and such person or institution shall act under his direction and control.

207.

- i. The Auditor-General or any person authorized by him shall in the performance and discharge of his duties and functions be entitled –
 - a) to have access to all books, records, returns and other documents;
 - b) to have access to stores and other property; and
 - c) to be furnished with such information and explanations as may be necessary for the performance of such duties and functions.
- ii. Every qualified auditor appointed to audit the accounts of any public corporation, business or other undertaking or a company referred to in this Article, or any person authorized by such auditor shall be entitled to have access, information and explanations in relation to such public corporation, or business or other undertaking.

208. The Auditor-General shall within ten months after the close of each financial year and as and when he deems it necessary report to Parliament on the performance and discharge of his duties and functions under the Constitution.

209. Every qualified auditor appointed by the Auditor General shall submit his report to the Auditor-General.

210. In this Article, “qualified auditor” means –

an individual who, being a member of the Institute of Chartered Accountants of Sri Lanka, or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute ; or a firm of Accountants each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute.

Chapter XI: Public Security

211.

- 1) The Public Security Ordinance as amended and in force immediately prior to the commencement of the Constitution shall be deemed to be a law enacted by Parliament.
- 2) The power to make emergency regulations under the Public Security Ordinance or the law for the time being in force relating to public security shall include the power to make regulations having the legal effect of overriding, amending or suspending the operation of the provisions of any law, except the operations of provisions of the Constitution.
- 3) The provisions of any law relating to public security, empowering the Prime Minister to make emergency regulations which have the legal effect of overriding, amending or suspending the operation of the provisions of any law, shall not come into operation, except upon the making of a Proclamation under such law, bringing such provisions into operation.
- 4) Upon the making of such a Proclamation, the occasion thereof shall, subject to the other provisions of this Article, be forthwith communicated to Parliament and accordingly –
 - i. if such Proclamation is issued after the dissolution of Parliament such Proclamation shall operate as a summoning of Parliament to meet on the tenth day after such Proclamation, unless the Proclamation appoints an earlier date for the meeting which shall not be less than three days from the date of the Proclamation; and the Parliament so summoned shall be kept in session until the expiry or revocation of such or any further Proclamation or until the conclusion of the General Election whichever occurs earlier and shall thereupon stand dissolved ;
 - ii. if Parliament is at the date of the making of such Proclamation, separated by any such adjournment or prorogation as will not expire within ten days, a Proclamation shall be issued for the meeting of Parliament within ten days.
- 5) Where the provisions of any law relating to public security have been brought into operation by the making of a Proclamation under such law, such Proclamation shall, subject to the succeeding

provisions of this Article, be in operation for a period of not more than a **month** from the date of the making thereof, but without prejudice to the earlier revocation of such Proclamation or to the making of a further Proclamation on or before the end of that period.

- 6) Where such provisions as are referred to in paragraph (3) of this Article, of any law relating to public security, have been brought into operation by the making of a Proclamation under such law, such Proclamation shall expire after a period of fourteen days from the date on which such provisions shall have come into operation, unless such Proclamation is approved by a resolution of Parliament:

Provided that if –

- a) Parliament stands dissolved at the date of the making of such Proclamation; or
- b) Parliament is at such date separated by any such adjournment or prorogation as is referred to in paragraph (4)(ii) of this Article; or
- c) Parliament does not meet when summoned to meet as provided in paragraphs (4)(i) and (4)(ii) of this Article,

Then such Proclamation shall expire at the end of ten days after the date on which Parliament shall next meet and sit, unless approved by a resolution at such meeting of Parliament.

- 7) Upon the revocation of a Proclamation referred to in paragraph (6) of this Article within a period of fourteen days from the date on which the provisions of any law relating to public security shall have come into operation or upon the expiry of such a Proclamation in accordance with the provisions of paragraph (6), no Proclamation made within thirty days next ensuing shall come into operation until the making thereof shall have been approved by a resolution of Parliament.
- 8) If Parliament does not approve any Proclamation bringing such provisions as are referred to in paragraph (3) of this Article into operation, such Proclamation shall, immediately upon such disapproval, cease to be valid and of any force in law but without prejudice to anything lawfully done thereunder.

- 9) If the making of a Proclamation cannot be communicated to and approved by Parliament by reason of the fact that Parliament does not meet when summoned, nothing contained in paragraph (6) or (7) of this Article], shall affect the validity or operation of such Proclamation:

Provided that in such event, Parliament shall again be summoned to meet as early as possible thereafter.

**Chapter XII: Commission To Investigate Allegations
of Bribery or Corruption**

212.

- 1) Parliament shall by law provide for the establishment of a Commission to investigate allegations of bribery or corruption. Such law shall provide for—
 - a) the appointment of the members of the Commission by the Prime Minister on the recommendation of the Constitutional Council;
 - b) the powers of the Commission, including the power to direct the holding of a preliminary inquiry or the making of an investigation into an allegation of bribery or corruption, whether of its own motion or on a complaint made to it, and the power to institute prosecutions for offences under the law in force relating to bribery or corruption;
- 2) Until the Parliament enacts a law for the full implementation of the United Nations Convention Against Corruption and or any other international Convention relating to the prevention of corruption, to which Sri Lanka is a party, the provisions of such Conventions shall be in full force in Sri Lanka as if enacted by an Act of parliament and any executive or administrative action performed in violation or contravention of the provisions of the such conventions shall be tantamount to violation of the law.
- 3) Until Parliament so provides, the Commission to investigate Allegations of Bribery or Corruption Act, No. 19 of 1994 shall apply, subject to the modification that it shall be lawful for the Commission appointed under that Act, to inquire into, or investigate an allegation of bribery or corruption, whether on its own motion or on a written complaint made to it.

Chapter XIII: Franchise and Elections

213. Every registered political party is required to respect and honour the concept of representative democracy within the political party system and no political party is permitted to identify itself with any kind of ethnic identity or religious belief. Hence all political parties are required by law to amend their respective party constitutions and tender the amended party Constitutions to the Election Commission. Any political party that fails to comply with this requirement to the satisfaction of the Election Commission will not be allowed to contest any election.
214. Every political party is required to tender a list of names of 20 persons with the leader of the group proposed to be the Prime Minister and the rest to be the Cabinet of Ministers with the respective subjects assigned to each person to the Election Commission, seeking the approval of the people at the General Election. The Election Commission shall publish the list in the government gazette immediately after the nominations for the General Election are published. The list shall also contain five additional names with no specific subjects assigned. The contesting parties shall also tender 15 names intended to be used for the Constitutional Council seeking the approval of the people at the General Election. The first 10 names in the list of the winning political party or group shall be nominated as the members to the Constitutional Council which shall also be published in the gazette by the Election Commission.
215. Immediately after calling nominations every political party is required to tender their election budget to the Election Commission together with asset declarations of all prospective candidates, which shall be published forthwith by the Election Commission in its website for the information of the voters. No party or group is permitted to accept any cash donations whatsoever for electioneering. All forms of donations shall be deposited direct to the bank account of the respective political parties. Within three months after an election every political party is required to tender audited statement of accounts of election spending and receipt of donations together with bank statements certified by a competent auditor to the Election Commission under acknowledgement with a copy to the Auditor General who shall conduct a credible and independent audit and publish his final report in the Auditor General's website for the information of the people.
216. All Sri Lankan citizens living abroad who are eligible to cast their vote are entitled to vote and the Election Commission is required to set up a methodology with a facility to declare results at the respective

embassies. The Commission of Election Commission shall set up a mechanism with required regulations formulated in this regard forthwith.

