

Sri Lanka: A democratic revolution in the making?

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Contents

- [A time for gratitude](#)
- [Accountability for war crimes](#)
- [Restoring democracy, changing](#)
- [Economic policy](#)
- [Rights of minorities](#)
- [Conclusion](#)

A time for gratitude

Two disasters were recently averted in Sri Lanka. The first would have been the re-election of the corrupt and brutal Rajapaksa regime in the presidential election of 8 January 2015. For this we must be grateful, first and foremost, to democracy activists across the spectrum – Sobitha Thera, trade unionists, students, teachers, women’s groups, political parties, social activists, artists, lawyers, civil society organisations (CSOs) and people’s movements (especially the Movement for Social Justice), social media activists, and so on – who organised the campaign for a common opposition candidate with such skill and courage that it succeeded despite the huge amount of money and muscle-power employed on the other side, and also to the Election Commissioner, who managed to carry out a tolerably free and fair election against heavy odds. Secondly, to Tamil voters, who overwhelmingly rejected the Tamil nationalist plea to boycott the election on the grounds that restoring democracy in Sri Lanka would offer nothing to Tamils. [1] The Tamil National Alliance (TNA) in particular has played a commendable role in recent years, affirming their faith in democracy by opposing the continuous slide into dictatorship under the Rajapaksa regime. For Muslims to support the opposition should have been a no-brainer after the state-sponsored pogroms against them by Buddhist thugs of the Bodhu Bala Sena (BBS); that it took so long for their leaders to disentangle themselves from the old regime is a sad comment on the corrupt politics of patronage that prevailed. Hill-country Tamils, most of whom had hitherto been in the clutches of plantation politicians like Thondaman of the Ceylon Workers’ Congress which supported the Rajapaksa regime, gave an overwhelming message that they can make intelligent decisions on their own.

However, there is no way the common candidate Maithripala Sirisena could have won without the votes of Sinhalese voters, who voted for change in defiance of the violence, massive expenditure and racist fear-mongering of the Rajapaksa brothers. They too deserve our gratitude. An analysis of the election results shows that Rajapaksa lost ‘because a large chunk of Sinhala voters who supported him in 2010 voted for the Opposition in 2015’. [2] It is notable that even the Buddhist monk party, the Jathika Hela Urumaya (JHU), articulated the need for change and mobilised their constituents to realise it. An interesting observation is an urban-rural divide in many Sinhala-majority areas, with the urban population voting for the opposition while the rural population voted for the incumbent. [3] This suggests that the opposition message reached the more educated, internet-

connected urban voters, but failed to make the same impact in rural areas, where the population has for decades been subjected to Sinhala nationalist propaganda with little access to alternative information or ideas. The Janatha Vimukthi Peramuna (JVP) played an impressive role both in the campaign and before it, opposing attacks on Muslims by the BBS and highlighting the need for a political-economic democratic programme. Unfortunately, leaders of the mainstream Left parties remained with the Rajapaksas right to the end, although many members joined the common opposition campaign.

The second disaster, perhaps even more ghastly than the first, would have been a coup by Rajapaksa in the wake of his defeat in the election. For many people in Sri Lanka, this was the greatest fear. It has been reported that he conceded defeat only after the Attorney General, Solicitor General, Army Chief and Inspector-General of Police refused to endorse an attempt by him, backed by Mohan Peiris whom he had installed as Chief Justice, to stay in power. [4] This allegation has yet to be proved, but if it is true, we owe an enormous debt of gratitude to the public officials who saved the country from sliding yet again into bloodshed and chaos.

Last but not least, let us not forget to thank the unarmed civilians who risked and sometimes lost their lives in the struggle to resist right-wing Sinhala and Tamil nationalism and keep the flame of democracy burning. This includes the election-monitoring organisations and community cells who acted as watchdogs to ensure that voting proceeded smoothly. There is poetic justice in the fact that Mahinda Rajapaksa was voted out of power on the sixth anniversary of the murder of Lasantha Wickrematunge, who wrote to the former president in his prescient last letter, 'In the name of patriotism you have trampled on human rights, nurtured unbridled corruption and squandered public money like no other President before you. Indeed, your conduct has been like a small child suddenly let loose in a toyshop. That analogy is perhaps inapt because no child could have caused so much blood to be spilled on this land as you have, or trampled on the rights of its citizens as you do'. [5]

However, the fact that these disasters were so narrowly averted means that the new political dispensation – the New Democratic Front – is exceedingly fragile. Strengthening it will entail confronting and resolving many difficult questions. In a historic move, a National Executive Council comprising representatives of all constituent parties of the new government as well as political groups and civil society organisations was set up on 16 January 2015 with the mandate of facilitating good governance directly and indirectly. It will be the task of this institution to tackle these questions.

