

The Twentieth Amendment to the Constitution of Sri Lanka: A Comparative Analysis

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Abstract: The Twentieth Amendment to the constitution of Sri Lanka seeks to centralize power, tries to limit the power of the parliament and the judiciary, and control the rule of law. Particularly, this amendment has focused on the reintroduction of the Parliamentary Council (PC). The PC members are also the members of parliament and a particular political party. The aim is to advise the president regarding the apex level appointments to the judiciary and key public institutions. Therefore, the President has absorbed the power to appoint Supreme Court Judges and High Court Judges at the discretion himself by the amendment. This opens up the possibility to impose a biased verdict and thereby injures the independence and autonomy of the judiciary. Therefore, it can be said that Sri Lanka cannot expect the “rule of law” in the near future. It has been described as incompatible with the principles of law and justice at the international level. According to the International Court of Justice and international standards norms of appointments to the Judiciary, Judges' appointments should not be vested solely with the executive power. Sri Lanka is battling with its largest COVID-19 outbreak still today. At this time, Sri Lanka Podujana Peramuna (SLPP) government rushed through quickly to amend the constitution. Ironically, the twentieth amendment has made the constitutional governance or rule of law of the country to move far away from constitutionalism. At the same time, people must appreciate the government for making some alterations to the constitution such as amendments over presidential immunity and for increasing the period within which the president can dissolve Parliament. The amendment also entails new provisions on increasing the number of the Supreme Court judges from 11 to 17 and the High Court judges from 12 to 20.

Keywords: - Rule of Law, Council, Commission, Amendment, Power

I. INTRODUCTION

The Twentieth Amendment bill to the Constitution of Sri Lanka was published in the Gazette of the Democratic Socialist Republic of Sri Lanka on the 2nd of September 2020. The draft of the twentieth amendment to the Constitution was tabled at the Parliament on the 22nd of September with the approval of the Cabinet. After the approval, several committees were formed by various political parties in Sri Lanka to study the proposed amendment to the Constitution. At the same time, thirty-nine (39) petitions in the Supreme Court were filed against the draft bill. The original constitution written in 1978, has been revised nineteen times in the last forty-two (42) years. It was observed that issues related to the powers of the President in the amendments to the Constitution have been the subject of

national debate. The Eighteenth Amendment of the constitution in 2010 and the Nineteenth Amendment of the constitution in 2015 are the most important amendments which relate to the powers of the President in Sri Lanka. Thus, the intrinsic purpose of the Twentieth Amendment is to eliminate many of the amendments made to the constitution by the Nineteenth Amendment in 2015 and to reintroduce or implement many aspects of the eighteenth amendment made in 2010. The Twentieth Amendment to the constitution of Sri Lanka was passed by a two-third majority in the Parliament on the 22nd of October 2020. Thus, it is now considered as the constitutional law of the country. In this climate, the article analyzes the content of the Twentieth Amendment. This article attempts to make a comparative analysis of how the Twentieth Amendment differs from or is parallel to the contents of the eighteenth and nineteenth amendments made earlier. Any addition, changes, and the amendments to the constitution in a democratic country, should be with the consent of the public and given due consideration systematically. The question is that do context for democracy life exist in Sri Lanka? At this point, an argument is arising whether the essential features of a democracy, such as constitutionalism, rule of law, devolution of power, and accountability of the government, transparency, and respect for pluralism or multiculturalism are preserved and promoted through the constitutionalism in Sri Lanka. In this way, this article analyzes the 18th, 19th, and 20th Amendments of the constitution of Sri Lanka through the comparative approach. This research uses inductive and qualitative methods for content analysis and uses secondary data sources, such as relevant research, journals, constitutional amendments of Sri Lanka, and documentary evidence through Internet archives.

II. CONSTITUTIONALISM AND RULE OF LAW

The constitution must have a political, legal, and social structure for governing the political community. Therefore, constitutional provisions are a fundamental law in a democratic country.

If the constitutional law is weak, the quality of democracy and rule of law within the country is affected. Based on the separation of power, the structure of the nation-state must divide into executive, legislative, and judicial branches, and their powers must be separated. The separation of powers does not mean these branches function alone, rather they work interdependently, but sustain their independence (Vile.1967). Jointly, these can be called “concept of constitutionalism”.