- 217.** No party or candidate is permitted to post posters, cut-outs, banners or other advertising material at public places which will be an actionable wrong. Any person wishes to support any political party or candidate is permitted to display an advert within their premises which shall not be bigger than an A3 size paper. No electioneering will be allowed at any public place and no public transport shall be used in any manner for electioneering.
- 218.** All candidates are required to accept the full responsibility for the pledges made to the people with their name and signature on such publications, which will have legal effect as a legally enforceable agreement. Those who make false promises with intend to mislead people will be dealt with strictly according to law for violation of an agreement entered into with the people.
- 219.** No person with dual citizenship or charged for any criminal offence or convicted for any criminal offence is entitled to contest any election.
- 220.** No candidate or if immediate family members of his, who have any interest in the government business is qualified to contest any election.
- 221.**
- 1) Immediately after the commencement of the Constitution the Prime Minister shall for the delimitation of Electoral Districts, establish a Delimitation Commission consisting of three persons appointed by him who he is satisfied are not actively engaged in politics. The Prime Minister shall appoint one of such persons to be the Chairman.
 - 2) If any member of the Delimitation Commission shall die or resign or if the Prime Minister is satisfied that any such member has become incapable of discharging his functions as such, the Prime Minister shall, in accordance with the provisions of paragraph (1) of this Article, appoint another person in his place.
- 222.**
- 1) The Delimitation Commission shall divide Sri Lanka into twenty-five Electoral Districts and shall assign names thereto.

The Constitution of the Republic of Sri Lanka

- 2) Each Province of Sri Lanka may itself constitute an electoral district or may be divided into two or more electoral districts.
- 3) Where a Province is divided into a number of electoral districts the Delimitation Commission shall have regard to the existing administrative districts so as to ensure as far as is practicable that each electoral district shall be an administrative district or a combination of two or more administrative districts or two or more electoral districts together constitute an administrative district.
- 4) In the event of a difference of opinion among the members of the Delimitation Commission, the opinion of the majority thereof shall prevail and shall be deemed to be the decision of the Commission. Where each member of the Commission is of a different opinion, the opinion of the Chairman shall be deemed to be the decision of the Commission. Any dissentient member may state his reasons for such dissent.
- 5) The Chairman of the Delimitation Commission shall communicate the decisions of the Commission together with the reasons, if any, stated by a dissentient member to the Prime Minister.
- 6) The Prime Minister shall by proclamation publish the names and boundaries and of the electoral districts and the number of members, which each such electoral district is entitled to return by virtue of the provisions of Chapter in accordance with the decision of the Delimitation Commission. The electoral districts specified in the Proclamation shall come into operation at the ensuing General Election and shall thereafter be the electoral districts of Sri Lanka for all the purposes of the Constitution and any law for the time being in force relating to the election of Members of Parliament. The several electoral districts shall together be entitled to return sixty members.

223.

- 1) The Commissioner of Elections, as soon as possible after the certification of the registers of electors for all the electoral districts, shall by Order published in the Gazette, certify the number of members of Parliament, which each electoral district is entitled to return.
- 2) For the purposes of this Article “the register of electors” means the register of electors for the time being in operation on the basis of which an election is being held.

224.

- 1) Parliament may by law make provision for –
 - a) the registration of electors;
 - b) the prescribing of a qualifying date on which a person should be resident in any Electoral District to be entered in the register of electors of that Electoral District;
 - c) the prescribing of a qualifying date on which a person should have attained the age of eighteen years to qualify for the purposes of registration as an elector;
 - d) the preparation and revision of registers of electors;
 - e) the procedure for the election of Members of Parliament;
 - f) the creation of offences relating to such elections and the punishment therefor;
 - g) the ground for avoiding such elections, and where an election has been held void the manner of holding fresh elections;
 - h) the form and manner in which vacancies shall be filled when all the candidates whose names appearing in the nomination paper of a recognized political party or independent group have been exhausted by election or otherwise or where a the recognized political party or independent group has been proscribed by law and
 - i. the manner of determination of disputed elections and such other matters as are necessary or incidental to the election of Members of Parliament:
 - ii. Provided that no such law shall add to the disqualifications specified by law.
- 2) Until Parliament by law makes provision for such matters the Ceylon (Parliamentary Elections) Order in Council, 1946 as amended from time to time, shall subject to the provisions of the Constitution, mutatis mutandis, apply

225. When a public officer or an officer of a public corporation is a candidate at any election, he shall be deemed to be on leave from the date on which he stands nominated as a candidate until the conclusion of the election. Such a public officer or an officer of a public corporation shall not during such period exercise, perform or discharge any of the powers, duties or functions of his office.

The Election Commission

226.

- 1) There shall be an Election Commission (in this Chapter referred to as the “Commission”) consisting of three members appointed by the Prime Minister on the recommendation of the Constitutional Council, from amongst persons who have distinguished themselves in any profession or in the fields of administration or education. One of the members so appointed shall be a retired officer of the Department of Elections, who has held office as a Deputy Commissioner of Elections or above. The Prime Minister shall on the recommendation of the Constitutional Council, appoint one member as its Chairman.
- 2) The object of the Commission shall be to conduct free and fair elections and referendum.
- 3) No person shall be appointed as a member of the Commission or continue to hold office as such member if he is or becomes a member of Parliament, or a Local Authority, or appointed a judicial officer or public officer, or is or enters into the employment of the State in any capacity whatsoever.
- 4) The provisions of the Constitution and any other law relating to the removal of judges of the Supreme Court and the Court of Appeal from office shall, *mutatis mutandis*, apply to the removal of a member of the Commission from office.
- 5) A member of the Commission who without obtaining prior leave of the Commission, absents himself from three consecutive meetings of the Commission, shall be deemed to have vacated office with effect from the date of the third of such meetings.
- 6) A member of the Commission shall hold office for a period of five years from the date of appointment, unless he becomes subject to any disqualification under paragraph (3) of this Article or earlier resigns from office by writing addressed to the Prime Minister or is

removed from office under paragraph (4) of this Article, or is convicted by a court of law of any offence involving moral turpitude, or if a resolution for the imposition of civic disability upon him has been passed or is deemed to have vacated office under paragraph (5) of this Article.