Accountability for war crimes

The new regime has declared that it will carry out an investigation of war crimes as required by the UN, with international inputs if necessary, and that is good so far as it goes. However, the terms of reference of the UN proposal are far too narrow for our purposes. J.R. Jayawardene's regime effectively declared war on Tamils when it passed the Prevention of Terrorism Act (PTA) in 1979 (although there had been pogroms earlier), and the war thus declared went on for thirty years. In the middle of it was the JVP insurrection and government counter-insurrection, which should also be counted as a war. Tens of thousands of civilians had disappeared and died in both wars before the international community took an interest in Sri Lanka, but we cannot forget about those victims, who are every bit as important as those who perished at the end; there should, as far as possible, be an accounting for what happened to them all. Every effort should be made to find the disappeared or at least their remains and return them to their families, who still suffer anguish over the unknown fate of their loved ones, unable even to perform their last rites.

The war as a whole should be investigated not only out of consideration for victims and their families but also out of fairness to perpetrators. Take, for example, the current Prime Minister, Ranil Wickremesinghe, who was part of the government during the UNP regimes of Jayawardene and Premadasa, and was implicated both in the 1983 massacre of Tamils and in torture and extrajudicial executions during the Southern counter-insurgency in the late 1980s. [6]

In an ironic twist, at the time when Wickremesinghe was involved in human rights violations, Mahinda Rajapaksa was a human rights defender attempting to document those violations and take the evidence to the UN Human Rights Commission in Geneva. [7] Gratitude to someone who stood up for their human rights when it was risky to do so could be an additional reason – apart from his winning the war against the Liberation Tigers of Tamil Eelam (LTTE) – why people from parts of the country most affected by the counter-insurgency in the South [8]voted for him. As cynics have observed, some human rights violators and defenders from that period have simply swapped places, although it appears that Gotabaya Rajapaksa was a killer then and remains a killer now. [9] It would surely be a travesty of justice if Mahinda Rajapaksa is indicted for war crimes while Ranil Wickremesinghe enjoys impunity for equally heinous crimes.

A Truth Commission consisting of people of integrity and without connections to any political party needs to be set up, with powers to call witnesses, investigate crimes, and question those accused of them. It can take off from the excellent work done by human rights groups like the Civil Rights Movement (CRM) and University Teachers for Human Rights –Jaffna (UTHR-J), as well as earlier commissions of inquiry and the Lessons Learnt and Reconciliation Commission (LLRC), but needs to go further. It needs to account for all the dead and disappeared, including tens of thousands of Tamils arrested by the LTTE who were never seen again, and combatants who surrendered or were captured by the army and subsequently went missing.

There may be a problem here. In many cases, the victims and eye-witnesses might be dead, and getting at the truth may depend on confessions by perpetrators. It may well be impossible to nail those with command responsibility for killings unless those who followed their orders are given at least partial immunity in return for their testimony. If the goal is to uncover the truth, this is worth doing. The work of the Truth Commission, as it proceeds, should be put up on a website in Sinhala, Tamil and English, so that it is completely transparent. The results of previous commissions should also be put in the public domain; wherever investigations have been shelved or sabotaged, they should be resumed. Pope Francis is right: we need to know what happened in our country throughout those years of hell; and for many thousands of families, the nightmare will not end until they know. As for trials and punishments, that can be left to a truly independent judiciary. However in the meantime, the Witness and Victim Protection Bill pending before parliament should be passed, and perpetrators at every level should be stripped of all power to harm the families of complainants or those who give evidence against them. Excellent suggestions for achieving truth, accountability and reconciliation have already been made. [10]

Restoring democracy, changing the constitution

What can and should be done immediately is to restore the rule of law. Anyone, regardless of status or position, who engages or has engaged in arson, looting, assault, rape or murder in the post-war period should be arrested and charged; all citizens should feel that they are protected by the law from such outrages. People who have indulged in such lawless behaviour, including thugs of the BBS, should be tried and put behind bars as soon as possible along with their political mentors. War crimes cases may take years, but prosecution of post-war crimes should be expedited because these criminals are a danger to society, and democracy cannot be restored while they are allowed to

terrorise the public. Police personnel who have arrested victims of violence like Watareka Vijitha Thero [11] while allowing perpetrators to roam free should be issued with strict warning letters telling them that if in future they collude with criminals, they will be dismissed and may have to face charges. Laws which undermine the rule of law, like the PTA, should be repealed.

