

The Theme Of The 1991 Constitution

The 1991 Sierra Leone Constitution marked a significant constitutional shift, transitioning the country from a one-party system under the 1978 constitution to a multi-party democracy. The Constitution became operative on October 1, 1991, ending thirteen years of one-party constitutionalism from 1978 to 1991. The 1991 Constitution, drafted as a democratic framework, entrusts sovereign authority to the people because, in a democracy, power belongs to them. By this, the Constitution enshrines fundamental human rights such as the right to life, speech, association, and assembly to every individual regardless of tribe, region, and sex. As a result, the Constitution creates provisions for implementing fundamental democratic principles, such as the supremacy of the Constitution, the rule of law, and the separation of powers among the three branches of government, to guarantee that these principles are protected.

These democratic and state principles are outlined in 14 chapters containing 192 sections. Additionally, the Constitution comprises four schedules: the first schedule defines the country's territory; the second and third schedules comprise the oaths of office for the President and other senior government officials, such as the Vice President, Chief Justice, Speaker of Parliament, and others, respectively. The fourth schedule deals with the Constitution's legal compliance certificate.

Scope of the 1991 Constitution

Chapter 1 – The Republic of Sierra Leone (Sections 1-3)

This chapter establishes a unitary sovereign republic with its official name, Sierra Leone, the flag (green, white, and blue), the seal, and the national anthem. It refers to the first schedule in the Constitution, specifying the geographical boundaries of the Republic of Sierra Leone. In essence, it creates Sierra Leone's legal personality in the international arena.

Chapter 2 – Fundamental Principles of State Policy (Sections 4-14)

This chapter describes the overall objectives of the country, government, and citizens. The constitution uses the mandatory word 'shall' to establish popular sovereignty; that is, 'sovereignty belongs to the people of Sierra Leone through this Constitution derives all its powers, authority, and legitimacy.' At the same time, it imposes mandatory duties on citizens, which include loyalty, patriotism, and nationalism to the State.

Furthermore, the chapter provides that the state's governance principles shall be Freedom, Democracy, and Justice. It also states that the state's political objectives are Unity, Freedom, and justice. As a result, the State's economic objectives shall harness all the 'natural resources of the nation to promote national prosperity and an efficient, dynamic and self-reliant economy.' It is essential, however, to note that this chapter is 'non-justiciable.' This means that these provisions do not confer legal rights to the citizens. These provisions thus become privileges instead of rights because the citizens cannot legally claim them against the government in any court.

Chapter 3 – The Recognition and Protection of Fundamental Human Rights and Freedoms of the Individual (Sections 15-30)

This chapter enumerates various individual rights that are primarily compatible with the Universal Declaration of Human Rights: the right to life, protection from arbitrary arrest, freedom of movement, protection from slavery and forced labor, protection from inhumane treatment, protection from the deprivation of property; protection for the privacy of home and

other property, protection of law, freedom of law; freedom of conscience, freedom of expression and the press, freedom of assembly and association, and the protection from discrimination. To guarantee and protect these rights adequately, this chapter is an entrenched clause. This means these fundamental rights sections cannot be amended by a simple law-making process in Parliament, except through a referendum. Unlike the provisions of Chapter II, these rights confer legal rights. Thus, an aggrieved person may apply to the Supreme Court to enforce these rights. Contrary to this, the Constitution limits these individual rights during public emergencies.

Chapter 4 – The Representation of the People (Sections 31-39)

This chapter guarantees the right to vote, establishes the Electoral Commission, and allows for the operation of a multi-party system. These measures are designed to fulfill essential requirements of multi-party democratic construction—the people’s right to elect their representatives through a competitive, fair, and transparent plural-party process.

Chapter 5 – The Executive (Sections 40-72)

This chapter comprises two parts. Part 1 establishes the Executive branch of the government, with the President serving as its head. It also outlines the qualifications for the office, its tenure (two terms limits of five years each), and the election mode for the office. It further states the enumerated powers of the president, including constitutional matters, foreign affairs, execution of treaties, the exercise of the prerogative of mercy, declaration of war, grants of honors and awards, and reception of envoys. At the same time, it provides two modes of removal of the president before the expiration of his tenure: first, in the case of mental or physical incapacity to discharge the functions of the presidency; second, in the case of gross misconduct in the performance of the functions of the presidency or violation of the Constitution.

Part 2 establishes unenumerated executive powers and vests them in the President, which may be exercised through Cabinet Ministers. It also establishes the vice president's office as the principal assistant to the President. In short, this chapter entrusts the President with enumerated and unenumerated powers but some limitations on his power through parliamentary approval on appointments, term limits, and impeachment.