Hence, constitutionalism has been indicating that government powers should be limited within its scope. A constitution is legal and indicates the values of the community framework which set the powers and its limitations. However, the constitution represents the will of the people, and it should have arrived through the consensus of the people. Constitutionalism has a variety of meanings. Constitutionalism is a complicated phenomenon of the ideas, attitudes, and patterns of behaviour explained by the democratic principle. The authority of government derives from and is limited by the structure of fundamental law (Reynolds, Noel B., 1986). Political institutions should be controlled by the constitutional guidelines. As a consequence, it should contain institutionalized mechanisms of power for the protection of the interests, rights, the basic freedoms of the individual, and maintenance of human dignity and personality, liberties of the citizen, and security of the minorities (Bazew Maru, 2009). Constitutionalism identifies the need for a government with powers but at the same time insists that limitation should be placed on the powers. Therefore, it should have some integral restrictions on the powers conferred on governmental organs. In this way, constitutionalism should have to consist of some of the elements; such as a government based on the constitution, separation of power, the sovereignty of the people, and good governance, the opportunity of the constitutional review, an independent judiciary mechanism, limited government subject to a bill of individual rights, making sure to control the police, civilian and the military, no state power, or very limited and strictly limited state power, suspend the operation of some parts of, or the entire, constitution (Aoife O'Donoghue, 2013). Society is governed by law, and this law applies equally to all citizens, including government and civil servants. Following the basic tenets of constitutionalism, the general institutional rules used to maintain the rule of law include the separation of powers, judicial review, the prohibition of backward law, and habeas corpus. Thus, true constitutionalism provides a minimum guarantee for the justice of both the content and the form of the law. Constitutionalism, on the other hand, is protected by the rule of law. In addition to the rule of law, effective laws and their enforcement will be needed to provide the framework for the legislation.

III. THE PETITIONS VERSUS THE AMENDMENT AT THE SUPREME COURT

The opposition political parties, civil societies, intellectuals, and other professionals and religious organizations and its leaders have opposed the twentieth amendment of the constitution of Sri Lanka and they requested a new constitution for the country. But SLPP Government and its President were adamant in passing the Twentieth Amendment in Parliament. Consequently, thirty-nine (39) petitions in total were lodged versus the Twentieth Amendment draft bill in the supreme court against the Attorney General. The petitions were lodged against a draft bill by the following organization and public (Colombo Page, Wed, Sep 30, 2020, 11:48 pm SL Time).

1. Professor Ratnajeevan Hoole, Election Commission member
2. Samagi Jana Balawegaya (SJB)
3. UNP General Secretary Akila Viraj Kariyawasam
4. UNP Deputy Leader Ruwan Wijewardene
5. Mayantha Dissanayake, Samagi Jana Balawegaya (SJB)
6. Youth Wing Chairman, Liyanaarachchi. P, Attorney-at-Law of Sri Lanka
7. Janatha Peramuna
8. Ranjith Keerthi Tennakoon, Transparency International Sri Lanka (TISL),
9. Former Governor and Executive Director of the Campaign for Free and Fair Elections (CAFPE)
10. Abdul Zanoon, Human rights activist and many others put forward the case in Supreme Court.

The Supreme Court of Sri Lanka tabled a verdict concerning all petitions filed challenging the draft bill on October 05, 2020. After hearing the arguments for five days, the Supreme Court sent its secret verdict referring to the Speaker of Parliament. The Supreme Court verdict was presented to the Parliament on 20th of October 2020. As per the verdict of the Supreme Court, the draft bill is per Chapter XII, Article 82 (1) of the Constitution. It has to be approved with the number of votes cast in favour thereof amounts to not less than two-thirds of the whole number of Members including those do not present according to Article 82 (5) of the Constitution. Then, it should be certified by the President or the Speaker as per the provisions of Article 80 or 79. Articles 3, 5, 14, and 22 of the Bill are not per Article 3 of the Constitution which is to be read with Article 4 of the Constitution (Colombo Telegraph, October 10, 2020). Therefore, the Supreme Court stated that the draft bill must be approved by the People at a public referendum as per article 83 of the constitution.

