



CPA Statement in Response to Supreme Court Reference 01/2019

23rd August 2019, Colombo, Sri Lanka: The Centre for Policy Alternatives (CPA) and its Executive Director Dr. Paikiasothy Saravanamuttu made submissions to the Supreme Court of Sri Lanka during proceedings today (23rd August 2019) on the questions posed by President Maithripala Sirisena in terms of Article 129(1) of the Constitution. In his Reference to the Supreme Court (SC/Ref/01/2019), President Sirisena requested the Court's opinion on whether Provincial Council elections could be held under the new election law introduced by the Provincial Councils Elections (Amendment) Act, No. 17 of 2017 or whether the elections could be held under the old election law which existed before September 2017 based on section 6(2) of the Interpretation Ordinance.

In their written submissions dated 21st August 2019, CPA and its Executive Director took up the basic positions that:

- A delay in any election is a violation of the Sovereignty of the People as recognised by Article 3 of the Constitution;
- In light of the Review Committee failing to submit its report to the President in accordance with sections 3A (13) & (14) of the Provincial Councils Elections Act, No. 2 of 1988 (as amended), the President is empowered to issue a proclamation publishing the Report of the Delimitation Committee submitted to the Minister Assigned the subject of Provincial Councils;
- The Review Committee is not as legitimate as the Delimitation Committee and the Delimitation Commission in terms of being independent, nonpartisan and representing Sri Lankan society as required by the delimitation process;
- The Supreme Court should direct the President to issue such a proclamation immediately and direct that elections for the relevant Provincial Councils *should be held without any further delay*.
- Section 6(2) of the Interpretation Ordinance is irrelevant/does not apply to the present circumstances.

CPA also urged the Supreme Court to be mindful that Provincial Council Elections could be used as a tool to delay Presidential Elections due later this year. Therefore, CPA requested the Court to make it clear to all stakeholders that *all elections must take place* at the time prescribed by law and that delay in *any election* is a violation of the Sovereignty of the People and the Constitution itself.

This reference comes in the wake of several manoeuvres by the government, with the support of the President, to postpone Provincial Council elections. [In August 2017, CPA, its Executive Director](#) and several other individuals challenged an attempt by the government to amend the Constitution in order to hold elections for all Provincial Councils on the same day on the basis that the government did not follow the correct procedure to amend the Constitution and because such an amendment would result in delaying elections. In determining that case, the Supreme Court unequivocally reaffirmed the position that delaying elections was a violation of the Sovereignty of the People.

[CPA also raised serious concerns](#) about the rushed and non-transparent process followed by the government to enact Provincial Councils Elections (Amendment) Act, No. 17 of 2017. Due to the changes introduced by this Act, the Election Commission has been unable to conduct Provincial Council elections for the respective Provincial Councils as and when they became due. Accordingly, the terms of office of eight of the nine Provincial Councils have lapsed.

Since September 2017, CPA and other civil society organisations have continuously engaged with all relevant political actors to ensure that timely elections take place. However despite political rhetoric, neither Parliament nor the President have taken any meaningful steps to create an environment in which elections can take place. Whilst action by Parliament would have been preferable, it has not been forthcoming and there does not appear to be any political will to hold Provincial Council elections any time soon. CPA is thus engaging with the Reference before the Supreme Court in support of holding Provincial Council elections without any further delay, while also ensuring that Presidential Elections are held in a timely manner.