



විපක්ෂ නායක - ශ්‍රී ලංකා පාර්ලිමේන්තුව
எதிர்க்கட்சித் தலைவர் - இலங்கைப் பாராளுமன்றம்
LEADER OF THE OPPOSITION - PARLIAMENT, SRI LANKA

26 July 2019

MEDIA RELEASE

Debate on the Constitutional Reform Process

(Translation of the text of the speech made by Opposition Leader
Hon. Mahinda Rajapaksa in Parliament on Friday the 26th July 2019)

Hon. Speaker,

There only a few more months left for the next presidential election. Is there any point in holding a debate on constitutional reform at the tail end of the tenure of a government? An initiative to amend the constitution should be taken when a government has been newly elected to office, not as the final task before leaving office. This government was elected on the pledge that they would amend the constitution within their first 100 days in office. At that time, the only reform proposals they spoke of was the abolition of the executive presidency and changing the system of elections.

My 2015 presidential election manifesto stated very clearly that if I was re-elected to office, we would amend the constitution and also hold a referendum to have those amendments directly endorsed by the people. But the yahapalana manifesto said that they would amend the constitution only to the extent that a referendum was not made necessary. What was the problem in holding a referendum? A referendum is a case of going before the people. It is always better to have important constitutional amendments endorsed by the people at a referendum.

The yahapalana manifesto said that the Constitution would be amended only to the extent that a referendum would not be made necessary because they never had any intention of abolishing the executive presidency after being elected to power. A fundamental Constitutional change of that nature cannot be carried out without a

referendum under the present law. Though they said that they were going to abolish the executive presidency during the election campaign, once elected to power, they pointed to their election manifesto and said that since constitutional amendments can be made only to the extent that a referendum is not made necessary, the executive presidency cannot be abolished. So from the very beginning, the constitutional reform process of this government was riddled with deception and perfidy.

Then they presented to Parliament, the 19th Amendment which has given rise to the present confusion as to whether power lies with the presidency or the cabinet. When the then opposition expressed misgivings about the provisions of the 19th Amendment, the President came to Parliament and said that the 20th Amendment which would change the parliamentary elections system would be presented to Parliament in a matter of weeks. It was on that undertaking that the opposition MPs voted for the 19th Amendment. If the parliamentary elections system had been changed, Parliamentary governments would have had a working majority and the balance of power would have shifted to Parliament. Though our MPs had serious misgivings about the 19th Amendment, we voted for it on the promise that the 20th Amendment would be introduced in Parliament expeditiously. So this government has cheated the opposition as well.

After that, the government convened the whole Parliament as a Constitutional Assembly on 9 March 2016 in order to promulgate a new constitution. After holding many discussions and releasing numerous reports over a period of more than two and a half years, on 11 January 2019 the Prime Minister tabled in Parliament a document which was described as the report of the panel of experts of the Steering Committee of the Constitutional Assembly. Even in presenting that document to Parliament, the Prime Minister insisted that its contents are not the views of the government but only of the panel of experts that compiled the report. Ultimately the report that was tabled in Parliament had no owner. How can a constitutional reform process succeed when nobody takes responsibility for the drafts that are tabled in Parliament?

We are resolutely opposed to the draft constitution that was presented to Parliament by the Prime Minister. It would have had the effect of dividing Sri Lanka

into nine semi-independent states. It contained proposals to set up nine separate police forces, and provisions that would have made it impossible for the center to take back any powers devolved to the provincial units. Some say that I too spoke of '13 Plus' - a system of government going beyond the provisions of the 13th Amendment. I once told the then Indian Foreign Secretary that I was thinking of establishing a second chamber of Parliament made up of representatives of the provincial councils so as to get provincial leaders to participate in national affairs. It was the Indian Foreign Secretary who described my idea as 13 Plus. So it should be understood that what I meant by 13 Plus was not dividing the country into nine semi-independent units as proposed in the draft constitution that was tabled by the Prime Minister.

That draft constitution did have provisions to abolish the executive presidency and to change the parliamentary elections system. However the elections system proposed in that draft constitution was very similar to the systems that were put in place for the local government institutions and the provincial councils in 2017. After the 2018 February local government elections, even those who participated in introducing that new elections system are now opposed to it. We are completely opposed to the introduction of that unworkable system at the Parliamentary level as well.

