



CENTRE FOR POLICY ALTERNATIVES
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Press Release on SC SD 7/2017 [Code of Criminal Procedure (Special Provisions) Act No 2 of 2013 (Amendment) Bill]

6th June 2017, Colombo, Sri Lanka: The Centre for Policy Alternatives (CPA) welcomes the decision of the Government to withdraw the “Code of Criminal Procedure (Special Provisions) Act No 2 of 2013 (Amendment) Bill” (the Bill). The undertaking was given today in the Supreme Court by counsel appearing for the Attorney General’s department when the special determination was taken up to hear Petitions challenging the constitutionality of two provisions in the Bill, including a Petition filed by CPA and its Executive Director (SC SD 7/2017).

CPA argued that Sections 6A(2) and (6) of the Bill’s Clause 2 were inconsistent with Articles 3, 4 (d), 11, 12(1), 13(1), 13(2), 13(3), 14(1) and 17 of the Constitution. These provisions, if enacted, will allow an Officer in Charge of a police station to deny lawyers access to detainees and the premises of the police station if such access would be “prejudicial” or shall “affect” the investigation being conducted. Because of this, these provisions are inconsistent with the rights of persons in custody guaranteed under the Constitution and the law.

CPA argued that the right to a fair trial under the Constitution includes the right to a lawyer for anyone in custody. Sections 6A(2) and (6) of Clause 2 of the Bill are drafted in a way that is too broad with no objective criteria to determine the prejudice or effect a detainee’s access to a lawyer or the lawyer’s access to a police station may have on an investigation being conducted. This restricts the ability of a lawyer to adequately represent their client. The provisions are also open to abuse as they may allow further violations of detainee’s rights, including the right not to be tortured.

CPA notes that while these provisions are proposed to operate only temporarily, similar temporary legislation such as the Prevention of Terrorism Act (PTA) became permanent over time. CPA’s [concerns](#) with the Bill were raised previously when it was gazetted on 6th March 2017. In light of the undertaking given in court, CPA urges the Government to call for submissions in this regard and have a consultation with all relevant stakeholders, ensuring that the process is transparent and inclusive.