



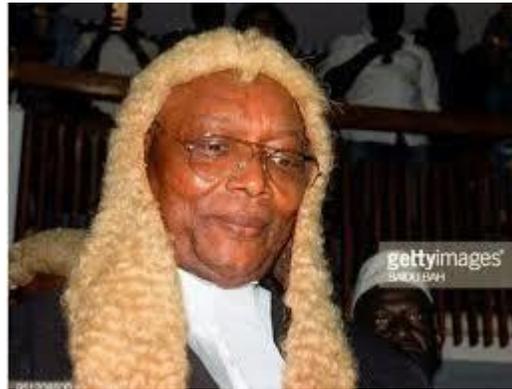
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PRESS RELEASE



THE ROLE OF PARLIAMENT IN THE CONSTITUTIONAL REVIEW

A Statement by the Rt. Hon. Dr. Abass Bundu
Speaker of Parliament

At the Launch of the Government White Paper on the Constitutional Review Process by the
President of the Republic, State House, Thursday, 13th January 2022

Your Excellency the President of the Republic
Hon. Vice-President
My Lord Chief Justice & Justices of Judicature
Ministers of Government
Honourable Members of Parliament
Excellencies, Members of the Diplomatic & Consular Corps
Ladies and Gentlemen

Good afternoon. I feel honoured to be invited to make a statement on the Role of Parliament in the Constitutional Review Process during this Launch by His Excellency the President of the Government White Paper on the Constitutional Review Process. And I would like to do so from the perspective of Parliament by making six cardinal points.

First, that Sierra Leone is a constitutional democracy and has been for the most part since she recovered her independence and sovereignty from Britain in April 1961. The promotion and maintenance of peace, security, order and good government in Sierra Leone is the primordial duty of every organ of State, including Parliament, the organ in which solely the power to make laws for the Republic is expressly and emphatically vested.

Second, that in the discharge of this primordial duty Parliament must take cognisance that not all the laws it makes are of equal value and quality. Some laws are, by definition, in a higher category than others. This differentiation of the laws passed by Parliament is clearly enshrined in Paragraph 15 of Section 171 of the Constitution of Sierra Leone 1991 (Act No.6 of 1991). That Section reads: "This Constitution shall be the supreme law of Sierra Leone and any other law found to be inconsistent with any provision of this Constitution shall, to the extent of the inconsistency, be void and of no effect". Thus stated, Section 171(15) gives supremacy to the Constitution of 1991 over all other laws, and it is incumbent upon all State organs to give primacy to the Constitution at all times.

Third, that in keeping with this doctrine of supremacy of the Constitution, not as much as a word can be altered in the Constitution unless it has received approbation on the second and third readings of the Bill purporting to make the alteration by the votes of not less than two-thirds of the Members of Parliament. Furthermore, such a Bill must be duly published in at least two issues of the Gazette before its first reading in Parliament and not less than nine days must elapse between the first publication of the Bill in the Gazette and the second publication. This procedural requirement is succinctly and mandatorily stated in Section 108 of the Constitution and it applies to the alteration of all the provisions of the Constitution.

Fourth, that where it is proposed to make a new Constitution or to alter any provision in the existing 1991 Constitution which is characterized as extraordinary or entrenched, there is an additional, even more stringent, procedural requirement that must be satisfied. The Bill in which the alteration is proposed will not become law unless, after it has been expressly so passed by Parliament, has additionally been approved at a referendum by the people of Sierra Leone. For such a referendum to be valid, the votes cast must not be less than one-half of all persons qualified to vote in a Parliamentary election and not less than two-thirds of all the votes validly cast.

Fifth, that the Bill must not be submitted for Presidential Assent unless it has been certified by the Speaker of Parliament that all the referendum requirements have been satisfied and the Speaker's Certificate is not only final and conclusive on the matter but is also given immunity from judicial scrutiny.

And sixth, that the framers of the 1991 Constitution were in no doubt about the centrality of the role of Parliament in the constitutional review process to the extent that the Constitution condemns as Treason any alteration, suspension or repeal of the Constitution that is made by means other than under the authority of Parliament.

