

# Sri Lanka: Human rights and the first 50 days of the new presidency

Monday 2 March 2015, by [FERNANDO Ruki](#)

It's now 50 days since Sri Lanka's new President took oaths on 9<sup>th</sup> January 2015. This is an attempt to reflect on the first 50 days of the new Presidency. It's not meant to be comprehensive assessment of the 50 days, but a reflection based on my personal experiences, what I've seen and heard in my travels around the country interacting with various people and also what I've read.

There were three striking things for me in terms of the oath taking ceremony itself. First, unlike previous regime's ceremonies, it was a simple ceremony. Second, the new President had opted to be sworn in by the senior most serving Supreme Court Judge, and ignored the unconstitutionally appointed de-facto Chief Justice of the time. Third, it was a Sinhalese ceremony, with the President's speech and the National Anthem also being Sinhalese - despite the overwhelming Tamil votes that President had received to ensure his victory.

A few weeks after the elections, the de-facto Chief Justice was removed from office, on a day there was massive protests by civil groups, led by lawyers. Civilian Governors were quickly appointed to the North and East, replacing those who were former senior military officers. A new law on Protection and Assistance to Victims and Witness was passed. Drafts of the proposed Right to Information (RTI) Act were circulated in English, Sinhalese and Tamil and series of consultations were held with several groups. In the one I attended, led by Minister Karu Jayasooriya, the Minister stayed from beginning to end, spoke very little and mostly listened. He emphasized that the government's priority was not to have the best RTI in the world, but to pass it within 100 days. A few days later, a citizens group known as Friday Forum, called for more time for consultation on other impending bills, even if it means to go beyond 100 days.

While it's understandable that not too much can be achieved in 50 days, there were also some alarming and negative developments in the 50 days, many of which appeared to be uncalled. Instead of moving to remove the death penalty from our books as part of "*Maithree* (compassionate) rule", the Minister of Justice threatened to break the moratorium on the death penalty and execute those given the death penalty. He also signed a gazette notification to continue the extension of detention without warrants to 48 hours, instead of the long held time of 24 hours. The new President signed a gazette notification calling out the military to maintain public order all over the country. Given the proliferation of Rajapakse family members to important positions in the past, eyebrows were raised when a brother of the new President was reported to have been appointed as the Chairman of Sri Lanka Telecom, despite not showing any strong experience or academic qualifications related to telecommunication sector.

There was a marked difference in the media sphere. Websites that had been blocked were unblocked. A film that had been banned was released. State TV stations have started to invite those who they branded as "traitors" to talk shows. State newspapers even asked some of us who have been named as traitors for comments. Public announcements were made by Ministers for exiled journalists to come back. But several in exile have expressed concern than mere calls for return are not enough, and that conditions favorable for return have to be created, including assurances of safety from political persecution. Some have cited potential arrests warrants and court cases against

them that may still be pending. Couple of journalists who have to pay “overstay fines” to the country they are presently in, before they are allowed to return back to Sri Lanka (despite them being recognized as refugees by UNHCR), have made appeals to the Sri Lankan government to intervene diplomatically to waive these off. But there has been no clear response. The government has announced that investigations will commence into killing of *Sunday Leader* Editor Lasantha Wickramatunga and other journalists, media personnel and media institutions who have been killed, disappeared, assaulted and subjected to arson attacks. Several foreign journalists who I met during these 50 days have told me it was easier to get visa and they felt freer to come, visit and report independently. Restrictions on travel of foreign nationals to the North were lifted.

Unlike before, I didn't hear many stories of human rights defenders, journalists, lawyers, priests, student activists being attacked, threatened, and intimidated, particularly from Sinhalese areas. However, there have been some incidents. The Frontline Socialist Party complained that its leader who was an Australian national, was being harassed and intimidated to stop his political involvement. There were several reports by election monitoring bodies and media, on attacks on supporters of the losing President, in the days after the elections. A UNP MP was accused of attacking opposition activists, and Police didn't arrest the offender immediately, despite availability of audio-visual evidence. He was later remanded, after lot of pressure. Those trying to distribute leaflets on the morning of 18<sup>th</sup> February in Nugegoda, before a massive rally in favor of previous President, were reported to have been attacked by supporters of the organizers.

