

The accused of the 1962 conspiracy against the state appealed to the privy council against the decision given by the courts of Sri Lanka. The Privy council declared all of them to be innocent. This state of affairs was a challenge to the independence of Sri Lanka and this right of appeal was abolished by the constitution of 1972.

### **Student Activity**

Write an essay giving your views on ‘The significance of the abolition of the right of appeal to the Privy Council of Britain

## **The objectives mentioned in the second republican constitution 1978**

Achievement of the objectives of a democratic socialist republic.

- \* Securing the republican principles of representative democracy.
- \* Establishment of a just, independent republic.
- \* Guaranteeing the freedom, equality, justice, fundamental rights and the independence of the judiciary to the people.

Now let us look at the steps taken to achieve these objectives.

### **Sovereignty of the people**

The constitution of the Democratic Socialist Republic of Sri Lanka has been stated as the supreme law of the country.

As mentioned in the constitution of 1978, ‘sovereignty’ means ‘supreme’ power.

By the constitution of 1972, this power has been vested in the people. The manner in which the people’s sovereignty operates:

#### **How supreme power functions**

Exercise of the right to vote.

Enjoyment of fundamental human rights.

People have been vested with legislative, executive and judicial powers.

## Legislative power of the people

Laws are made in the Parliament by members who are elected by the people.

## The executive power of the people

People elect a President at a presidential election. He selects a cabinet from the members of Parliament and the laws are implemented by them.

## The judicial powers of the people

Judges are appointed by the President elected by the people and judicial power is implemented by these judges through the system of courts headed by the supreme court.



Look at the pictures marked 1,2,3.  
Identify and name them.

Write two functions performed by each  
of these institutions.

Present facts for or against ;“Franchise  
is the most powerful tool that displays  
people’s sovereignty’



### Student Activity

**Prepare a wall plaque to display a few of the fundamental human rights mentioned in the constitution of 1972.**

The British crown granted independence to Sri Lanka on 4<sup>th</sup> February 1948 but it was not complete independence. Earlier we saw how it still retained a few links to control Sri Lanka further. It was a dominion. It was only with the constitution of 1972 that we achieved real independence.

### Student Activity

‘The 1972 Constitution was a fully independent government with complete sovereignty Give your views. Compare and contrast the features of the constitutions of 1947 and 1972.

Similarities		Dissimilarities	
1947	1972	1947	1972
1			
2			
3			
4			
5			

## The Executive Presidency

The Executive presidency which was introduced in October 1977 by the second amendment to the existing Republic Constitution of 1972, was made the main feature of the constitution of 1978. The Executive Presidency thus established was a post with complete authoritative power.

According to article 30 of the constitution, the President of the republic Sri Lanka is the:

the Head of the state

the Head of the Executive and of the Government

the Commander in chief of the Armed Forces.

The constitution has provided for the president to hold office for a term of six years.

## Powers and privileges of the President

- ⊗ Although not a member of the Parliament, he has much powers related to the Parliament.
- ⊗ If the president holds a post as a minister, he has all the powers and privileges of a minister in the parliament. The President has the legislative powers to submit to the people by referendum any bill which has been rejected by the parliament and get it approved other than an amendment to constitution.

These powers include ,the appointments of judges of the supreme court and the appeal courts including the Chief Justice,the appointment of the Judicial Services Commission.Chief of these judicial powers is that of giving freedom to any person convicted by any court in Sri Lanka , granting of pardon, reducing or suspending the sentence .

The fact that a President during the tenure of office,cannot be brought before a court of law or any court proceedings instituted on a personal or official capacity for whatever reason is a very special privilege .

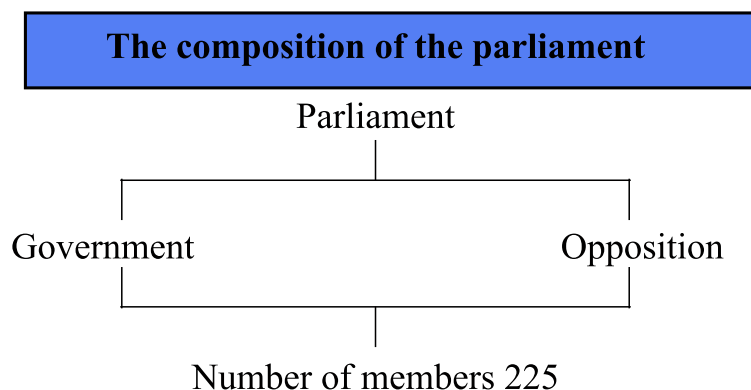
## Other Powers

The Executive President is vested with the power of declaring war or peace. In addition the President is vested with the power of appointing Ambassadors, High Commissioners, Consular Representatives, Presidents, Chancellors and Vice Chancellors of Universities, Chairman of the University Grants Commission and its members. Thus it can be seen that a significant amount of power is concentrated in the hands of the president under the 1978 constitution

