



Constitutional Crisis: Questions and Answers

The Centre for Policy Alternatives has prepared this short guide to answer some questions that have arisen in the public debate about the constitutional crisis in Sri Lanka.

1. What is the prorogation of Parliament?

To prorogue Parliament means to prolong it, or to put it off for a later day. It is basically a temporary recess of Parliament. Parliament ordinarily functions over a series of sitting days which make up what is called a session; when Parliament is prorogued, a session comes to an end. A prorogation is different to an adjournment, which is a break between two sitting days. Parliament has been prorogued on [several occasions in the past](#), most recently between 12 April and 8 May this year.

2. What happens when Parliament is prorogued?

The effect of a prorogation is to suspend, but not end, all existing parliamentary business and all proceedings (except for impeachments, see question 11 below). During a prorogation the Speaker continues to function and MPs continue to be MPs even though there are no meetings of Parliament.

During the period Parliament is prorogued, all the Committees for Special Purposes – for example, the Committee on Public Enterprise (COPE) and the Committee on Public Finance (CPF) – cease to function and must be reconstituted at the next session (as per Standing Orders of Parliament No. 114). But the Select Committees, the Sectoral Oversight Committees, and the Committee on High Posts continue to function during a prorogation (as per Standing Orders of Parliament Nos. 109, 111(2) and 124(5)).

3. What happens when a prorogation ends?

Parliament reconvenes under a new session. All pending parliamentary business and all proceedings can recommence from the stage they were at once the new session begins as per Article 70(4) of the Constitution. All items of business which were in the Order Paper of Parliament will need to be re-listed if Parliament wishes to continue with them.

4. Who has the power to prorogue Parliament?

The President has the power to prorogue Parliament under Articles 33(2)(c) and 70(1) of the Constitution. He does this by way of a Proclamation, which should also state the date for the next session of Parliament. This next session cannot be more than two months after the date the Proclamation was issued.

5. Who has the power to end a prorogation of Parliament?

The prorogation will come to an end on the date stated in the Proclamation, when the next session commences. Under Article 70(3) of the Constitution, the President also has the power to summon Parliament on a sooner date by way of another Proclamation, but that Proclamation has to be issued at least three days before the sooner date.

There is past precedent in Sri Lanka, however, for the Speaker to step in to end a prorogation. This happened [in 2003](#) when Parliament was prorogued by President Chandrika Kumaratunga and the Speaker Joseph Michael Perera reconvened it on the request of a majority of MPs. The Speaker then stated that when the President uses prorogation powers, it must be done in consultation with Parliament and that one arm of government (i.e. the executive) cannot suppress another (i.e. the legislature) using prorogation.

6. What is the difference between prorogation and dissolution?

A dissolution is the permanent ending of a Parliament, while a prorogation is a temporary suspension of a Parliament. The dissolution of Parliament is the dispersal of its MPs for the purpose of a General Election. Under Article 70 of the Constitution, the President can dissolve Parliament using a Proclamation which must state the date of the General Election for MPs, and a date for the new Parliament to meet. However, the President cannot dissolve Parliament during the first four and a half years of its five year term, unless Parliament requests the President to do so by a resolution passed by a two-thirds majority.

A Parliament does not reconvene once it has been dissolved, unless in the case of an emergency as per Article 70(7). All existing parliamentary business and proceedings are terminated when it is dissolved. This is different to a prorogation where Parliament reconvenes after the prorogation period has passed and previously existing parliamentary business and proceedings can resume.

7. When can Parliament be dissolved and what is the process for dissolution?

Under Article 70(1) of the Constitution, Parliament can be dissolved by the President four years and six months after its first sitting (that is, on 1 March 2020 for the current Parliament) or if two thirds of MPs vote on a resolution requesting the President to dissolve it. Five years passing from the date of its first sitting (that is, 1 September 2020 for the current Parliament) also operates as a dissolution of Parliament under Article 62(2).

8. What is a no confidence motion?

A no confidence motion is a motion in Parliament against a Government. If the no confidence motion passes by a majority of MPs voting for it, then that means the Government no longer has the support, or “confidence”, of the Parliament.

Our constitution does not explicitly provide for a no confidence motion against the Prime Minister, but it does against the Government as a whole under Article 48(2) of the Constitution. Any MP can bring a no-confidence motion against the Cabinet of Ministers and a majority of all MPs present and voting is required for it to pass (as per Article 72(1)).

9. What happens to the PM if a no confidence motion is successful?

If a no confidence motion is successful, the Cabinet of Ministers is dissolved, and unless the President has dissolved Parliament as well, he may appoint a new Prime Minister and Cabinet of Ministers under Article 48(2) of the Constitution. This means the President can appoint a new Prime Minister who is in his opinion most likely to command the confidence of Parliament under Article 42(4).

10. What happens if no one person commands a majority in Parliament?

This possibility is not provided for in the Constitution. Practically, this will only become an issue if a successful no confidence motion is brought against a Cabinet of Ministers appointed by the President, and a new Cabinet of Ministers appointed thereafter also has a successful no confidence motion brought against it.

Under this scenario, Parliament can be dissolved if four years and six months have passed since its first meeting or if two thirds of MPs request it (see question 7 above). If this does not happen, then parties would have to figure out a coalition which commands a majority in Parliament.

11. Is there any other way the Government can be defeated in Parliament?

Under Article 48(2) of the Constitution, the Cabinet of Ministers is also dissolved if Parliament rejects the Statement of Government Policy or the Appropriation Bill (i.e. the Budget). If this happens, the President can appoint a new Prime Minister similar to after a successful no confidence motion.

12. What is the Vote on Accounts (Mini Budget)?

If a general election has been called and a new Parliament has not been elected as yet, or when a new government has just been sworn in and they have had no time to present a proper budget, a Vote on Account may be presented. A Vote on Account is a limited budget where Parliament only passes funds for ongoing projects and services essential to the community. The Vote on Account is approved [without a vote being called for](#).

13. What is an impeachment motion?

Impeachment is the process that takes place when a resolution is brought against the President by an MP to determine whether the President should be removed from office for being permanently incapable of discharging the functions of his office for mental or physical infirmity, or for being guilty of: violating the Constitution, treason, bribery, misconduct or corruption, or any offence involving “moral turpitude”.

14. How does the impeachment process work?

Article 38(2) of the Constitution lays down the impeachment process:

- A MP must bring a Resolution citing the grounds for impeachment to the Speaker.
- If the Resolution is signed by two thirds of MPs, or half of MPs and the Speaker agrees the allegations merit an inquiry, then it is placed on Parliament’s order paper.
- If two thirds of MPs vote for the Resolution, the Speaker refers it to the Supreme Court.
- The Supreme Court then conducts an Inquiry. The President has the right to appear and be heard. After the Inquiry, the Supreme Court submits its determination to Parliament.
- If the Supreme Court finds that the allegations in the Resolution have merit, then a further resolution supported by two thirds of MPs will remove the President from office.