



Initial Concerns with the Report of the Commission of Inquiry to Investigate Allegations of Political Victimization and Subsequent Action

The Centre for Policy Alternatives (CPA) is deeply troubled with the report of the ‘Commission of Inquiry to Investigate Allegations of Political Victimization During the Period Commencing 08th January 2015 and Ending 16th November 2019’ (The CoI), which has this week been tabled in Parliament, and the subsequent action taken based on its findings to establish a Special Presidential Commission of Inquiry (SPCoI). CPA will shortly issue a commentary raising concerns with the CoI report but as an initial comment, CPA notes that the findings of the CoI report raise grave concerns with implications for the independence of the judiciary, the rule of law and democracy in Sri Lanka.

CPA has previously noted concerns with the appointment of Commissions of Inquiry as a delaying tactic and its ineffectiveness in addressing Sri Lanka’s legacy of past abuses and corruption. The CoI was established on 9th January, 2020 by Gazette (Extraordinary) No. 2157/44 and subsequent broad powers were granted to the CoI through an amendment of its mandate by Gazette (Extraordinary) No. 2159/16 of 22nd January, 2020. CPA and its Executive Director, Dr. Paikiasothy Saravanamuttu filed a Fundamental Rights Application challenging these additional powers. At the time, CPA was concerned that these broad powers would empower the CoI to interfere with or prejudice on-going investigations and legal proceedings or impede proceedings which could commence during the mandate of the CoI. CPA notes that since its establishment, the CoI on political victimization has attempted to impede on-going investigations and legal proceedings, and the conduct of its inquiries has been critiqued for disregarding principles of natural justice and for exceeding its already broad mandate.

Following the submission of the final report of the CoI on political victimization to the President, a Special Presidential Commission of Inquiry to implement recommendations of the Presidential Commission of Inquiry into Political Victimization (SPCoI) was established by Gazette (Extraordinary) No. 2212/53 on 29th January, 2021 under the Special Presidential Commission of Inquiry Act No. 07 of 1978. The SPCoI is empowered, among other things, to recommend the imposition of civic disability on persons found guilty of political victimization, with the effect of bypassing established judicial institutions and mechanisms in the implementation of recommendations of a CoI.

As an initial comment, CPA notes with grave concern that the implementation of the recommendations of the CoI would potentially undermine the independence of the judiciary, the independence of officers of the Attorney General's Department and investigators who have investigated and initiated proceedings into matters of human rights abuses and corruption. Such action will have significant impact in the future on cases considered politically sensitive and further entrench the climate of impunity in Sri Lanka.

CPA is aware that abusing the criminal justice system for political ends is a deep-rooted structural problem within Sri Lanka's legal system. However, politicized process such as this CoI and SPCoI are not the solution, and will only further exacerbate this problem. Robust structures are essential to enable investigations and prosecutions that are independent and impartial coupled with strong ethical standards within these institutions to guarantee equal protection of the law to all citizens. In this regard, CPA underscores the need for structural reforms and for any individual who claims to be subject to political victimization to have recourse to safeguards of the law within the existing judicial system.

Further, CPA is concerned that the SPCoI has been given a broad mandate that can impede judicial proceedings and set in motion an alarming trend of targeting individuals and institutions that have worked on cases to strengthen accountability and transparency and uphold the rule of law in Sri Lanka. Thus, CPA calls for political parties, religious leaders, civil society and all citizens who value the rule of law and democracy in Sri Lanka to critically assess the findings of the CoI and challenge the SPCoI. CPA also calls for the repeal of the Special Presidential Commissions of Inquiry Act No. 07 of 1978 which, as witnessed in the past, has always been used to target political opponents and in many cases to impose civic disabilities. Inertia and unwillingness to counter such measures will only solidify authoritarian rule and set in motion unprecedented challenges to Sri Lanka's fragile democracy.