- 7) The Prime Minister may grant a member leave from the performance of his duties relating to the Commission for a period not exceeding two months, and may appoint a person qualified to be a member of the Commission to be a temporary member for the period of such leave. Every such appointment shall be made on the recommendation of the Constitutional Council.
- 8) A member of the Commission shall be paid such emoluments as may be determined by Parliament. The emoluments paid to a member of the Commission shall be charged on the Consolidated Fund and shall not be diminished during the term of office of the member.
- 9) All members of the Commission shall be deemed to be public servants.
- 10) The quorum for any meetings of the Commission shall be two members.
 - a) The Chairman of the Commission shall preside at all meetings of the Commission and in the absence of the Chairman from any meeting of the Commission, a member elected by the members present from amongst themselves shall preside at such a meeting.

Decisions of the Commission shall be by a majority of the members present and voting at the meeting at which the decision is taken, and in the event of an equality of votes, the Chairman or the member presiding at the meeting shall have a casting vote.

- 11) The Commission shall have power to act notwithstanding any vacancy in the membership of the Commission, and no act or proceeding or decision of the Commission shall be invalid or be deemed to be invalid by reason only of such vacancy or any defect in the appointment of a member.

227.

- 1) The Commission shall exercise, perform and discharge all such powers, duties and functions conferred or imposed on or assigned to –

- (a) the Commission;

- (b) the Commissioner-General of Elections,

by the Constitution, and by the law for the time being relating to the election of Members of Parliament, the election of members of Local Authorities and the conduct of Referenda, including but not limited to all the powers, duties and functions relating to the preparation and revision of registers of electors for the purposes of such elections and Referenda and the conduct of such elections and Referendum.

- 2) It shall be the duty of the Commission to secure the enforcement of all laws relating to the holding of any such election or the conduct of Referenda and it shall be the duty of all authorities of the State charged with the enforcement of such laws, to co-operate with the Commission to secure such enforcement.
- 3) The Commission shall be responsible and answerable to Parliament in accordance with the provisions of the Constitution and the Standing Powers and for due performance of the, functions and duties of the Commission which shall include the exercise, performance and discharge of its powers, duties and functions and it shall forward to Parliament for each calendar year a report of its activities for such year.
- 4)
 - a) The Commission shall have the power during the period of an election, to prohibit the use of any movable or immovable property belonging to the State or any public corporation –
 - b) for the purpose of promoting or preventing the election by any candidate of any political party or independent group contesting at such election;
 - i. by a direction in writing by the Chairman of the Commission or of the Commissioner General of Elections on the instructions of the Commission.

- c) It shall be the duty of every person or officer in whose custody or under whose control such property is for the time being, to comply with, and give effect to, such direction.

5)

- a) The Commission shall have the power to issue from time to time, in respect of the holding of any election or the conduct of a Referendum, such guidelines as the Commission may consider appropriate, to any broadcasting or telecasting operator or any proprietor or publisher of a newspaper, as the case may be, as the Commission may consider necessary to ensure a free and fair election.
- b) It shall be the duty of the Chairman of the Sri Lanka Broadcasting Corporation, the Chairman of the Sri Lanka Rupavahini Corporation and the Chairman of the Independent Television Network and the Chief Executive Officer of every other broadcasting or telecasting enterprise to take all necessary steps to ensure compliance with such guidelines as are issued to them under sub paragraph (a).
 - i. The Commission shall cause the directions and guidelines referred to in paragraph 4(a) and paragraph 5(a) to be published in at least one newspaper widely circulated, in Sinhala, Tamil and English languages.
 - ii. Every direction and guideline shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in such direction and guideline.
 - iii. Every such direction and guideline shall, within three months from the date of publication in the Gazette, be brought before Parliament for approval. Any direction or guideline which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.

228.

- 1) Upon the making of an Order for the holding of an election or the making of a Proclamation requiring the conduct of a Referendum, as the case may be, the Commission shall notify the Inspector-

General of Police of the facilities and the number of police officers required by the Commission for the holding or conduct of such election or Referendum, as the case may be.

- 2) The Inspector-General of Police shall make available to the Commission the facilities and police officers specified in any notification made under paragraph (1) of this Article.
- 3) The Commission may deploy the police officers and facilities made available to the Commission in such manner as is calculated to promote the conduct of a free and fair election or referendum, as the case may be.
- 4) Every police officer made available to the Commission under paragraph (2) of this Article, shall be responsible to and act under the direction and control of the Commission during the period of an election.
- 5) No suit, prosecution or other proceeding, shall lie against any police officer made available to the Commission under this Article for any lawful act or thing in good faith done by such police officer, in pursuance of a direction of the Commission or his functioning under the Commission.

229. It shall be lawful for the Commission, upon the making of an Order for the holding of an election or the making of a Proclamation requiring the conduct of a Referendum, as the case may be, to make recommendations to the Prime Minister regarding the deployment of the armed forces of the Republic for the prevention or control of any actions or incidents which may be prejudicial to the holding or conducting of a free and fair election or Referendum, as the case may be.

230.

- 1) There shall be a Commissioner General of Elections who shall, subject to the approval of the Constitutional Council, be appointed by the Commission on such terms and conditions as may be determined by the Commission.
- 2) The Commissioner General of Elections shall be entitled to be present at meetings of the Commission, except where any matter relating to him is being considered by the Commission. He shall have no right to vote at such meetings.

The Constitution of the Republic of Sri Lanka

- 3) The Commission may appoint such other officers to the Commission on such terms and conditions as may be determined by the Commission.
- 4) The salaries of the Commissioner General of Elections and the other officers of the Commission shall be determined by the Commission and shall be charged on the Consolidated Fund.
- 5) The Commissioner General of Elections shall, subject to the direction and control of the Commission, implement the decisions of the Commission and exercise supervision over the officers of the Commission.
- 6) The Commission may delegate to the Commissioner General of Elections or other officer of the Commission, any power, duty or function of the Commission and the Commissioner General of Elections or such officer shall exercise, perform and discharge such power, duty or function, subject to the direction and control of the Commission.
- 7) The office of the Commissioner-General of Elections shall become vacant -
 - a) upon his death;
 - b) on his resignation in writing addressed to the Commission;
 - c) on his attaining the age of sixty five years;
 - d) on his removal by the Commission on account of ill health or physical or mental infirmity; or
 - e) on his removal by the Commission on the presentation of an address of Parliament in compliance with the provisions of paragraph (8), for such removal on the ground of proved misbehaviour or incapacity.
- 8)
 - a) The address referred to in sub-paragraph (e) of paragraph (7) of this Article shall be required to be supported by a majority of the total number of Members of Parliament (including those not present) and 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 Parliament and sets out full particulars of the alleged misbehaviour or incapacity.

- b) Parliament shall by law or by Standing Orders, provide for all matters relating to the presentation of such an address, including the procedure for the passing of such resolution, the investigation and proof of the alleged misbehaviour or incapacity and the right of the Commissioner General of Elections to appear and to be heard in person or by representatives.

231.

- 1) The Commission shall from time to time by notice published in the Gazette appoint by name or by office a person to be a Returning Officer to each electoral district and may appoint by name or by office one or more persons to assist the Returning Officer in the performance of his duties.
- 2) Every Officer appointed under paragraph (1) shall in the performance and discharge of such duties and functions as are assigned to him, be subject to such directions as may be issued by the Commission and shall be responsible and answerable to the Commission therefore.

232.