## The Parliament and its legislative power under the republican constitution of 1978.

According to the constitution of 1978, the Parliament is a unicameral legislature with a duration of six years. Representatives are selected under the proportional, preferential system of representation. There are 225 members with 196 elected on a district basis and through people's votes while 29 are selected from the national list.

The legislature referred to as the national State Assembly in 1972 was once again renamed as Parliament in 1978.



## **President and the Parliament**

Summoning of the Parliament

Chairing the inaugural meeting

Termination of sessions

Dissolution of the Parliament

These functions have been entrusted to the President and he is expected to go to the Parliament to perform them.

## **The Power of the Parliament**

01. Legislative power.
02. Administration of finance
03. Proposing development plans
04. Preparation of interim budgets.
05. Coordination of the activities of various Ministers.

## **The Board of Ministers / The Cabinet of Ministers**

1. The President is the head of the Cabinet. HE appoints the Prime Minister.
2. The Board of ministers is appointed by the President who is himself the Head of the Board.
3. The Board of Ministers is selected from among the members of the parliament.
4. The president has the power to appoint non Cabinet ministers.
5. The president has the power to reorganise the Cabinet.
6. The president has power to take over any Ministry.
7. The president also has power to appoint Deputy Ministers.
8. Secretary to the Cabinet and the secretaries of ministers are also appointed by the president.

## The Tasks of the Cabinet

Implementation of laws passed by the parliament

Preparation of budget estimates

Coordination of the activities of the various ministers

Although ministers in charge of various ministries carry out different functions. The Cabinet is collectively responsible for the total administration of the entire country.

## 1978 constitution and the Judiciary

Chapters 15 and 16 of the 1978 constitution deal with the structure and operation of the Judiciary. For a society where the rule of law is in operation, an independent judiciary is an absolute necessity.

According to the constitution of 1978, there are several provisions made for the maintenance of an independent judiciary. Let us examine a few of them.

Appointment of judges of higher courts by the president.

However, the president has no power to remove them.

Judges can be removed from office only on grounds of misconduct. Even on such a matter, the President must act with the consent of a majority of the total number of members of parliament (including those not present)

Restriction of the political rights of judges other than the right to vote.

## Organisation of the Judiciary

1. The Supreme Court 2. Appeal Court 3. Primary Courts

Supreme Court District Court/ Family / Tribunal/ Magistrates Court/ Primary Court

## Supreme Court

It is the supreme court that has the supreme and the final judicial power in the republic. Protection of fundamental rights, examination of impeachment motions against the President, taking steps against those who violate Parliamentary privileges, examination of election petitions are some of the functions of the supreme court.

## Appeal Court

Appeal court has the complete power to hear cases of appeal filed against the decisions of the lower courts.

Let us look at some of the powers of the appeal court.

1. Reduction or alteration of the punishment.
2. Issuing orders to the court that had given the judgement or ordering a new trial.
3. Calling for additional evidence on the basis of the evidence called by the original judgement.
4. Issue of habaes corpus orders.
5. These are some of the powers that come within the Appeal court. All these courts have some sort of power to hear primary cases.

Examples :

High court - cases relating to offenses committed on the coast line and in the air

District court - all civil cases

Magistrates court - all criminal cases

Family court- (Juvenile Court)- all family disputes

Primary court- cases relating to matters when the value does not exceed Rs. 1,500/- and those relating to the recovery of revenue of local government bodies.

## Judicial Services Commission

Appointment of the judges of the supreme court is made by the President on the advice of the Judicial Services Commission.

The Chief Justice presides over the commission while two judges of the supreme court serve as its members. The Judicial Services Commission has implemented measures to safeguard the impartiality of judges. The responsibility of safeguarding the independence of the Judiciary rests with the Judicial Services Commission through those measures.

## Impeachment

We have seen that the President cannot be summoned before a court of law for any reason whatsoever. However, if it is felt that he has committed a wrong act or has some infirmity stated in the constitution, there is one course of action that can be taken against him. This is known as impeachment.