Women should play a key role in the socio-political democratic transformation. Violence against women and women's rights violations should be addressed effectively, and mechanisms developed for making state and non-state actors accountable for them. The Women's Commission should be revived, strengthened and developed into a body that is able to address war-time as well as post-war cases of sexual assault and domestic violence. Partnerships can be developed with grassroots activists and organisations, feminist activists and academics in order to achieve this.

Ensuring freedom of expression is a priority. Journalists who dared to report the truth have been exiled, killed or had their websites blocked, while servile reporters have been dishing out lies and absurdities which have misled the public who consumed them uncritically. All those who have attacked journalists in the post-war period as well as those who have ordered such attacks should be arrested, charged and tried for these crimes. No writer or artist should have to fear such treatment now. Freedom of association, including the right of workers to belong to a trade union of their choice and bargain collectively, should be ensured, as well as the right to peaceful protest. Academic freedom and immediate demilitarisation of education are also priorities.

None of these rights can be assured so long as the utterly corrupt and nepotistic appointments of the previous regime remain in place. All those who have been appointed to cabinet positions, the civil service, universities and the public sector purely on account of being family members or stooges of the Rajapaksas should be relieved of their posts, and replaced with honest and competent people, many of whom had been passed over despite their obvious superiority to the incumbents. [12] If there seems to be a shortage of suitable candidates who are implicated in neither war crimes nor post-war crimes, this is not really so; there are many capable and qualified women, for example, as well as younger people, who could take over these jobs. Restoring the independence of the judiciary, so shamefully undermined by the previous regime, must be a top priority. The reinstatement of Chief Justice Shirani Bandaranayake, who was illegally removed from office by the Rajapaksas, and the consequent removal of Mohan Peiris from the post, paves the way for this to occur. [13] What is needed now is to fast-track the justice system to redress violations and eliminate impunity and large-scale, scandalous corruption.

In the longer term, constitutional change is required to safeguard fundamental rights and freedoms, as promised by the manifesto of President Maithripala Sirisena. But here we have a problem. Changing the constitution requires a two-thirds majority in parliament or a referendum. If Sirisena's campaign had been fought on the single issue of abolishing the all-powerful executive presidency, then the election could legitimately be seen as a referendum on the issue; but if that had been so, he probably would have lost. Given that his campaign was fought on many other issues, it cannot be claimed that those who voted for him were necessarily voting for drastically curtailing the powers of the president. Therefore it becomes necessary to get a two-thirds majority in parliament in order to make this change.

In the current parliament, it is likely that Rajapaksa will direct his loyalists to vote against slashing the powers of the president, in the hope that he would in future have a chance to try for the post again. Given Wickremesinghe's history of opposing the abolition of the executive presidency by 'tearing and burning the draft Constitution that was introduced in Parliament in 2000' [14], following which he twice contested elections for the post, it is entirely possible that he and his supporters will do the same again. Thus the passage by the current parliament of constitutional amendments that reduce the power of the president drastically without diluting the amendments or

entering into corrupt deals with sitting MPs is by no means certain, and pro-democracy activists needs to have a Plan B in case it fails to do so.

Arguably, changing the electoral system to a mixed first-past-the-post plus proportional representation system should be carried out prior to the parliamentary elections in order to allow the election of candidates, including independents, who are popular locally but lack the financial resources to win under the current system. Passing the 19th Amendment to repeal the 18th Amendment and put in place an amended and improved version of the 17th Amendment is also a priority in order to ensure the independence of public commissions. Democracy activists should (a) have their own discussions on the constitutional changes they would like to see and the time-frame in which they want them implemented; (b) monitor the National Executive Council to ensure that the promised constitutional reforms are carried out within a realistic time-frame; (c) identify potential parliamentary candidates in all constituencies who would support the constitutional changes sincerely; (d) campaign vigorously for the selected candidates in the forthcoming parliamentary elections; (e) pass any changes that could not be passed in the old parliament in the new parliament.

Economic policy

The old Bandaranaike-Left project of a national developmental state was already in trouble in the 1970s, and is no longer viable. The brutal neoliberal economy introduced in 1977 by J.R. Jayawardene and his nephew Ranil Wickremesinghe (which included smashing trade unions and killing unionists) has collapsed not just in Sri Lanka but worldwide; when even International Monetary Fund (IMF) chief Christine Lagarde admits that the 'severely skewed income distribution' fostered by neoliberal policies 'harms the pace and sustainability of growth over the longer term' [15], it is time to abandon such policies. The Rajapaksa model of unlimited corruption, crony capitalism and reckless indebtedness is the least viable of all. It is necessary to move to a new model, connected to the global economy but also addressing exploitation and inequality, and fostering social security and a welfare state.

