



## CPA Statement on the Government's Revised Twenty Second Amendment to the Constitution Bill

**18th August 2022:** The Centre for Policy Alternatives (CPA) notes the publication of the Twenty Second Amendment to the Constitution Bill (the Bill) [[Part II of the Gazette of 29th July 2022, supplement issued on 02nd August 2022](#)]. The Bill was also placed on the Order Paper of Parliament on 10th August 2022. The Bill, which has been gazetted as the Twenty Second Amendment, if enacted will become the Twenty First Amendment to the Constitution.

This is the second iteration of the Bill by the Sri Lanka Podujana Party (SLPP) – United National Party (UNP) government. The previous version of the Bill was never tabled in Parliament, and was criticised by many, including [CPA](#).

CPA notes that whilst the Bill addresses some of the problems with the previous version of the Bill, it does not curtail the powers of the President nor introduce checks and balances in any meaningful manner, contrary to the demands of the people of Sri Lanka. CPA has carefully considered the contents of the Bill, and notes that the Bill has drawn from the weakest aspects of the Nineteenth Amendment and Twentieth Amendment to the Constitution. If enacted it would set up a system of government which would not address the concerns of citizens, for a more accountable and transparent government and in the long run could further undermine democratic institutions and the citizens' faith in these institutions.

There are several serious problems with the Bill. As with the previous version of the Bill, in this version too, the composition of the proposed Constitutional Council (the Council) has been significantly diluted from what prevailed under the Nineteenth Amendment.

The proposed composition of the Council favours the government and enables the government to control or influence 7 of its 10 members. Thus, it is CPA's view that the Council is merely an expanded version of the Parliamentary Council that exists under the Twentieth Amendment. The original intent behind the creation of the Constitutional Council under the Seventeenth Amendment, which was to de-politicise governance, involved two methods: one was to ensure a majority representation in the Council for non-politicians, and the other was to remove government dominance over the political members. The composition of the Council proposed in the Bill achieves neither of those objectives and in turn undermines the independence of the institutions to which appointments are made through the Council.

Changes have been made to the President's powers to appoint Ministers (Cabinet and Non-Cabinet) from among Members of Parliament. However, no change has been made in the President's power to determine the number of Ministers and Ministries and the assignment of subjects and functions to such Ministries. Furthermore, the President will be able to appoint all Secretaries to Ministries on his own discretion. This again protects the executive power concentrated in the office of the President. The Bill also provides that the President shall hold the Defence Ministry and that he can assign to himself any other portfolio and function on the advice of the Prime Minister. Thus, on balance the Bill does little to address the concentration of powers with the Executive President.

The Bill limits the number of Cabinet Ministers that can be appointed to 30 and Non-Cabinet Ministers and Deputy Ministers to 40. Whilst these numbers are already too high, the Bill retains the nonsensical provisions of the Nineteenth Amendment relating to 'national governments', which will allow the government to by-pass these limits and appoint any number of Cabinet and Non-Cabinet Ministers.

More broadly the Bill represents a failure to understand the underlying public frustration in the system of governance that culminated in mass scale protests across Sri Lanka. This has been a consistent pattern in constitutional reform proposals put forward by the SLPP and SLPP-UNP governments. These proposals seem to be aimed at satisfying the political ambitions of a few politicians and political parties, rather than genuinely trying to address the crisis in governance that has plagued Sri Lanka.

As CPA has stated previously, on several occasions, the only appropriate institutional reform response to this unprecedented disaster through constitutional reform is the complete abolition of the executive presidential system, and the return to a full parliamentary constitutional democracy. Unless and until the unbridled and unchecked powers of the executive presidency are abolished and replaced with a Cabinet executive representative of and responsive to Parliament, it would be impossible to make the necessary decisions to resolve the present economic crisis.

For these reasons, it is clear from the perspective of both constitutional principle and constitutional design that the Bill is not in any sense a meaningful contribution to the necessary institutional reform that must be part of Sri Lanka's economic recovery. It is at best an exercise in window-dressing to show the government is initiating token reforms to appease some with no significant positive impact for Sri Lanka and Sri Lankans. Given the need of the hour for comprehensive reforms to address this exceptional crisis and to ensure there is no repeat in this future, this Bill must be rejected.