However, intimidation and surveillance of Tamil human rights defenders in the North and East appear to be much more intense, though again, less intense than during the Rajapakse's. In February, when I was in Batticaloa with a group of religious clergy, the local person who organized a visit to an interior village to meet a community there was questioned by intelligence officials. Another activist in Batticaloa was questioned about a visit he made to check into the well-being of ex-detainees. Families and friends of two Tamil activists who are now hiding due to death threats last year were questioned and intimidated. A Tamil youth who had been detained and released as innocent after years and months of detention and torture, continued to be harassed by the Police.

Torture and deaths in suspicious circumstances when in Police custody continued to be reported in these 50 days. At least two persons were reported to have died in Police custody, in Suriyawewa in the South and Thalawakele in the Central Province.

Most of the land occupied in Eastern village of Panama was returned to the villages. Announcements were made about returning 1000 acres of land held by the military in Jaffna to Tamils. But the announcement of “model village”, has created tensions and doubts, whether communities will be able to go back to their original lands or whether they will be compelled to live in other areas which may not be suitable for their historic way of life, in terms of culture, livelihood etc. “Model village” has been a term used in the past for cleared jungle areas where persons whose villages are occupied by the military and have been compelled to live, such as in Kepapulau in Mullaitivu district.

Broad pronouncements have been made, but there are very little concrete commitments with time lines about returning Tamil lands with whole villages now occupied by the military in rest of the Jaffna peninsula, and also outside Jaffna such as in Mullikulam in the Mannar district, Kepapulau in the Mullaitivu district and Sampoor in the Trincomalee district. There are also no clear commitments in returning lands of Muslims held by the military, such as in Ashraf Nagar in the Ampara district, Karumalaiootru in the Trincomalee district, Silavathurai and Marichikattu in the Mannar district

Pilgrims who received permission to enter the High Security Zone at Myliddy in Jaffna district to perform *pooja* at a temple were reported to have been shocked to find the *kovil* (temple) gone and a hotel coming up in its place. Two weeks ago, when I tried to visit the historical Catholic Church in

Mullikulam with some Catholic Priests and Sisters, we were not allowed entry. Another Catholic priest had been prevented from entering in January too. The church and the village had been occupied by the Navy, but previously, access had been given to the Church.

We have not seen widespread attacks on places of worship, homes and businesses of Muslims and Christians, on an intensity and regularity we had seen under the Rajapakse's. But according to the National Christian Evangelical Alliance of Sri Lanka, even after elections, Christian pastors received death threats, houses were stoned, a fence burnt. In another incident after the elections, a group of Christian pastors were summoned for an inquiry about unauthorized constructions, even when there is no legal prohibition on constructing places of worship. A Buddhist Monk had threatened and assaulted a lawyer representing the Pastors, in front of Police Officers and the Divisional Secretary, who had summoned the meeting and had also falsely accused the Pastors of unethical conversions.

One of the Buddhist groups that had been primarily responsible for such attacks and threats under Rajapakse's, the Bodu Bala Sena (BBS) also seemed very much alive and kicking. According to a Muslim activist, they had been threatening the Muslim community almost on a daily basis through their press conferences and other media tamasha's. In particular, Muslims have been alarmed at the BBS threat to march and destroy Dafar Jailani, a place of religious significance sacred to Muslims, a location where a greatly revered Islamic saint, Sheikh Muhiyadeen Abdul Qadir had meditated and lived in the rock caves, over a thousand years ago, in Kuragala in the Rathnapura district. The BBS is reported to have threatened to destroy its artifacts, monuments and wipe out all historical evidence, claiming that the site has archeological value to them and the rock cave is an ancient Buddhist monastic site, and thus, demanding the removal of all Islamic inscriptions that dates back to over a thousand years. This has led to the escalation of tensions between the Muslims and Buddhists in the region.

There have been mixed messages on reducing the extent of militarization in the country, especially in the North. The State Minister for Defense went to the Jaffna and insisted that there would be no removal of any Army formations there and that there would be no scaling down of security arrangements. After the elections, the Army Commander went to Jaffna and opened a swimming pool in a resort run by the Army. Shops, restaurants, resorts and hotels, boat and airline services and farms that were run by the military continue to operate and there have been no specific commitments with timelines to shut them down.

The Northern Provincial Council passed a "genocide resolution" and government criticized this without addressing the core contents and trying to engage with the Council or the Tamil National Alliance (TNA). The UN High Commissioner for Human Rights asked the investigative report on Sri Lanka to be deferred to September, from the scheduled March. This was agreed to by the UN Human Rights Council member states. The original request came from the Sri Lankan government and this has been widely criticized by the Tamil community, ranging from the TNA, Tamil Civil Society Forum, Tamil families of disappeared persons and Diaspora. There was a massive protest in Jaffna.