All public officers performing duties and functions at any election or Referendum shall act in the performance and discharge of such duties and functions under the directions of the Commission and shall be responsible and answerable to the Commission therefore.

233.

- 1) Any public officer, any employee of any public corporation, business or other undertaking vested in the Government under any other written law and any company registered or deemed to be registered under the Companies Act, No. 7 of 2007, in which the Government or any public corporation or local authority holds fifty per cent or more of the shares of that company, who –
 - a) Refuses or fails without reasonable cause to cooperate with the Commission, to secure the enforcement of any law relating to the holding of an election or the conduct of a Referendum;
or

- b) Fails without a reasonable cause to comply with any directions or guidelines issued by the Commission

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

- 2) Every High Court shall have jurisdiction to hear and determine any matter referred to in paragraph (1).
- 3) Every application invoking the jurisdiction referred to in paragraph (1), shall be made within one month of the date of the commission of the act and the High Court shall hear and finally dispose of such applications within two months of the filing of the same.

234. In this Chapter “during the period of an election” shall mean the period commencing on the making of a Proclamation or Order for the conduct of a Referendum or for the holding of an election, as the case may be, and ending on the date on which the result of poll taken at such Referendum or election, as the case may be, is declared.

Chapter XIV: The Referendum

235.

- 1) The Prime Minister shall submit to the People by Referendum every bill or any provision in any bill which he has certified as being intended to be submitted to the People by Referendum, or which the Supreme Court has determined as requiring the approval of the People at a Referendum.
- 2) Any Bill or any provision in any Bill submitted to the People by Referendum shall be deemed to be approved by the People if approved by an absolute majority of the valid votes cast at such Referendum:

Provided that when the total number of valid votes cast does not exceed two-thirds of the whole number of electors entered in the register of electors, such Bill shall be deemed to be approved only if approved by not less than one-third of the whole number of such electors.

236.

- 1) Every Referendum shall be conducted by the Commissioner General of Elections who shall communicate the result thereof to the people.
- 2) Parliament shall by law provide for all matters relating to the procedure for the submission of Bills and of matters of national importance to the People by Referendum, the register of electors to be used at a Referendum, the creation of offences relating thereto and the punishment therefore and all other matters necessary or incidental thereto.

237.

All organs of the government shall respect the sovereignty in the people, which includes the law making power. A clear mandate from the people shall be sufficient to repeal the constitution to be replaced with a new Constitution approved by the people by majority voting in favour, provided that when the total number of valid votes cast does not exceed two-thirds of the whole number of electors entered in the register of electors, such Bill shall be deemed to be approved only if approved by not less than one-third of the whole number of such electors.

The Constitution of the Republic of Sri Lanka

Provided further that any such proposed Constitution designed to be presented to the people seeking their approval shall be formulated with due regard and respect to uphold democracy, the rule of law, the independence of the judiciary, accountability, transparency, doctrine of public trust, the doctrine of separation of power and equal treatment of every citizen. All of these components shall be regarded as entrenched provisions without compromise.

The prime minister with due respect to the supremacy in the people over all organs of the government, shall certify and endorse the bill so approved by the people as being duly approved by the people which shall then become the supreme law of the Republic of Sri Lanka.

Chapter XV: Attorney General

- 238.** In the Republic of Sri Lanka, the Sovereignty is in the people and the Attorney General shall represent and act for the people of the Republic and he shall;
- i. discharge his duties independently without any bias or favour upholding the letter and the spirit of the Constitution.
 - ii. not be a mere proxy of the government and act objectively, rationally and diligently.
 - iii. being the head of the Attorney General's department ensures that all matters relating to litigation are conducted fairly and independently assisting the court to dispense justice expeditiously.
- 239.** In the event legal proceedings are instituted against the Attorney General for abuse of office to confer a favour or benefit to himself or any other person or made a respondent in his personal capacity in any fundamental right violation petition or writ application and if found guilty by Court for abuse of power, he shall be removed from office forthwith and be punished with confiscation of property and life imprisonment depending on the gravity of the offence.
- 240.** In this Chapter the word Attorney General denote to Attorney General or any other public officer of the Attorney General's department who represent the state in litigations.

Chapter XVI: National Police Commission

241.

- 1) There shall be a National Police Commission (in this Chapter referred to as the “Commission”) consisting of seven members appointed by the Prime Minister on the recommendation of the Constitutional Council, of whom at least one member shall be a retired police officer who has held office as an Inspector-General of Police. The Constitutional Council may in making its recommendation, consult the Public Service Commission. The Prime Minister shall on the recommendation of the Constitutional Council appoint one member as the Chairman.
- 2) No person shall be appointed as a member of the Commission or continue to hold office as such member if he is or becomes a member of Parliament or a local authority.
- 3) Every person who immediately before his appointment as a member of the Commission, was a public officer in the service of the State or a judicial officer, shall upon such appointment taking effect, cease to hold such office and shall be ineligible for further appointment as a public officer or a judicial officer:

Provided that any such person shall, until he ceases to be a member of the Commission, or while continuing to be a member, attains the age at which he would, if he were a public officer or a judicial officer, as the case may be, be required to retire, be deemed to be a public officer or a judicial officer and to hold a pensionable office in the service of the State, for the purpose of any provision relating to the grant of pensions, gratuities and other allowances in respect of such service.

- 4) Every member of the Commission shall hold office for a period of three years from the date of appointment, unless such member becomes subject to any disqualification under paragraph (2) or earlier resigns from office by writing addressed to the Prime Minister or is removed from office by the Prime Minister for reasons assigned and with the approval of the Constitutional Council or is convicted by a Court of law of any offence involving moral turpitude or if a resolution for the imposition of civic disability upon such member has been passed according to law against such a member or is deemed to have vacated his office under paragraph (6) of this Article.

- 5) A member of the Commission shall be eligible for reappointment as a member but shall not be eligible for appointment as a public officer or a judicial officer after the expiry of his term of office as a member. No member shall be eligible to hold office as a member of the Commission for more than two terms.
- 6) In the event of the Chairman or a member of the Commission absenting himself from three consecutive meetings of the Commission without the prior leave of the Commission, he shall be deemed to have vacated his office from the date of the third of such meetings and shall not be eligible to be reappointed as a member or as Chairman of the Commission.
- 7) The Chairman and members of the Commission shall be paid such allowances as are determined by Parliament. Such allowances shall be charged on the Consolidated Fund and shall not be diminished during the term of office of the Chairman or member.
- 8) The Chairman and members of the Commission shall be deemed to be public servants within the meaning and for the purposes of Chapter IX of the Penal Code.

242.

- 1) The quorum for a meeting of the Commission shall be four members.
- 2) The Chairman shall preside at all meetings of the Commission and in his absence a member elected by the members present from amongst the members shall preside at such meeting.
- 3) Decisions of the Commission shall be by a majority of members present and voting at the meeting at which the decision is taken and in the event of an equality of votes the Chairman or the person presiding shall have a casting vote.
- 4) The Commission shall have power to act notwithstanding any vacancy in its membership, and any act or proceeding or decision of the Commission shall not be invalid or deemed to be invalid by reason only of such vacancy or any defect in the appointment of the Chairman or member.