Mr. President, Ladies and Gentlemen, what I have just stated represents the law of the Constitution relating to its alteration. Whether a proposed alteration is doable or not, is a separate issue altogether. If, for example, an alteration is proposed to be passed by the present Fifth Parliament then its do-ability has to be judged relative to the composition of Parliament at the time. Let me now dwell on this briefly.

The Fifth Parliament of the Second Republic started its life after the Parliamentary Election in March 2018 with a total composition of 146 Members comprising 68 Members representing the APC Party; 49 Members of the SLPP; 8 Members of the C4C; 4 Members of the NGC; 3 Independents and 14 Honourable Paramount Chiefs. Today, through the natural effluxion of life alone, Parliament has lost to eternity no fewer than 6 Members of Parliament including an Honourable Paramount Chief and its current membership has dwindled to 144 Members comprising 58 from the SLPP; 57 from the APC; 8 from the C4C; 4 from the NGC, 3 Independents and 14 Paramount Chiefs.

Now any amendment requires a vote of two-thirds majority in Parliament before it can be passed into law. This means at least 96 affirmative votes. With the composition just indicated, except for Bills for the alteration of mundane ordinary provisions of the Constitution in which all the major parties represented in Parliament have a shared interest, all other Bills face a tall order in the present Hung Fifth Parliament and it is well-nigh impossible to predict the outcome with any degree of certainty. For example, if there is a Government Bill to amend the Constitution, even if it is able to attract all 58 votes of the SLPP, all 14 votes of the Paramount Chiefs, all 8 votes of the C4C, all 4 votes of the NGC and all 3 votes of the Independent Members, it would still require 9 votes from the APC to achieve the necessary two-thirds majority. In these circumstances I can only express my utmost best wishes to any person desirous of passing a constitutional amendment in this Fifth Hung Parliament of the Second Republic particularly in these most exacting times.

Mr. President, Ladies and Gentlemen,

Allow me to further adumbrate one other salient observation. The framers of the 1991 Constitution were, in my humble opinion, quite deliberate and calculated when they made extraordinarily stringent conditions for the alteration of the provisions of the Constitution, even to the extent of declaring it an act of treason if any alteration or repeal of the Constitution didn't first obtain the authorisation of Parliament. I think they must have been inspired by their own unique experience and knowledge of history to make that kind of prescription. They deemed it to be inimical to the interests of the people of Sierra Leone to make it easy for anyone to tinker with the sanctity and sacred nature of our Constitution. Strong reasons must be given for any alteration of the Constitution and they must not only be reasonable, sound and powerful but overwhelmingly so if not absolutely necessary. In other words, it was their way of admonishing future generations to make haste slowly in any attempt to introduce alterations to that sacred document.

In this regard, Ladies and Gentlemen, it is instructive to recall the history of previous attempts that have been made to amend the 1991 Constitution since its promulgation in October 1991. The first attempt was in 1993 by a Commission set up by the NPRC under the chairmanship of the late Ahmad Tejan Kabbah and the second was in 2008 by a Committee led by Dr. Peter Tucker. Neither attempt came to fruition for want of a referendum. The third attempt was in 2013 by the Justice Edmund Cowan Commission established by former President Ernest Bai Koroma. It turned out to be the most trumpeted and the most costly and yet it came to nothing because even though the Commission's recommendations found strong resonance with the will of the people, Koroma's Government issued a White Paper cherry-picking what it was comfortable with while rejecting the rest. Nor did their draft Constitutional Amendment Bill of 2017 find favour with the Parliament that was hurriedly summoned on the eve of its dissolution on 6 December 2017.

Your Excellency, Ladies and Gentlemen

From the perspective of Parliament, therefore, I would say that the challenges faced by our nation today are as alive as they were in 2008 and 2017 and they behove us all to maintain for now our unflinching fidelity to the 1991 Constitution and allow it to grow and mature to full blossom, except for a few ordinary mundane provisions able to galvanise a common interest for change amongst all the parties represented in the current Fifth Parliament. The rest can wait for more propitious circumstances to prevail.

With that, Ladies and Gentlemen, I thank you all for your kind attention.

End of verbatim statement by the Hon. Speaker of Parliament, Dr. Abass Chernor Bundu on the occasion of the launch of the Government White Paper by President Julius Maada Bio on the Constitutional Review Process

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