Announcements by the government to initiate new domestic processes for prosecutions for allegations of war crimes and a truth and reconciliation commission has also led to condemnation from some Tamil groups, who claim to have no confidence in domestic processes. The government had pledged to cooperate with the UN, but had not indicated that it will cooperate with the ongoing investigation, had not extended an invitation to the investigation team to visit Sri Lanka and neither had it assured that any Sri Lankan is free to cooperate with the investigation body without facing the type of reprisals there were before.

There is a mass protest planned by environmentalists, fisherfolk and civil society groups against the

Port City project, which is expected to cause widespread environmental damage and harm to the fishing industry, not just in Colombo where it's located, but all over the country. Protesters have cited promises made by the new Prime Minister to scrap the project during the election campaign and that no proper Environment Impact Assessment has been done. In the hill country, there have been mass public protests against the Uma Oya project, again citing environmental destruction and negative impact on communities living near and afar. Water pollution in Chunnakam in Jaffna also lead to widespread protests.

Families of disappeared persons staged a series of protests in North and East, including Jaffna, Mannar, Vavuniya, Batticaloa, Ampara, and Colombo, calling for truth and justice for their loved ones. Frustrated over the number of Commissions of Inquiry without any results, there was a call to boycott the latest hearings of the Commission looking into missing persons in Trincomalee this weekend. There have been no concrete commitments made in relation to truth, justice and reparation for those disappeared. There was also a protest calling for investigations and justice on the killing of prisoners inside prisons.

An issue that is very urgent in my view is the issue of large numbers of political prisoners, languishing in detention for long years, some as long as 19 years. To my knowledge, not even one political prisoner has been released in these 50 days. Minister Rajitha Senarathne, who is also the Cabinet Spokesperson, had said that "There are 275 names of political prisoners, all are [ethnic minority] Tamils and have been detained since the war," The Prime Minister has said he doesn't know the number of political prisoners and that a list has been compiled, which he still needs to check. But a list of 182 persons detained in remand custody has been compiled, which does not include those in Boosa, TID headquarters in Colombo and other Police stations. This list does not include anyone convicted for terrorism related charges. It's a list those held without charges since at least 2006 and those who are detained since at least 1996 while cases against them still go on. The dates of detention indicated is not the date of arrest, just the date they were handed over to remand custody. The Deputy Minister of Foreign Affairs told all political prisoners without charges will be released in March. Earlier, the President was reported to have told the Catholic Bishop of Mannar that the question of political prisoners will be addressed within a year. At the Colombo Magistrate courts, I saw many cases related to terrorism charges being called up, and postponed. It may be worthwhile also to mention that a Policeman told me to stop taking notes inside the court room, saying "sensitive TID cases are being heard and no one is allowed to write" - this despite hearings being in open courts.

Ms. Balendran Jeyakumari, who is probably the best known political prisoner now, has now been in detention for more than 11 months without any charges. Jeyakumari's teenage daughter had written a passionate appeal to the President, asking the President to consider her as his own daughter and release her mother soon or that she will commit suicide. Her father is not alive, two of her brothers have been killed during the war and the other brother had disappeared after surrendering to the Army. It is widely believed that her mother's arrest is due to her aggressive campaigning to find this boy and other disappeared persons. To my knowledge, there has not been a response to her from the President, although colleagues have been assured by a Minister that he himself, as well as the President and Prime Minister had both read the letter.

Finally, on a personal note, I have felt less fear, some hope, which has been tempered, when I realize that there maybe much more of what I've said above. At the same time, the investigation against me by the TID on allegations of supporting terrorism continues and the Attorney General's department appears unwilling to close the case, despite appeals made by my lawyer months ago. Restrictions on my freedom of expression and overseas travel remain, electronic equipment confiscated more than 11 months ago still has not been returned. While this can be called a relatively minor irritant in view of those in detention for long, families of disappeared and many other things I have mentioned

above, in an era of “*Maithree* (compassion)” and Rule of Law, I also look forward to the day I can be freed from accusations of supporting terrorism, to get back my confiscated equipment and to enjoy my rights to travel and speak freely. Hopefully within 100 days or not too long afterwards.

**Ruki Fernando**

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\*<http://groundviews.org/2015/03/02/human-rights-and-50-days-of-sri-lankas-new-presidency/>

The author is a well-known human rights campaigner in Sri Lanka.