243. Subject to the jurisdiction conferred on the Supreme Court, no court or tribunal shall have the power or jurisdiction to inquire into, or pronounce upon or in any manner call in question any order or decision made by the Commission or a Committee, in pursuance of

any power or duty, conferred or imposed on such Commission or Committee under this Chapter or under any other law.

244. There shall be a Secretary to the Commission and such other officers appointed by the Commission on such terms and conditions as may be determined by the Commission.

245. The costs and expenses of the Commission shall be a charge on the Consolidated Fund.

246. The Commission shall from time to time, make rules for such matters which require rules to be made. Every such rule shall be published in the Gazette.

247.

- 1) Every person who, otherwise than in the course of such person's lawful duty, directly or indirectly by himself or by or with any other person, in any manner whatsoever influences or attempts to influence or interferes with any decision of the Commission or a Committee or any police officer to whom the Commission has delegated any power under this Chapter or so influence any member of the Commission or a Committee or any police officer to whom any power has been delegated, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a term not exceeding seven years, or to both such fine and imprisonment.
- 2) A High Court shall have jurisdiction to hear and determine any matter referred to in paragraph (1).

248.

- 1) The appointment, promotion, transfer, disciplinary control and dismissal of police officers other than the Inspector-General of Police, shall be vested in the Commission. The Commission shall exercise its powers of promotion, transfer, disciplinary control and dismissal in consultation with the Inspector-General of Police.
- 2) The general public is entitled to make complaints against the police officers and the Commission shall make regulations required to inquire into such complaints which shall be published in the government gazette and its website. The Commission shall conduct a credible and independent investigation and inquiry into

such complaints and make its final determination within three months after receipt of such complaints which shall be published in Commissions website. The Commission is required to provide redress to the aggrieved parties with strict disciplinary action taken against wrongdoers, including dismissal from the Police Department based on the gravity of the offence.

- 3) The Commission shall, in consultation with the Inspector-General of Police if it deems appropriate, provide for and determine all matters regarding police officers, including: -
 - a) the formulation of schemes of recruitment, promotion and transfers, subject to any policy determined by the Cabinet of Ministers pertaining to the same;
 - b) training and the improvement of the efficiency and independence of the police service;
 - c) the nature and type of the arms, ammunition and other equipment necessary for the use of the National Division and the Provincial Divisions; and
 - d) codes of conduct and disciplinary procedures.

249.

- 1) The Commission may delegate to a Committee of the Commission (not consisting of members of the Commission) as shall be nominated by the Commission, the powers of appointment, promotion, transfer, disciplinary control and dismissal of such categories of police officers as are specified by the Commission.
- 2) The Commission shall cause to be published in the Gazette, the appointment of any such Committee.
- 3) The procedure and quorum for meetings of a Committee nominated under paragraph (1) shall be according to rules made by the Commission. The Commission shall cause such rules to be published in the Gazette.

250.

- 1) The Commission may, subject to such conditions and procedures as may be prescribed by the Commission, delegate to the Inspector-General of Police or in consultation with the Inspector-General of Police to any Police Officer, its powers of appointment,

promotion, transfer, disciplinary control and dismissal of any category of police officers.

- 2) The Commission shall cause any such delegation to be published in the Gazette.

251.

- 1) Where the Commission has delegated its powers of appointment, promotion, transfer, disciplinary control and dismissal of any category of police officers, the Inspector-General of Police shall have a right of appeal to the Commission against any order made by such Police officer in the exercise of his delegated powers.
- 2) Upon any delegation of its powers to the Inspector General of Police or a Committee or police officer, the Commission shall not, whilst such delegation is in force, exercise, perform or discharge its powers, duties or functions in respect of the categories of police officers in respect of which such delegation is made, subject to the right of appeal hereinbefore provided.
- 3) A police officer aggrieved by any order relating to promotion, transfer or any order on a disciplinary matter or dismissal made by the Inspector-General of Police or a Committee or a Police Officer in respect of such officer may appeal to the Commission against such order in accordance with rules made by the Commission from time to time regulating the procedure and the period fixed for the making and hearing of an appeal by the Commission.
- 4) The Commission shall have the power to alter, vary, rescind or confirm such order upon an appeal made under paragraph (1) or paragraph (2), or to give directions in relation thereto or to order such further or other inquiry, as to the Commission shall deem fit.
- 5) The Commission shall from time to time cause to be published in the Gazette, rules made by it under paragraph (2) of this Article.

252. Any police officer aggrieved by any order relating to promotion, transfer, or any order on a disciplinary matter or dismissal made by the Commission, in respect of such officer, may appeal therefrom to the Administrative Appeals Tribunal, which shall have the power to alter, vary, rescind or confirm any order or decision made by the Commission.

253. Until the Commission otherwise provides, all rules, regulations and procedures relating to the Police Department as are in force on the date

of the coming into operation of this Article, shall continue to be operative and in force.

- 254.** The Commission shall be responsible and answerable to Parliament in accordance with the provisions of the Standing Orders of Parliament for the exercise, performance and discharge of its powers, duties and functions and shall forward to Parliament in each calendar year a report of its activities in such year.

Chapter XVII: National Procurement Commission

255.

- 1) There shall be a National Procurement Commission (in this Chapter referred to as the “Commission”) consisting of five members appointed by the Prime Minister on the recommendation of the Constitutional Council, of whom at least three members shall be persons who have had proven experience in procurement, accountancy, law or public administration. The Prime Minister shall, on the recommendation of the Constitutional Council, appoint one member as the Chairman of the Commission.
- 2) Every member of the Commission shall hold office for a period of three years from the date of appointment, unless such member earlier resigns from office by a writing addressed to the Prime Minister or is removed from office by the Prime Minister for causes assigned with the approval of the Constitutional Council or is convicted by a court of law for an offence involving moral turpitude or is elected as a member of Parliament or of a local authority or if a resolution for the imposition of a civic disability on him is passed according to law.
- 3) The Chairman and every member of the Commission shall be paid such allowances as may be determined by a resolution of Parliament. Such allowances shall be charged on the Consolidated Fund and shall not be diminished during the term of office of such Chairman or the member.

256.

- 1) It shall be the function of the Commission to formulate fair, equitable, transparent, competitive and cost-effective procedures and guidelines, for the procurement of goods and services, works, consultancy services and information systems by government institutions and cause such guidelines to be published in the Gazette within three months. All such publication shall also be placed before Parliament within three months.
- 2) Without prejudice to the generality of paragraph (1), it shall be the function of the Commission to,—
 - a) monitor and report to the appropriate authorities, on whether all procurement of goods and services, works, consultancy

services and information systems by government institutions are based on procurement plans prepared in accordance with previously approved action plans;

- b) monitor and report to the appropriate authorities on whether all qualified bidders for the provision of goods and services, works, consultancy services and information systems by government institutions are afforded an equal opportunity to participate in the bidding process for the provision of those goods and services, works, consultancy services and information systems;
- c) monitor and report to the appropriate authorities on whether the procedures for the selection of contractors, and the awarding of contracts for the provision of goods and services, works, consultancy services and information systems to government institutions, are fair and transparent;
- d) report on whether members of procurement Committees and Technical Evaluation Committees relating to the procurements, appointed by government institutions are suitably qualified; and
- e) investigate reports of procurements made by government institutions outside established procedures and guidelines, and to report the officers responsible for such procurements to the relevant authorities for necessary action.