In the present situation, the first and most urgent requirements are transparency and accountability. The new government needs to have a website in Sinhala, Tamil and English where it puts up its assets and liabilities, income and expenditures, updated frequently. As the information becomes available, it should also put up the accounts of the previous government. Such transparency can be initiated even before the passage of a Right to Information Act, which is to be tabled within the first 100 days of the new regime. Mega projects costing trillions and often causing displacement or environmental destruction should be halted; the policy of subsidising the rich while imposing austerity on the poor must be reversed. If it is proved that public money has flowed into private pockets, there should be an attempt to restore it to the public, if necessary by attaching assets.

This is not a matter of revenge, but a necessity (along with a system of progressive taxation) to pave the way for institutional reforms and fund the new government's ambitious programme of social justice and welfare. In case it does not fulfill any of its promises, it should be possible, using the information published on its website, to explain why it could not do so.

The new government - which, sadly, has yet to appoint a Labour Minister - must ratify the ILO Core Conventions (regarding abolition of forced labour and child labour, equal pay, non-discrimination in employment and occupation, and respect for freedom of association and trade union rights) and also the Conventions protecting home-based, informal, domestic and migrant workers, and ensuring occupational health and safety. These conventions should be translated into legislation and implemented in national policies, providing social and legal protection to workers. There should be a

national minimum wage for all sectors including casual workers. Plantation workers, who face limited livelihood options in estates where management does not provide minimum work-days during lean crop months, must be provided with special guarantees or alternative employment to ensure their survival. The government must support workers when management fails to honour collective agreements.

The problems of unemployment and inflation require creative solutions. If the measures outlined above are taken, the government should be able to succeed in its efforts to revive the EU GSP+ trade benefits, as well as obtain investments from companies committed to abiding by the same conventions. This will create many jobs, but not enough to satisfy the demand for employment. One way of creating employment is through a scheme like the National Rural Employment Guarantee Scheme in India, which provides 100 days' employment per year for labourers in rural development projects; these could be used to prevent droughts, floods and landslides. Another would be setting up centres to provide advice, seed money and help with marketing for cooperatives, including industrial, agricultural, service and consumer cooperatives. These would not only create employment but also help to reduce food prices.

Women constitute more than half the adult population of Sri Lanka and contribute the majority of its foreign exchange; they have undertaken all manner of occupations, including the difficult and dangerous job of clearing landmines. They should play a commensurate role in economic policy-making as well as benefiting from the employment generated. Special consideration needs to be given to the large number of people with disabilities; they should receive suitable rehabilitation and employment. Finally, there is the military, which is far too big: the very fact that numerous soldiers are engaged in peacetime activities proves that they are not needed in the armed forces. They should be demobilised forthwith, but can be allowed to continue with the work they were doing in the capacity of ordinary civilians without any special privileges. A large number of unemployed and disgruntled veterans would be a problem for any country, and Sri Lanka simply cannot afford it!

Rights of minorities

Equality before the law and equal protection of the law for linguistic and religious minorities should be ensured immediately. So far as language rights are concerned, the new government has declared its willingness to implement the 13th Amendment. This is a good start, but that amendment itself needs to be amended before it can deliver. In the first place, instead of just saying that 'Tamil will also be an official language,' it should say that 'Sinhala and Tamil will be official languages'; better still, it should say that Sinhala, Tamil and English will be official languages. In today's globalised world, full participation requires knowledge of at least one international language, and English is the language most accessible to Sri Lankans. The President's address to the nation on January 9 at Independence Square and in Kandy was only in Sinhala; apparently this lapse will not be repeated in his Independence Day address on 4 February. There are enough competent people who can translate such speeches! Instead of the idiotic and counter-productive Rajapaksa-Weerawansa policy of banning the singing of the national anthem in Tamil, it should, on the contrary, be encouraged on appropriate occasions.

Already some forms (e.g. passport applications forms) and street signs are in all three languages, and this should be extended to all official forms and signs in railway stations, buses, etc. With modern technology, there can be simultaneous translations made available in parliament and provincial councils, so that all members can speak in the language of their choice and be understood by everyone else. All government offices, police stations and so on should have staff who collectively have competence in all three languages. If schoolchildren are taught all three languages, the

language problem will disappear within a generation.

Anti-discrimination and equal opportunities legislation should be enacted, and an Equal Opportunities Commission set up to ensure equal access to education, employment, and so on. This should help to combat not only discrimination against linguistic and religious minorities, but also discrimination on the basis of gender, caste, class, geographical location, ability and sexual orientation. Equality, the bedrock of democracy, should be made a reality and integrated at all levels of governmental institutions and mechanisms.