The Twentieth Amendment to the Constitution was passed in Parliament with a two-thirds majority on the 22nd of October 2020. Out of 225 Member of Parliament, at the voting time, there were only 213 members present in the Parliament. Out of 213 members, 156 members voted in favour of the amendment while 65 members voted against the amendment. Several opposition Members of Parliament including those representing the Samagi Jana Balawegaya (SJB), Sri Lanka Muslim Congress (SLMC), and the All-Ceylon Makkal Congress (ACMC) voted in favour of the bill (The Sunday Morning, October 23, 2020). A separate vote was taken on Article 17 of the Twentieth Amendment to the Constitution. This Article allows dual citizens to enter parliament. Therefore, this article passed with a two-thirds majority. Out of 213 members 157 members voting in favour and 64 against it.

IV. COMPARATIVE VIEW OF THE COUNCILS

The Seventeenth Amendment to the constitution established a Constitutional Council (CC). According to the Seventeenth Amendment to the constitution, the CC can consist of the

following members (17th Amendment to the Constitution, Art.41A.Sec.1).

- i. The Prime Minister
- ii. The Speaker
- iii. The leader of the opposition in the parliament
- iv. One person appointed by the president
- v. Five persons appointed by the president, on the nominations of both the prime minister and the leader of the opposition
- vi. One person nominated upon agreement by the majority of the members of the parliament belonging to political parties or independent groups other than respective political parties or independent groups to which the prime minister and the leader of the opposition belong and appointed by the president, which adds up to ten members in total.

The Eighteenth Amendment to the constitution has completely eradicated the articles from 41 (A) to 41 (H) from the constitution. In place of these articles, chapter VII (A) has been amended as Parliamentary Council (PC) for the substitute of the CC which has referred to article 41 (A). This PC consists of (i) The Prime Minister (ii) The Speaker (iii) The leader of the opposition in parliament (iv) A nominee of the Prime Minister, who shall be a Member of Parliament (PM); and (v) A nominee of the Leader of the Opposition, who shall be an MP (18th Amendment to the Constitution, Art.41 (A). Sec.1).

According to the Eighteenth Amendment, persons mentioned in paragraph (d) and (e) would be appointed by the president. Persons appointed accordingly should be from a community that is different from that of the nominees appointed according to paragraphs (a), (b), (c).

According to the Seventeenth Amendment, the Prime Minister, and the Leader of the opposition in parliament may hold discussions with the leaders of the political parties and independent groups in parliament, to nominate the person mentioned in paragraph (e). Three out of them may be selected from the minorities on the advice of the MP.

But the Eighteenth Amendment says that all members of the PC should be MP. This has attenuated the statement that says, the persons mentioned in paragraphs (d), (e) and (f) of the Seventeenth Amendment, may be nominated and appointed by the President, from those who have acquired social admiration and

higher position in the society due to the generosity, and they have not necessarily required to be a member of a political party. Hence, the PC originated by the Eighteenth Amendment has wiped out the flexibility and transparency of being able to admit to generosity who are non-members of the parliament, originated by the Seventeenth Amendment.

The Nineteenth Amendment to the constitution re-established a CC. According to the Nineteenth Amendment to the constitution, the CC can consist of the following members (19th Amendment to the Constitution, Art.41 (A). Sec.1).

- i. The Prime Minister

- ii. The Speaker
- iii. The Leader of the Opposition in the Parliament
- iv. One person appointed by the President
- v. Five persons appointed by the President, on the nomination of both the Prime Minister and the Leader of the Opposition of whom two persons shall be MP
- vi. One MP nominated by agreement of the majority of the MP belonging to political parties or independent groups, other than the respective political parties or independent groups to which the Prime Minister and the Leader of the Opposition belong and appointed by the President.

According to Article 41(A) (6), the President shall, within fourteen days of the receipt of a written communication specifying the nominations made under subparagraphs (e) and (f) of paragraph (1), make the necessary appointments. In the event of the President failing to make the necessary appointments within fourteen days, the persons nominated shall be deemed to have been appointed as members of the Council, with effect from the date of expiry of such period. According to the constitution, the Speaker shall be the Chairman of the Council (19th Amendment to the Constitution, Art.41 (A), Sec.6).

