



CPA Concerned with Process to Operationalize the Office on Missing Persons (OMP)

13th September 2017, Colombo, Sri Lanka: The Centre for Policy Alternatives (CPA) raises serious concerns with the issuing of [Gazette \(extraordinary\) No 2036/21](#) on 12th September 2017 by President Maithripala Sirisena qua Minister of National Integration and Reconciliation. CPA [previously](#) raised concerns when President Sirisena issued Gazette (extraordinary) 2028/45 assigning the Office on Missing Persons (Establishment, Administration And Discharge Of Functions) Act No 14 of 2016 [Office on Missing Persons Act], to the Minister of National Integration & Reconciliation.

CPA's previous statement raised a key constitutional point in terms of the assigning of subjects or functions of ministries as provided by the 19th Amendment to the Constitution. As pointed out, prior to the 19th Amendment the President could assign to himself any subject or function not assigned to any other Cabinet Minister. This provision was repealed by the 19th Amendment. However a special exception was made for the person holding office as President on the date of commencement of the 19th Amendment. After the General Election of August 2015, the President in terms of Article 43 (2) of the Constitution issued two Gazettes appointing Members of Parliament in charge of Ministries. Thereafter in terms of Article 43 (1) of the Constitution, the President issued Gazette (extraordinary) 1933/13 dated 21st September 2015 which, assigned subjects and functions to the previously allocated Ministries. Furthermore this gazette of (1933/13 dated 21 September 2015) established a "Ministry of National Integration & Reconciliation" which had not been allocated to any Member of Parliament. However the President does not have the power to assign to himself any subjects and functions outside those specified in section 51 of the 19th Amendment. As such the parts of Gazette (extraordinary) 1933/13 dated 21st September 2015, which assigned to the President powers as the Minister of National Integration & Reconciliation are unconstitutional. Following from this, questions are raised with the two gazettes issued in July and September 2017, with the latter being issued by President Sirisena qua Minister of National Integration and Reconciliation. As a result, the legality of the act to operationalize the Office on Missing Persons (OMP) as provided under Section (1)2 of the Office on Missing Persons Act is now in question.

CPA is disappointed by what seems a complete disregard towards the constitutional framework in Sri Lanka and commitments made in 2015 to usher in good governance, rule of law, democracy and reconciliation. It is also a sad reflection of a process that has been flawed from the outset, resulting in numerous delays and obstacles in the enactment of the legislation, establishment and operationalizing of the OMP. CPA [welcomed](#) the commitment to establish the OMP, a crucial step in the search for the truth but the continuous delays and errors compounding the establishment of the OMP further exacerbate the uncertainty for thousands who continue to search for the disappeared and missing loved ones. This must be immediately addressed. CPA reiterates its previous call for swift action to correct this erroneous and arbitrary move and to ensure that the establishment and operationalizing of the OMP is done in adherence to the constitutional framework in Sri Lanka. Any exception in this regard will question the integrity of the OMP and much needed work towards addressing past abuses and impunity in Sri Lanka.