## **Samatha Mandala**

This is an institution that helps to settle minor disputes at village level. It is not an element of the formal system of courts. Composed of respected persons of the village, Samatha Mandalas utilise public places such as schools to hold their meetings. These institutes are expected to take measures such as summoning the parties involved in a dispute, providing them with an opportunity to express their views and helping to arrive at a peaceful settlement after convincing both parties about the relevant facts.

The very important service performed by these organisations help to save the time and money of the people as well as to dispel hatred and ill- will between persons.

## **Fundamental Human Rights**

Fundamental human rights have been described in the third paragraph of the constitution of 1978.

Fundamental rights and various liberties that had been stated in summary form in article 18-1 of the constitution of 1972 have been described broadly with full details in the constitution of 1978.

Some of the fundamental rights guaranteed by the Constitution are as follows;

Freedom of speech and expression of ideas

The right to be treated with equality before law.

The freedom to be free of torture

The right to be engaged in any form of employment

The freedom to believe in any religion.

In the constitution of 1972, no mention had been made about the steps that can be taken in the event of a violation of fundamental rights. The constitution of 1978 clearly states the steps that can be taken in such an event.

The steps that can be taken when the enjoyment of fundamental rights are obstructed.

01. An aggrieved party can demand his rights through the supreme court.
02. In the case of a government or a corporation employee whose exercise of fundamental rights is obstructed by the management, the employee can avail himself of the assistance from the parliamentary commissioner or the Ombudsman.

While appreciating the individuality of the person, the constitution has provided for the enjoyment of these rights equally by all regardless of any differences in wealth and education of individuals.

### **Student Activity**

Collect pictures depicting fundamental rights from magazines etc and prepare posters under the group system for display in the class room. Write one for each. “Fundamental human rights can be enjoyed only within the limits laid down by law”

### **Parliamentary Commissioner, “Ombudsman”**

This is a new post introduced by the constitution of 1978. The ombudsman is appointed by the President.

He is empowered to examine complaints against violations of human rights.

### **New representation systems and types of elections included in the 1978 constitution.**

01. Proportional representation
02. Presidential election
03. Referendum

### **The System of Proportional Representation**

This was another new element introduced by the constitution of 1978.

The system of proportional representation is used at all elections held to select members for the Parliament, Provincial Councils and Local Government Bodies.

The characteristics of the system of Proportional Representation.

- \* Very large electorates (e.g. Parliamentary electorates) One district is considered as one electorate.
- \* Candidates appear as groups
- \* The number of representatives for each electorate is decided upon beforehand.
- \* In casting the vote, the voters mark the political party of their choice and the preference for particular candidates according to the number assigned to them on the ballot paper.
- \* The number of members for each group is decided in proportion to the votes received by the group and the individual members are selected in order of the preferential votes received by each candidate.
- \* The group that receives a majority of votes is also entitled to bonus seats.
- \* Those individuals and parties that do not receive 5% of the valid votes are considered as unsuitable for consideration.

### **Student Activity**

- \* Get instructions from the teacher, and arrange to select the executive committee of your literary association on the proportional system.
- \* List the advantages and disadvantages of the simple majority system and the proportional representative system as a table.

### **Presidential Election**

- \* At the election held to select the President, the whole of Sri Lanka is regarded as a single constituency.
- \* The candidate who receives a specific number of valid votes or a majority is deemed the winner. The specific majority is the number of valid votes that exceeds 50% of the valid votes cast at the election.

J.R. Jayawardene became the first president under the 1978 constitution. In accordance with a clause in the constitution prepared in 1978, the person who was holding the post of The Executive President at the time was deemed to be the first executive president. Therefore, without a presidential election, J.R. Jayawardene became the first Executive President of Sri Lanka. R. Premadasa who had become the President through a Presidential election, was killed in 1993 before the expiry of the full term of office. Therefore, under the provisions of the constitution, D.B. Wijetunga, who was the Prime Minister, became President without facing an election.

## Referendum

Referendum can be described as an occasion when the people directly participate in legislation. It is the President who has the power to decide on the holding of a referendum.

The Parliament must arrange for the holding of the referendum. The Commissioner of elections must hold an impartial election accordingly. People are given the opportunity to mark their preference either as “yes” or “no” on a single issue.

Two clear symbols must be used to facilitate clear identification and it is the Commissioner of Elections who is responsible for creating awareness among the people.

The Commissioner of Elections must inform the President about the results.