One of the first acts of President Sirisena was to replace the military governor of the Northern Province with a civilian governor, and the government has pledged to return private land seized by the military to its owners. This is a good start, but the demilitarisation of the Northern and Eastern Provinces needs to go much further. High Security Zones and big army camps should be dismantled, and all the families they have displaced – some of whom have been living in camps for decades – should be allowed to return and rebuild their homes and livelihoods. This has been one of the most frequently-made demands by internally displaced people, and the Prescription (Special Provisions) Bill, currently pending before parliament, should be passed expeditiously to help them to reclaim their property. Checkpoints should be dismantled, military interference in civilian life stopped. Women should be able to move freely, develop their potential, and engage in creative activism in any field. The issue of personal security and livelihood security is prime for all citizens but especially for the war-affected people in the North and East. Military farms should be handed over to the provincial councils; demobilised soldiers can continue to work in them if they wish to, but, as in the rest of the country, as civilians without any special privileges. ‘National security’ cannot be ensured by military occupation and anti-imperialist rhetoric, as the previous regime claimed it was doing; only when personal and livelihood security touches the lives of all citizens will real security return to Sri Lanka.

So far as devolution of power to provincial councils is concerned, it is meaningless so long as the president, either directly or through a governor, can interfere with the running of a province at will. All references to the president in the 13th Amendment should be deleted, the governor should be appointed by parliament, and the Chief Minister and other ministers should be selected by elected members of the provincial council. Adequate resources not only for running the council but also for provincial development projects, cooperatives, and so on should be provided by the Centre in accordance with the democratic principle that those who are most affected by local decisions should be most involved in making those decisions. This will benefit all provincial councils, not only those in the North and East.

Finally, the vexed issue of the merger-demerger of the Northern and Eastern Provinces should be laid to rest by carrying out a referendum in the Eastern Province to ascertain whether its people wish to merge with the Northern Province or remain separate. It is our feeling that the vast majority, including Tamils, would opt to remain separate. If this is the outcome, it would serve to counteract the fantasies of foreign Eelamists as well as Sinhala racist propaganda regarding a non-existent separatist threat. [16]

Conclusion

At this point in time, only one thing is certain: The practice of democracy has been so degraded by decades of totalitarian LTTE rule in the North-East and over five years of the Rajapaksa dictatorship in the country as a whole that democracy activists of all stripes, from socialists and feminists to honest liberals, will have to work together tirelessly for a long time to come before it is restored. The

first 100 days can only be a beginning.

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P.S.

*<http://www.sacw.net/article10505.html>?

Footnotes

- [1] <http://groundviews.org/2015/01/12/sri-lanka-stunned-sri-lankas-2015-presidential-poll-and-unwarranted-exclamations/>
- [2] <http://groundviews.org/2015/01/15/racist-tom-toms-and-electoral-statistics/>
- [3] <http://groundviews.org/2015/01/12/the-forgotten-majority-the-way-forward/>
- [4] <http://srilankabrief.org/2015/01/blow-blow-ag-led-prevention-coup-jan-8-2015/>
- [5] <http://www.thesundayleader.lk/20090111/editorial-.htm>
- [6] https://www.facebook.com/permalink.php?story_fbid=364150540289293&id=191150710922611
- [7] <http://dbsjeyaraj.com/dbsj/archives/15968>
- [8] <https://www.colombotelegraph.com/index.php/200-bodies-found-in-the-mass-grave-at-matale-un-should-ensure-inquiries-meet-the-international-standards/>
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- [10] <http://groundviews.org/2015/01/19/ideas-for-a-road-map-for-truth-and-justice-in-sri-lanka/>
- [11] <http://www.aljazeera.com/news/asia/2014/06/sri-lankan-pro-muslim-monk-attacked-2014619143022995385.html>
- [12] <https://www.colombotelegraph.com/index.php/jaffna-uni-teachers-up-in-arms-governor-chandrasiri-and-douglas-not-to-be-seen/>
- [13] <http://www.theguardian.com/world/2015/jan/29/sri-lankas-new-president-reverses-revenge-politics-of-rajapaksa-regime>
- [14] <http://www.asiantribune.com/news/2005/11/12/university-don-chastises-ranil-wickremasinghe-having-blood-stains-his-hands-0>

[15] <https://www.imf.org/external/np/speeches/2014/020314.htm>

[16] <https://www.ceylontoday.lk/51-83528-news-detail-why-northern-tamils-voted-for-maithri-and-more-importantly-why-they-outvoted-mahinda.html>