257.

- 1) The Commission may, by Notice in writing, require any person to –
 - a) Attend before the Commission, to be questioned by the Commission;
 - b) Produce to the Commission, any document or thing in the possession or control of that person and specified in such Notice.
- 2) Every person who –
 - a) fails, without reasonable cause to appear before the Commission when required to do so by a Notice sent to him under paragraph (1);

- b) appears before the Commission in compliance with such a Notice, but refuses without reasonable cause, to answer any questions put to him by the Commission;
- c) Fails or refuses, without reasonable cause, to produce any document or thing which he was required to produce by a Notice sent to him under paragraph (1),

shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding ten years.

- 3) The permanent High Court at Bar shall have jurisdiction to hear and determine any matter referred to in paragraph (2).

258.

- 1) The Commission shall meet as often as may be necessary for the discharge of its functions.
- 2) The Chairman shall preside at all meetings of the Commission. In the absence of the Chairman from any meeting of the Commission, the members present shall elect a Chairman for that meeting, from among themselves.
- 3) The quorum for any meeting of the Commission shall be three.
- 4) Decisions of the Commission shall be by the majority vote of the members present and voting at the meeting at which the decision is taken, and in the event of an equality of votes, the Chairman or member presiding at the meeting shall have a casting vote.
- 5) Subject to the preceding provisions of this Article, the Commission may determine the procedure with regard to its meetings and the transaction of business at such meetings.
- 6) The Commission shall have the power to act notwithstanding any vacancy in the membership of the Commission, and no act, proceeding or decision of the Commission shall be invalid or deemed to be invalid, by reason only of such vacancy or defect in the appointment of a member.

259.

- 1) the Commission shall appoint a Secretary-General and such other officers as it may consider necessary for the proper discharge of its

functions, on such terms and conditions as may be determined by the Commission.

- 2) All members and officers of the Commission shall be deemed to be public servants within the meaning, and for the purposes of, Chapter IX of the Penal Code.
- 3) No suit, prosecution or other proceeding shall lie against any member or officer of the Commission for any act or thing which in good faith is done or purported to be done by him in the performance of his duties or the discharge of his functions, under the Constitution.

260. The expenses of the Commission shall be charged on the Consolidated Fund.

261. In this Chapter, “government institution” includes a Ministry, a government department, a public corporation, a local authority, any business or other undertaking vested in the Government and a Company registered or deemed to be registered under the Companies Act, No 7 of 2007, in which the Government, a public corporation or any local authority holds more than fifty per cent of the shares.

Chapter XVIII: General

262. Where Parliament by resolution passed by not less than two-thirds of the whole number of Members of Parliament (including those not present) voting in its favour, approves as being essential for the national security or development of the national economy, any Treaty or Agreement between the Government of Sri Lanka and the Government of any foreign State for the promotion and protection of the investments in Sri Lanka of such foreign State, its nationals, or of corporations, companies and other associations incorporated or constituted under its laws, such Treaty or Agreement shall have the force of law in Sri Lanka and otherwise than in the interests of national security no written law shall be enacted or made, and no executive or administrative action shall be taken, in contravention of the provisions of such Treaty or Agreement.

263.

- 1) No person shall, directly or indirectly, in or outside Sri Lanka, support, espouse, promote, finance, encourage or advocate the establishment of a separate State within the territory of Sri Lanka or advocate unrest amongst communities or create public disquiet
- 2) No political party or other association or organization shall have as one of its aims or objects the establishment of a separate State within the territory of Sri Lanka and no political party advocate unrest amongst communities or create public disquiet or shall have any ethnic identity attached to its name.
- 3) Any person who acts in contravention of the provisions of paragraph (1) shall, on conviction by the Court of Appeal, after trial on indictment and according to such procedure as may be prescribed by law, –
 - a) be subject to civic disability for such period not exceeding seven years as may be determined by such Court;
 - b) forfeit his movable and immovable property other than such property as is determined by an order of such Court as being necessary for the sustenance of such person and his family;
 - c) not be entitled to civic rights for such period not exceeding seven years as may be determined by such Court; and

- d) if he is a Member of Parliament or holding any other public office, cease to be such Member of Parliament or cease to hold any other public office.
- 4) Where any political party or other association or organization has as one of its aims or objects the establishment of a separate State within the territory of Sri Lanka or advocate unrest amongst communities or create public disquiet any person may make an application to the Supreme Court for a declaration that such political party or other association or organization has as one of its aims or objects the establishment of a separate State within the territory of Sri Lanka or advocate unrest amongst communities or create public disquiet. The Secretary or other officer of such political party or other association or organization shall be made a respondent to such application.
- 5) Where the Supreme Court makes a declaration under paragraph (4) in relation to any political party or other association or organization, in pursuance of an application made to it under that paragraph –
- a) that political party or other association or organization shall be deemed, for all purposes to be prescribed and any member of such political party or other association or organization, who is a Member of Parliament shall be deemed to have vacated his seat in Parliament with effect from the date of such declaration, and any nomination paper submitted by such political party or other association or organization shall be deemed for all purposes to be invalid;

The execution of any punishment imposed under paragraph (3) or sub-paragraph (b) of paragraph (5) shall not be stayed or suspended pending the determination of any appeal against such punishment or the conviction in consequence of which such punishment was imposed.

- 6) Every officer or person who was or is required to take and subscribe or to make and subscribe to an oath or affirmation, every member of, or person in the service of a local authority, Development Council, Pradeshiya Mandalaya, Gramodaya Mandalaya or Public Corporation and every Attorney-at-law and any person who holds office or is a member of that political party or other association or organization, shall be guilty of an offence and shall, on conviction, by the Court of Appeal after trial on indictment and according to such procedure as may be prescribed by law –

The Constitution of the Republic of Sri Lanka

- i. be subject to civic disability for such period not exceeding seven years as may be determined by such Court;
 - ii. forfeit his movable and immovable property other than such property as is determined by an order of such Court as being necessary for the sustenance of such person and his family;
 - iii. not be entitled to civic rights for such period not exceeding seven years as may be determined by such Court;
 - iv. if he is a Member of Parliament or hold any other public office, cease to be such Member or to be in such service or hold such office.
- 7) Parliament may, by resolution, determine such other categories of persons or officers to whom the provisions of paragraph (6) shall apply and thereupon, the provisions of such paragraph shall, *mutatis mutandis*, apply to, and in relation to, officers or persons of that category.
- 8) Every person who is elected or nominated as a Member of Parliament on or after the coming into force of this Article shall not be entitled to sit and vote in Parliament unless he takes and subscribes or makes and subscribes an oath or affirmation in the form set out in the Seventh Schedule.
- 9) In this Article, “civic rights” means –
- a) the right to obtain a passport;
 - b) the right to sit for any public examination;
 - c) the right to own any immovable property;
 - d) the right to engage in any trade or profession which requires a licence, registration or other authorization, by or under any written law.