The Twentieth Amendment to the constitution has completely eradicated the Nineteenth Amendment chapter VII, article 41 (A). In place of these articles, chapter VII (A) has been amended again as PC for the substitute of the CC which has referred article 41 (A) (20th Amendment to the Constitution, Art.4A.Sec.1). This PC consists of,

- i. The Prime Minister
- ii. The Speaker
- iii. The Leader of the opposition in Parliament
- iv. A nominee of the Prime Minister, who shall be an MP
- v. A nominee of the Leader of the Opposition, who shall be an MP.

Article 41 (A), (11) (a) mentioned that the Speaker shall be the Chairman of the Council. Article 41 (A), (12) mentioned that the Council shall perform and discharge such other duties and functions as may be imposed or assigned to the Council by the Constitution, or by any other written law (20th Amendment to the Constitution, Art.4A.Sec.1)

According to the Nineteenth Amendment, the Prime Minister and the Leader of the opposition in parliament may hold discussions with the leaders of the political parties and independent groups in parliament, to nominate the person mentioned in paragraph (e). Three out of them may be selected from the minorities on the advice of the MP. But the Twentieth Amendment says that all members of the PC should be MP. This has attenuated the statement that says, the persons mentioned in paragraphs (d), (e) and (f) of the Nineteenth Amendment, may be nominated and appointed by the President, from those who have procured social esteem and higher status in the society due to their nobility, and they do not necessarily need to be a member of a political party. Hence, the PC created by the Twentieth Amendment has

annihilated the flexibility and transparency of being able to induct nobles who are non-members of the parliament, created by the Nineteenth Amendment.

The duties of the CC are to ensure and facilitate the proper functioning of other commissions. To this end, the members of the following commissions shall be appointed by the President in consultation with the CC

- i. The Election Commission
- ii. The Public Service Commission
- iii. The National Police Commission
- iv. The Audit Service Commission
- v. The Human Rights Commission of Sri Lanka
- vi. The Commission to Investigate Allegations of Bribery or Corruption
- vii. The Finance Commission
- viii. The Delimitation Commission
- ix. The National Procurement Commission.

According to article 41(C) (1) to the Nineteenth Amendment, no person shall be appointed by the President to any of the Offices specified in the Schedule, unless has been approved by the Council. The chairmen of these commissions are to be appointed by the President from one of the three names nominated by the CC. Besides, the Attorney- General, the Auditor- General, the Inspector -General of Police, the Parliamentary Commissioner for Administration (Ombudsman), and the Secretary-General of Parliament shall be appointed by the President on the recommendation of the CC. All commissions other than the Election

Commission should be accountable only to Parliament. The names of the members and chairmen of the commissions must be nominated by the President within 14 days of the Constitutional Council prescribing. If the President fails to make these appointments within fourteen (14) days, the following disciplinary oath will be followed. Members of the Commissions shall be deemed to have been appointed from the date of the expiration of fourteen (14) days. From the date of expiry of fourteen (14) days, the person whose name appears first in the list of Chairpersons of Commissions shall be deemed to have been appointed as Chairperson.

According to article 41A (1) of the twentieth amendment of the constitutions, The Chairmen and members of the Commissions referred to in Schedule I to this article, the persons to be appointed to the offices referred to in Part I and Part II of Schedule II to this article shall be appointed to such Commissions and such offices by the President. The President shall seek the observations of a PC. In the end, the members of the following commissions shall be appointed by the President:

- i. The Election Commission
- ii. The Public Service Commission
- iii. The National Police Commission
- iv. The Human Rights Commission of Sri Lanka
- v. The Commission to Investigate Allegations of Bribery or Corruption
- vi. The Finance Commission

- vii. The Delimitation Commission (20th Amendment to the Constitution, Art.4A.Sec.1).

As per the Twentieth Amendment to the Constitution, the newly established PC concluded operation and dissolved two key independent commissions such as the Audit Service Commission and the National Procurement Commission.