Chapter 6 – The Legislature (Sections 73-83)

This chapter establishes a unicameral legislature called Parliament, making it the supreme legislative authority. It requires that the Parliament make laws for peace, security, order, and good government of the state. It outlines the composition of Parliament, which includes the President, the Speaker, and Members of Parliament. It also states the other functions of Parliament, such as approving presidential appointees, approving budgets, approving taxes, ratifying treaties, and summoning Cabinet Ministers. The Constitution also guarantees Members of Parliament immunities from court proceedings regarding speech, debate, and proceedings in Parliament.

Chapter 7 – The Judiciary (Sections 120-145)

This chapter establishes the judiciary, headed by the Chief Justice, and grants its judicial power. It means that the judiciary is responsible for interpreting the laws made by Parliament. In executing its duty, the Constitution ensures that the judiciary is independent—free from the control and direction of the other governmental branches. In other words, the judiciary is subject only to the Constitution or any other established law when carrying out its functions. It also defines the composition and jurisdiction of the Superior Court of the Judiciary, including

the Supreme Court, Court of Appeal, and High Court. It also outlines the structure and authority of the Superior Court of the Judiciary, which includes the Supreme Court, Court of Appeal, and High Court.

It further provides the Supreme Court with original and exclusive jurisdiction over the interpretation of the Constitution. In the same light, it grants the Supreme Court judicial review authority over the interpretation of enactments made by Parliament or decisions taken by the Executive.

Chapter 8 – The Ombudsman (Sections 146-150)

This chapter delegates responsibility to Parliament to create an Ombudsman Office one year after the Constitution's commencement. The office receives and investigates complaints lodged by private citizens against government institutions or officials and attempts to resolve conflicts or concerns through Alternative Dispute Resolution.

Chapter 9 – Commissions of Inquiry (Sections 147-150)

This chapter deals with the President's authority to establish Commissions of inquiry. These commissions' usual mandate is to investigate specific incidents within their authority area and publish a report on their findings. To achieve this aim, the Constitution grants these Commissions the power, rights, and privileges of the High Court.

Chapter 10 – Public Services (151-154)

This chapter contains two parts. Part 1 establishes the Public Services Commission, which regulates civil servants' employment, promotion, transfer, ethics, and working conditions.

Part 2 establishes the Police Force of Sierra Leone, headed by the Inspector General. The Police Force maintains the state's internal security.

Chapter 11 – The Armed Forces (Sections 165-169)

This chapter establishes the Sierra Leone Armed Forces and provides for its branches: the Army, the Navy, and the Air Force. The Armed Forces' principal function is to guard and secure the Republic of Sierra Leone and preserve the state's safety and territorial integrity.

Chapter 12 – The Laws of Sierra Leone (Section 170)

This chapter defines the various sources of law: the constitution, common law, customary law, existing law, and statutory law. By reference to the Constitution, it refers to the 1991 Constitution of Sierra Leone; the common Law of Sierra Leone means the combination of both the rules of law generally known as common law, the rules of law generally known as the doctrines of equity, and the rules of customary law, including those determined by the Superior Court of Judicature – Supreme Court, Court of Appeal and High Court; the existing law means the written and unwritten laws of Sierra Leone that existed immediately before the date of commencement date of the Constitution and any statutory instrument issued or made before that date which is to come on or after that date; the customary law means the rules of law which by custom are applicable to particular communities in Sierra Leone.

The chapter also recognizes delegated legislation as part of the laws of the State provided it is made in conformity with the following rules: it is laid before Parliament, published in the Gazette, and will become law after 21 days provided it is annulled by two-thirds of the members of the Parliament.

Chapter 13 – Miscellaneous (Sections 171-173)

This chapter deals with the interpretation provisions of the Constitution. It defines keywords and terminologies such as Chiefdom Council, Commission of Inquiry, Constitutional Instrument, Court, Local Court, The President, Public Emergency, and others.

Chapter 14 – Transitional Provisions (Sections 174-192)

This chapter provides for the transitional process between the 1978 and 1991 Constitutions. It outlines the legal framework for the repeal of the 1978 Constitution, which was in effect at that time, and the coming into force of the new 1991 Constitution.

First Schedule

This schedule defines Sierra Leone's geographical territory, which the Republic of Guinea borders on the North and Northeast and the Republic of Liberia on the South and Southeast.

Second Schedule

It outlines the solemn oath the newly elected President takes upon assuming office.

Third Second

It provides the solemn oath to which the Vice President, the Speaker of Parliament, the Chief Justice, and other top government officials subscribe when they take office.

Fourth Schedule

This schedule deals with the declaration of compliance that the 1991 Constitution fulfilled and satisfied all the required legal stages and processes of enacting a new constitution as the preceding 1978 Constitution provided.

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