The draft constitution that was presented to Parliament was prepared by Parliamentarian Sumanthiran and some NGO activists. After presenting it to Parliament, the Prime Minister repeatedly denied ownership of the document. Ultimately it appears that this government had taken the Tamil National Alliance too for a ride.

There is nothing that the TNA has achieved over the past four and a half years. Parliamentarian Sumanthiran always drafts constitutional amendments that will lead to a separate state without the name. They have stated their views very clearly on paper. But at the ground level, the TNA has been directly responsible for depriving the people of the North and East of the two Provincial Councils that my government gave the people. The Eastern Provincial Council stood dissolved nearly two years ago. The Northern Provincial Council also ceased to function nearly one year ago. Elections cannot be held to the provincial councils that have ceased to

exist because the government changed the system of elections to the provincial councils.

Due to the fact that the delimitation of electorates for the provincial councils has run into problems, the entire provincial councils system is now defunct. Without the votes of the TNA, the government would not have been able to obtain the two thirds majority in Parliament to change the PC elections system. Ironically, it is the TNA that has rendered inoperative the provincial councils system which was introduced as a solution to the North-East problem.

Even before the war ended, my government held elections to the Eastern Provincial Council in 2008 and give the people of that province their democratic rights. In 2013, we held elections in the North and for the first time established the Northern Provincial Council as well. The TNA in collaboration with the UNP has ensured that both Councils are now no longer operational.

After the end of the war, my government developed the infrastructure of the Northern and Eastern provinces and took steps to improve the livelihoods of the people. Then the government changed. During the past four and a half years, the TNA has worked very closely with the government. However there has been no improvement in the lives of the Tamil people of the North and East. People of all communities have been placed at a disadvantage after this government came into power. The Tamil people of the North and East may have been affected to a greater extent than other communities.

Today, the people of those areas have no livelihood. Tamil politicians have now begun openly saying that the poverty of the Tamil people in those areas is being exploited in dastardly ways by certain unscrupulous elements. That would never have happened if our government had been in power. In such an event, the livelihoods of the Tamil people of the North and East would have improved and they would have been living with dignity. Some time ago I saw a media report which said that when Tamil youth had confronted some TNA Parliamentarians and told them about their problems, the MPs had said that they will achieve liberation first and then attend to the problems of the people.

What they mean by liberation is changing the Constitution and obtaining a separate Tamil state in the North and East. In 2014, I invited the TNA for a discussion about what they deem to be the problems of the Tamil people. After a few rounds of discussions, the TNA Parliamentarians stopped coming for those discussions. By that time they had decided to defeat my government and to achieve their aims by helping to get the 'common candidate' elected. Today the TNA is neither here nor there.

Participating in constitutional reform under this government is not a feasible option. They introduced the 19th Amendment and rendered the country ungovernable. They changed the system of local government elections and threw the entire local government system into confusion. They changed the system of elections to the provincial councils and today the PCs have ceased to exist. The unscrupulous manner in which this government manipulated the legislative process has also given rise to suspicion and damaged their credibility. The way they made changes to the local government and provincial council elections systems was by bringing committee stage amendments to Bills that had been introduced in Parliament for completely different purposes.

The people had no way of knowing what the government was passing into law and the Supreme Court also could not be moved to verify the constitutionality of the reforms. Even when the 19th Amendment was passed certain words and sentences had been surreptitiously excised from the Bill during the committee stage. Due to the atmosphere of mistrust that the conduct of the government has brought about, the opposition cannot collaborate in any constitutional reform process with this government. Furthermore there is no point in talking about constitutional reform at the tail end of the tenure of a government. This matter has to be taken up by a new government elected by the people.

We will put forward a set of proposals to reform the constitution at the forthcoming presidential elections. This country cannot move forward without clearing up the confusion created by the 19th Amendment. Once a new government is in power, we hope to obtain the support of all political parties represented in Parliament for the new constitution. Those who genuinely wish to see constitutional reform taking place in this country can join hands with us at that stage. We will not deceive the

people by saying that we will amend the Constitution only to the extent that a referendum is not necessary. We will definitely hold a referendum to get the new constitution endorsed by the people.

Thank you.