Besides, according to schedule II, Part II in the Twentieth Amendment, the Attorney- General, the Auditor- General, the Inspector -General of Police, the Parliamentary Commissioner for Administration (Ombudsman), the Secretary-General of Parliament, and schedule II, Part I, the Chief Justice, the Judges of the Supreme Court, the President, and Judges of the Court of Appeal, the Members of the Judicial Service Commission, other than the Chairman, shall be appointed by the President (20th Amendment to the Constitution, Art.4A.Sec.1).

According to article 41(A) (2) in the Twentieth Amendment, the Speaker shall require the Prime Minister and the Leader of the Opposition to make such nominations within one week of the date of the commencement of this Article. If the Prime Minister and the Leader of the Opposition fail to make such nominations, the Speaker shall proceed to nominate any Members of Parliament to be nominees for the purposes of sub-paragraphs (d) and (e) of Article 41(A) (1). According to article 41(A) (3), while the President seeks the observations of the Council under paragraph (1), at the time if the Prime Minister and the Leader of the Opposition have failed to nominate the persons to the Council, the Speaker shall nominate such Members of Parliament to be nominees for the purposes of sub-paragraphs (d) and (e) of Article 41(A) (1) (20th Amendment to the Constitution, Art.4A.Sec.1).

There are the following important differences in the structures of both the CC and the PC. The Parliament members have consisted only of political party or coalition led by the prime minister and the leader of the opposition. The PC has consisted of only of these MP. Consequently, it sets up an environment where there will be no meaningful discussion with the other political parties in the appointment process. The nominee of the 4th and 5th members is based on the choice of the Prime Minister and the Leader of the Opposition. There may be no representation for other communities in the council. Thus, the diversity of the country may go unrecognized in this council. However, based on Twentieth Amendment, Prime Minister appointed Minister Douglas Devananda and Opposition Leader appointed MP Kabir Hashim as their nominees on October 4th, 2020. At the same time, the CC had consisted of three non-political members (The Sunday Morning, November 8, 2020).

While the President is a member of the party that has the majority of the seats in Parliament, the president will be able to exercise control and influence over three of the five members, as Prime Minister, the Speaker, and a member of Parliament belonging to the party of the president, appointed to the council by himself. Therefore, the PC cannot reflect the

diversity of opinions. The PC could result in the politicization of key posts of government. By the PC may be curtailed the freedom of thought and conscience of key public officers and commissions. The power to appoint persons to key offices has been vested in the President of Sri Lanka. The PC has been demoted to a mere spectator. If the President expects observations, the council can make comments only.

V. PUBLIC SERVICE COMMISSION

Article 54 (1) deals with the Public Service Commission. The Public Service Commission shall have not less than five members and not more than nine members. All of these will be appointed by the President. At the same time, they must be appointed per the provisions of Article 41 (a). At least three of these members must have more than fifteen years of experience in the public administration service. The President shall appoint one of its members as its Chairman. (20th Amendment to the Constitution, Art..54).

VI. ELECTION COMMISSION

Article 103 (1) states that a five-member Electoral Commission shall be appointed by the President. At the same time, they will be appointed from among those who can distinguish themselves as experts in any profession or public administration or education subject to the provisions of Article 41 (a). One of them should be a retired officer from the Election Department or the Election Commission. He should be the Deputy Commissioner of Elections or above. One of these is the President; Will appoint the chairman (20th Amendment to the Constitution, Art..103, Sec1).

VII. APPOINTMENT OF JUDGES

Article 107 (1) of the Constitution has been repealed and amended as follows: The Chief Justice of the High Court shall be the Chief Justice of the Court of Appeal and each judge of the High Court and the Courts of Appeal shall be appointed by the President in accordance with the provisions of Article 41 (A). Article 137 of the Constitution has been completely amended. Accordingly, the maximum number of judges of the Court of Appeal has been increased from 11 to 19. Article 119 of the Constitution has been completely amended. Accordingly, the number of High Court judges has been increased from 11 to 16. Article 109 of the Constitution has been repealed. Instead, it has been edited as follows. Article 109 (1) provides that the Chief Justice or Chairperson of the Court of Appeal shall appoint another Judge or Judge of the Court of Appeal, respectively, in accordance with the provisions of Article 41 (A) when the Chief Justice or the Chair of the Court of Appeal is temporarily unable to perform the powers and duties of his office (20th Amendment to the Constitution, Art..119).