The only time a referendum was held in the country was in 1982 when the parliament sought to extend its life and won under the symbol the pot as against the lamp.

An issue presented as a draft Act, a provision or proposal that receives an absolute majority of valid votes cast at the referendum becomes an effective valid law after it receives the signature of the President.

## Development Measures Adopted Since Independence 1948-1977

Every government that came into power from 1948 has implemented various measures to improve the standard of living of the people. Accordingly, development work has been undertaken in education, agriculture, state enterprise, industries, infra structure facilities, social welfare and other fields. Let us discuss these development measures.

## Education

The educational policy followed after independence was the same as that of C.W.W. Kannangara who had been the Minister of Education from 1931-1947

The Mahajana Eksath Peramuna which came to power in 1956 under the leadership of S.W.R.D. Bandaranaike had paid special attention to the development of education in the country

Accordingly the following measures were taken..

- \* Provision of education through the medium of the Mother tongue-swabasha.
- \* Re-introduction of the free mid day meal to school children
- \* Systematic implementation of the provision of scholarships to poor children.
- \* Provision of a science laboratory to every Maha Vidayala.
- \* Grant of university status to the pirivena institutes of Vidyodaya and Vidyalankara in 1958 was also one of the important steps taken to uplift higher education by the Mahajana Eksath Peramuna that came into power in 1956.
- \* Assisted schools were taken over by the government in 1962 during the time of Sirimavo Bandaranaike.
- \* Taking over by the state of very high fee levying private schools run by missionaries enabled a large number of people to receive free education.
- \* All assisted Teacher Training Colleges were taken over by the state . The English courses in all Teacher Training colleges were made compulsory.
- \* The Arts faculty of the University of Colombo was established with affiliation to the University of Peradeniya.
- \* During 1963-1965, a pupil teacher examination was held and the selected teachers were sent for service in government schools. In the mean time, steps were taken to re-organise the teaching service on a district basis.

A large number of new trends came into being during the period 1960-1970.

- \* The pattern of educational administration was changed through the Higher Education Act of 1960.
- \* Junior universities were established.
- \* A printing press was established in conjunction with the department of educational publications.
- \* Shramabhimani weeks and work experience programmes were introduced to school children.
- \* Colombo campus was transformed into an independent university.
- \* Curriculum Development Centre was started in 1968.
- \* Sri Lanka national library services board was established.
- \* A separate university for Bhikkhus, the Buddha Sravaka Dharma Peetha, was established.

## Higher Education

During the time of the British, in 1921, the University College was affiliated to the University of London.

In 1942, in place of the University College, the University of Ceylon was established in Colombo.

- \* In 1952, the University of Ceylon was shifted to Peradeniya. The Arts and Oriental Languages faculties were established there.
- \* In 1960, the faculties of Medicine and Engineering were established at Peradeniya.
- \* In 1966, the universities of Vidyalankara and Vidyodaya came to be



**Figure 6.9 University of Peradeniya**

known as the University of Kelaniya and the University of Sri Jayewardenepura respectively.

\* The university of Katubedda was started in 1972 and that of Jaffna in 1974.

In this manner, after independence, higher education began to witness a gradual development.

## Agriculture

During the time of the Rajarata civilizations, the Sinhala people had been accustomed to a simple self sufficient economic pattern. In the grade 10 book we have learnt how the Sri Lankans began to drift towards the wet zone in the South West and along with it, their age old life style began to undergo a gradual change.

The advent of the Western nations in the 16<sup>th</sup> century and the British domination of Sri Lanka from 1815 pushed the economy of Sri Lanka in a new direction. It was the beginning of a new pattern.

### Student Activity

Explain the statement “The simple self-sufficient economic system”

The people of Sri Lanka who had secured their livelihood through subsistent agriculture became producers of commercial agricultural crops on the needs of the British imperialists. As a result of this, by the time Sri Lanka gained independence in 1948, the people of this country had begun to import their food requirements from abroad and export raw materials for the foreign market.

When the food supplies came to be interrupted during the second world war, the people of the country had to undergo a bitter experience. People and the local leaders who had to face hardships realised the need to develop the traditional subsistent agriculture inherited from the past.

Almost every government that came to power after independence appears to have realized the necessity of implementing measures to make this country self sufficient in rice.

### Measures implemented to improve paddy cultivation.

In 1948, a guaranteed price scheme was implemented for paddy by the Agrarian Services Board and this task was executed by the Paddy Marketing Board in 1972.