Where any person is empowered under the provisions of the Constitution to delegate any power, duty or function to any other person, such person delegating such power, duty or function may, notwithstanding such delegation, exercise, perform or discharge such power, duty or function and may at any time revoke such delegation.

The Constitution of the Republic of Sri Lanka

In this Article, “person” includes any body of persons or any authority.

Where the Speaker is unable to discharge the functions of his office, the powers, duties and functions conferred or imposed on, or assigned to, the Speaker by any Provision of the Constitution, may be exercised, performed or discharged by the Deputy Speaker.

Chapter XIX: Transitional Provisions

- 264.** The Constitution of the Republic of Sri Lanka adopted by the people, as the supreme law of the Republic shall come into force immediately after the elected Executive President, who sought a mandate from the People at an election certify it as the supreme law of the country. In the event the elected President failed to certify it as aforesaid it shall come into operation from the day the election commission declare the final results of the election.
- 265.** The Constitution of the Democratic Socialist Republic of Sri Lanka (1978) shall cease to exist with immediate effect.
- 266.** With the promulgation of the new Constitution the office of the Executive President, the Parliament and the Provincial Council System shall cease to exist with immediate effect.
- 267.** The Parliamentary election shall be held within 3 months immediately after the promulgation of the Constitution and the provisions of Article 222 shall apply for the Election.
- 268.** The elected Executive President shall hold office as the Prime Minister for full term after the promulgation of the Constitution.
- 269.** The Prime Minister shall appoint 19-member Cabinet of Ministers from the list of names presented to the people and approved by the people with specific subjects assigned to them who shall hold office for the full term as specified by the Constitution. The Prime Minister may take oaths before a person who is authorised administer oaths.
- 270.** The Cabinet of Ministers will have full control over Public Finance until the parliament is convened.
- 271.** There shall be a ceremonial President who shall be appointed by the Prime Minister with the concurrence of the Cabinet of Ministers.
- 272.** There shall be ten-member Constitutional Council appointed by the Prime Minister from the list of names approved by the people and the existing Constitutional Council shall be dissolved forthwith.
- 273.** All appointments hitherto made by the outgoing Constitutional Council shall cease to exist. The new appointments will be made in their place immediately thereafter.

- 274.** Those who hold public office as judges in the Supreme Court and the Court of Appeal will cease to hold office and nominees approved by the Constitutional Council will fill all vacancies who will take oath amongst themselves at a ceremony open to public.
- 275.** All written laws, personal laws and customs inconsistent with the provisions of the Constitution shall cease to exist with the promulgation of the Constitution of the Republic of Sri Lanka with prospective effect and thereupon all citizens of the republic shall be treated equally as Sri Lankans only and no person shall be referred to by his race or religion.

Chapter XX: Interpretation

276. In the Constitution –

“existing law” and “existing written law” mean any law, and written law, respectively, in force immediately before the commencement of the Constitution;

“judicial officer” means any person who holds office as-

- 1) a Judge of the Supreme Court or a Judge of the Court of Appeal;
- 2) any Judge of the High Court or any judge, presiding officer or member of any other Court of First Instance, tribunal or institution created and established for the administration of justice or for the adjudication of any labour or other dispute but does not include a person who performs arbitral functions or a public officer whose principal duty or duties is or are not the performance of functions of a judicial nature.

No court or tribunal or institution shall have jurisdiction to determine the question whether a person is a judicial officer within the meaning of the Constitution but such question shall be determined by the Judicial Service Commission whose decision thereon shall be final and conclusive.

No act of such person or proceeding held before such person, prior to such determination, shall be deemed to be invalid by reason of such determination;

“law” means any Act of Parliament and any law enacted by any legislature at any time prior to the commencement of the Constitution and includes an Order in Council;

“local authority” means any Municipal Council, Urban Council or Pradeshiya Sabha and includes any Authority created and established by or under any law to exercise, perform and discharge powers, duties and functions corresponding to or similar to the powers, duties and functions exercised, performed and discharged by any such Council.

“public corporation” means any corporation, board or other body which was or is established by or under any written law other than

The Constitution of the Republic of Sri Lanka

the Companies Ordinance, with funds or capital wholly or partly provided by the Government by way of grant, loan or otherwise;

“public officer” means a person who holds a paid office under the Republic including the following –

- a) the Prime Minister;
- b) the Speaker;
- c) a Minister;
- d) a Deputy Minister;
- e) a Member of Parliament;
- f) a Member of the Constitutional Council;
- g) a Member of the Judicial Service Commission;
- h) a Member of the Public Service Commission;
- i) a Member of the Election Commission;
- j) a Member of the National Police Commissioner;
- k) a Member of the Audit Service Commission;
- l) a Member of the Human Rights Commission of Sri Lanka;
- m) a Member of the Commission to Investigate Allegations of Bribery and Corruption;
- n) a Member of the Finance Commission;
- o) a Member of the Delimitation Commission;
- p) a Member of the National Procurement Commission;
- q) the Secretary General of Parliament;
- r) a member of the staff of the Secretary General of Parliament;
- s) a Member of the University Grants Commission;

The Constitution of the Republic of Sri Lanka

- t) a Member of the Official Languages Commission;
- u) the Attorney General
- v) the Auditor General.

“territorial waters” includes the territorial sea and the historic waters of Sri Lanka.

“written law” means law and subordinate legislation and includes Orders, Proclamation, Rules, Bye-laws and Regulations made or issued by any entity or person having power or authority under any law to make or issue the same.

“classified information means information affecting the National Security

SCHEDULES

First Schedule

Names of Administrative Districts

1. Colombo
2. Gampaha
3. Kaluthara
4. Kandy
5. Matale
6. Nuwara Eliya
7. Galle
8. Matara
9. Hambantota
10. Jaffna
11. Kilinochchi
12. Mannar
13. Vavuniya
14. Mulaitivu
15. Batticaloa
16. Ampara
17. Trincomalee
18. Kurunegala
19. Puttalam
20. Anuradhapura
21. Polonnaruwa
22. Badulla
23. Moneragala
24. Ratnapura
25. Kegalle