Article 109 (1) (2) When any judge of the High Court or the Court of Appeal is temporarily unable to perform the powers, duties, and functions of his office, the President may appoint another judge to act as a judge of the High Court or the Court of Appeal under Rule 41 (A).

VIII. THE PRESIDENT ACQUITTAL PROCEDURE IN COURT

According to Article 35 (1) of the Nineteenth Amendment to the Constitution, reduces the span of the President's impeachment and allows citizens to file fundamental rights petitions against the President in violation of his executive powers. But the president will not be named in these cases because the attorney general is named to represent the president. Consequently, the president is not expected to appear in court like everyone else. However, he will be represented by the Attorney General. Many of the actions of past and present presidents have been challenged and are now before.

Dissolution case of 2018 (SC, FR, Application No. 351-361, 2018), cases related to failure to take action before the Sunday attacks (news18.world, October 05, 2020, 23:24 IST), cases related to attempts to reintroduce the death penalty (Gomez Mario, 2019), cases challenging the President's amnesty, retirement benefits include a case involving the provision of a residence to President Sirisena (Daily FT, 29 October 2019, 00:30).

Article 35 (1) of the Twentieth Amendment to Constitution, provides that no person shall be prosecuted or prosecuted in any court for any act committed or omitted during his term as President. The Supreme Court has no jurisdiction to inquire into the exercise of the powers vested in the President under paragraph (G) of Article 33. Therefore, the president will be acquitted of both civil and criminal activities. In consequence, citizens will not have the power to file fundamental rights petitions against the President. Article 35 of the Constitution, however, protects only the doer, not the deed. It is noteworthy, therefore, that the High Court has previously ruled that the impeachment applies only to the term of office of the President (20th Amendment to the Constitution, Art.35).

IX. PRIME MINISTER & CABINET OF MINISTERS

According to the Nineteenth Amendment, the President is a member of the Cabinet, the head of the Cabinet. The president, in his opinion, can appoint any member of parliament as the prime minister who is most likely to gain the confidence of parliament. However, the president does not have the power to remove an appointed prime minister. With the advice of the Prime Minister, the President can determine the number of ministers, their duties, and responsibilities. Nevertheless, the number of Ministers shall not exceed thirty and the number of Non-Cabinet and Deputy Ministers shall not exceed forty. This was accepted by the Twentieth Amendment also (20th Amendment to the Constitution, Art.47).

The Nineteenth Amendment does not allow the unilateral removal of the Prime Minister by the President. Article 46 (2) the Prime Minister shall continue to hold office throughout the period during which the Cabinet of Ministers continues to function under the provisions of the Constitution the Prime

Minister shall continue to hold office unless the Prime Minister resigns under Article 46 (2) or becomes a Member of Parliament, or the Government is defeated by a resolution of no confidence under Article 48 (2).

However, under the Twentieth Amendment, the president can unilaterally remove the prime minister. He should consult the Prime Minister only where the President deems it necessary to consult, even when appointing Ministers under the Twentieth Amendment. This is an attempt to remove the barriers that the Prime Minister imposes on the President. The Ministers can be made obedient to the president and hold office if the president will last. The aim is to place more power over the president when making decisions on behalf of the country without restrictions or imbalances.

The Nineteenth Amendment, for the first time, denied the presidency permission to hold one or more ministries. Former President Hon. Maithripala Sirisena made interim arrangements for them to hold limited ministerial posts (matters and functions such as security, Mahaweli development, and the environment under Section 51 of the Nineteenth Amendment).

Under the Twentieth Amendment, the president can one or more keep to the ministry. The President may appoint ministers from among the Members of Parliament. The President can make changes in the affairs, functions, and structure of the Cabinet (20th Amendment to the Constitution, Art.46). According to the Twentieth Amendment, the President may be responsible for assigning to him the matter or duties of any Ministry and for any matter or function not assigned to any Minister and the president can return to the ministry. The President may appoint ministers from among the Members of Parliament. The President can make changes in the affairs, functions, and structure of the Cabinet.

