



## CPA Statement on Constitutionality of Proposed UNP National List Appointment

**24<sup>th</sup> January 2020**, The Centre for Policy Alternatives (CPA) is concerned by several media reports that the United National Party (UNP) intends to name Mr. Saman Rathnapriya to fill the National List seat which fell vacant by the resignation of Dr. Jayampathy Wickramaratne. CPA notes that Mr. Rathnapriya's name was not included [in the list of persons qualified to be elected as Members of Parliament, in terms of Article 99A of the Constitution](#) (the "National List") submitted by the UNP for the Parliamentary Election held on 17th August 2015.

CPA's position is that in terms of the Constitution only a person whose name was included in one of the district nomination papers or national list submitted by the relevant political party, is entitled to be nominated to fill such a vacancy. CPA has maintained this position consistently and has raised concern when such appointments were made previously, including by [challenging](#) several such appointments in Court.

CPA notes that the UNP, United People's Freedom Alliance / People's Alliance have on previous occasions made similar appointments to Parliament. These political parties hide behind Section 64 (5) of the Parliament Elections Act No 1 of 1981, which authorizes them to appoint "any member" of the political party to fill such a vacancy. CPA states that the said provision of the Parliament Elections Act violates the clear and unambiguous provisions of the Constitution, particularly Article 99A and Article 101(H). Additionally the said practice of appointing "any member" of a political party, who was not nominated at the relevant election, violates the franchise of the people which is part of the sovereignty of the people. If as the Constitution suggests the people are indeed the sovereign of the Republic, then the people should know before an election who the political party intends to appoint to Parliament.

Allowing political parties to appoint whomever they wish to fill such vacancies that arise in Parliament, undermines the value of the franchise of the people and unnecessarily and arbitrarily inflates the power of the leadership of political parties. CPA thus calls on the UNP and all other political parties to respect the provisions of the Constitution and the franchise of the people and only nominate a person entitled to be nominated in terms of Article 99A of the Constitution to fill such vacancies. CPA also calls upon all political parties representing Parliament to take steps to amend Section 64 (5) of the Parliament Elections Act, in order to bring it in line with Article 99A and Article 101(H) of the Constitution.