Second Schedule

The National Flag



Third Schedule

The National Anthem

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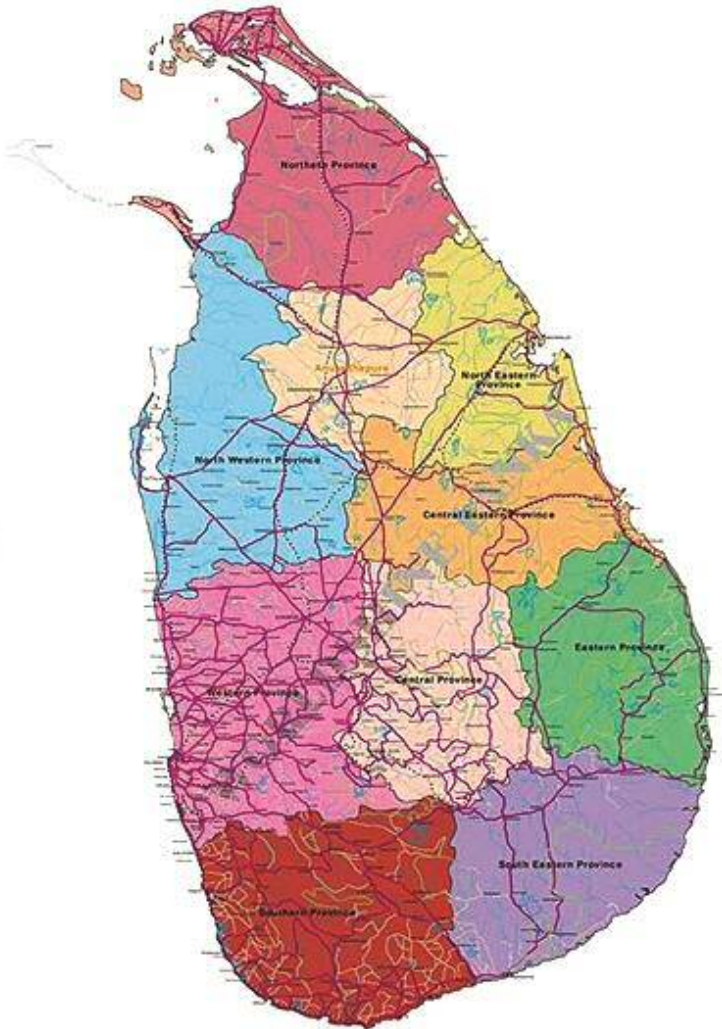
Fourth Schedule

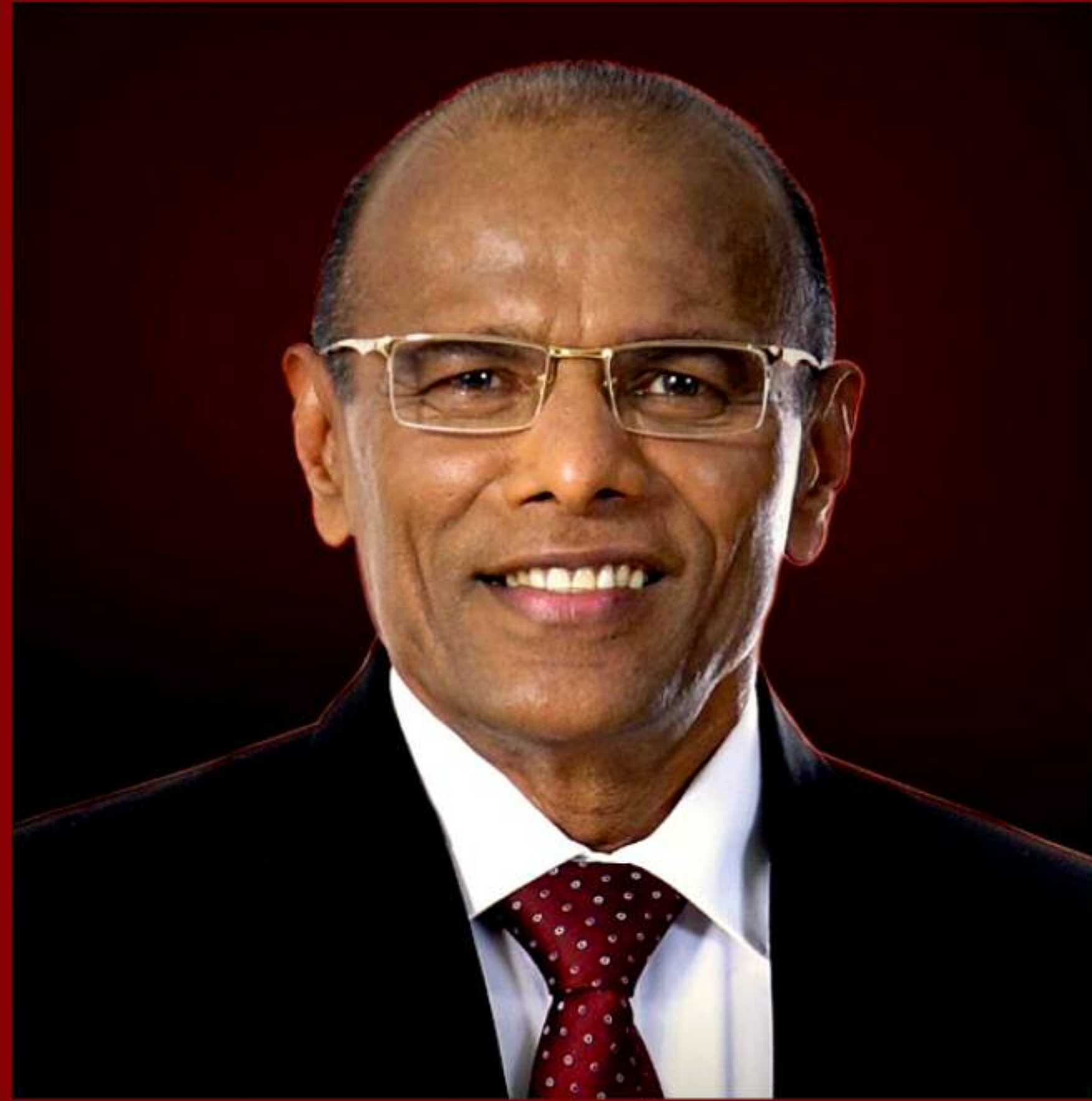
Oath or affirmation to be made by those elected or appointed to public office

I _____ do solemnly declare and affirm to perform the duties of the office of the _____ honestly, faithfully and conscientiously in accordance with the Constitution of the Republic of Sri Lanka and the law to the best of my ability with due regard and respect to the sovereignty in the people.

Fifth Schedule

The Ten Provinces of Sri Lanka





Sri Lanka is a nation with phenomenal potential for prosperity. However, since 1948 it's been plagued with corrupt administrations and sadly our nation has suffered heavily. Today, the rule of law is arguably nonexistent and we have a futile judiciary due to the lack of independence from the other two organs, the legislature and the Executive .

Accountability, transparency, public trust and the clear separation of power have diminished, our national economy is hindered and debt-ridden subjecting many low-income citizens to live in abject poverty. These pathetic state of affairs have led to the violation of human rights, ethnic conflicts, youth unrest, organized crimes, terrorism and threats to national security.

Sri Lanka needs an unprecedented revolutionary constitution to cause a paradigm shift in the political culture of this country.

This is the principle that this proposed constitution was designed upon.

Fundamentally it restores the people as the supreme authority of the country and addresses the institutionalized corruption with applicable zero tolerance reforms to all three organs of the government..

The judiciary shall be absolutely independent to protect, vindicate and enforce people's judicial power.

This proposed constitution is designed with the participation of people across the board to ensure a just and fair system that is applicable to all.

A constitution of the people, by the people, for the people