X. LEGISLATIVE RELATIONS

According to Article 70 (1) of the Nineteenth Amendment, the President may, from time to time, by proclamation summon, prorogue, and dissolve Parliament. However, the President shall not dissolve Parliament until the expiration of a period of not less than four years and six months from the date appointed for its first meeting. However, a resolution passed by less than 2/3 of the total number of members of Parliament (including those not present) may call for the dissolution of Parliament. If so, the President may dissolve Parliament before 4-1 / 2 years. Reading Government Policy Statement at the beginning of each Parliamentary Session Presiding over the ceremonial seats of Parliament. The President must visit Parliament every three months for his term.

Article 70 (1), (a) of the Twentieth Amendment the President shall not dissolve Parliament until the expiration of a period of not less than two years and six months from the date appointed for its first meeting unless Parliament by resolution requests the President to dissolve Parliament. The president has broad powers to dissolve parliament, giving the president broad powers or control over parliament. This creates a

situation in which parliament acts in obedience to the wishes of the president, thereby restricting the power of parliament to act as an effective barrier.

XI. DUAL CITIZENS

Nineteenth Amendment Article 91 (1) (XIII) has prohibited dual citizens from contesting for president or member of parliament. However, The Twentieth Amendment removes this restriction. It will admit dual citizens to contest any elections in Sri Lanka.

XII. SOME UNIQUE FEATURES OF THE LATTER TWO AMENDMENTS

The three main features introduced in the Nineteenth Amendment are incorporated in the Twentieth Amendment. Article 14 (A) of the Nineteenth Amendment introduced the right to information within the fundamental rights chapter of the Constitution of Sri Lanka. The article of the right to information is incorporated in the Twentieth Amendment without change. Earlier to the Nineteenth Amendment, presidential and parliamentary elections were held in Sri Lanka every six years. The Nineteenth Amendment defined both elections to be held every five years. Article 30 (2) deals with the term of office of the President and Article 62 (2) deals with the term of office of Parliament. The Twentieth Amendment made no changes to these Articles. A person who has been elected as a President twice before the Eighteenth Amendment will lose the right to contest for a third term. The Eighteenth Amendment removed this restriction. As a result, former President Mahinda Rajapakse ran for a third term in 2015. According to Article 31 in the Nineteenth Amendment was re-enforced the terms of the president as two time. The Twentieth Amendment does not change these terms. In this way, the Twentieth Amendment maintains this provision. This means that a person cannot become the president twice.

XIII. CONCLUSION

By the Twentieth Amendment, the governance may be suffered due to systematic failures in the administrative and Political Systems. A constitution should maintain "checks and balances" by constitutionalism. If a country loses its checks and balances in the constitution, the country would be met to fail its rule of law and democratic mechanism. The Amendment to abuse of power has been made to the constitution. According to this given virtually powers to political authorities to decide on aspects of governance at their will. The fear is that the lack of participatory management, the creation of a consensus mindset, accountability for governance, transparency, accountability, effective and efficient processes, equitable and all-encompassing well-being, and participatory democracy will inevitably create an environment which would disappear after the Twentieth Amendment. The Twentieth Amendment shows beyond doubt that none of the provisions of the Bill contained any urgent matters. But, the SLPP Government has been arguing that the amendment was urgent for the national interest absent any logical foundation or justification. The Seventeenth

Amendment was not in operation since 2005, and a considerable number of apex officers' appointments were made by the President directly ignoring the mandatory constitutional provisions. For constitutional legality, the Eighteenth Amendment made consolidation of power to the Executive presidency in this connection. Thus, in effect, the Nineteenth Amendment reduced the president's power. But the Twentieth Amendment again has consolidation power to the executive presidency like the Eighteenth amendment to the constitution. The Twentieth Amendment has strengthened the powers of the President, who is not effectively accountable to parliament or subject to judicial review. The consolidation of powers in a single individual without any accountability is contrary to the basic principles of separation of powers. Whilst repeating the need to re-introduce the constitutional checks and balances introduced under the seventeen Amendment, all measures should be taken to ensure institutional solidarity by appointing officers with high unity to independent commissions and other constitutional positions. There is known to all that it is no easy task. However, it may be said that the time has come to debate it in the public arena. The civil society, media, academics, private sector, political parties, and religious leaders must be involved in collectively taking steps to ensure the independence of public service, Judiciary, and all institutions.

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