



CENTRE FOR POLICY ALTERNATIVES
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CPA Statement on the Current Constitutional Crisis

The Centre for Policy Alternatives (CPA) condemns in the strongest possible terms the attempt by President Maithripala Sirisena to purportedly remove Prime Minister Ranil Wickremesinghe from office and appoint Mr Mahinda Rajapaksa as the Prime Minister instead. We firmly believe that these acts are unconstitutional and illegal, and wholly lacking in democratic legitimacy.

The Nineteenth Amendment to the Constitution (2015) took away the power previously held by the President to dismiss the Prime Minister. This is the effect of Articles 42(4), 46(2), and 48 of the Constitution. While the President retains the ceremonial task of appointing the Prime Minister in terms of Article 42(4), this is not a subjective decision or power of the President, and he only act under this provision subject to the confidence of Parliament in the Prime Minister. The circumstances in which the Prime Minister ceases to hold office, on the other hand, are now specifically and formally set out in the Constitution. Unless the Prime Minister ceases to function in office by death, resignation, or by ceasing to a Member of Parliament, the only other way in which the Prime Minister can be removed is if the Prime Minister loses the confidence of Parliament, expressed through a defeat on the Statement of Government Policy, the Appropriations Bill, or through a motion of no-confidence as per Article 48(2). The House has not expressed its loss of confidence in Prime Minister Wickremesinghe, the necessary conditional precedent, prior to his purported removal by the President on 26th October 2018.

We firmly reject the argument that the effect of the withdrawal from the National Government, as defined in Article 46(5), of the Constitution by the United People's Freedom Alliance (UPFA) means that the Cabinet of Ministers is dissolved and the serving Prime Minister ceases to hold office. The underlying rationale of Article 48(1), on which this argument is based, is to dissolve the Cabinet when the Prime Minister ceases to hold office, and not the reverse. If the purported removal of the Prime Minister is unlawful, then there can also be no dissolution of the Cabinet.

The lack of legality and legitimacy in the presidential actions of Friday evening, which seem to have been planned secretly and executed with a suddenness that took the entire country by surprise and disbelief, is exacerbated by the President's prorogation of Parliament. Only Parliament has the constitutional authority to determine the

continuation in office of the Prime Minister, or a change of Prime Ministers. By its prorogation, the country cannot resolve the unprecedented constitutional crisis into which it has been plunged, and it fundamentally calls into question the democratic legitimacy of the President's purported appointment of a new Prime Minister.

The current constitutional crisis is unprecedented in that Sri Lanka has never had the legality and legitimacy of its government called into question in this way. We regret and deplore the course of action that has resulted in this unnecessary crisis and democratic backsliding. It is astonishing and disappointing that a President elected with a mandate to strengthen constitutional democracy, the Rule of Law, and good governance has chosen this course.

CPA therefore reiterates its unequivocal condemnation of the unconstitutional attempt at a transfer of power, and urges the reconvening of Parliament immediately in order that it may decide the matter conclusively.

Finally, we are also gravely concerned with the ensuing violence that resulted in the first casualty this weekend. With the crisis continuing into its third day, genuine fears point to an escalation of violence if the crisis is not swiftly addressed. It is paramount the present crisis is resolved immediately in order to prevent political violence and protect the lives of all citizens.