

# Sri Lanka: Beyond the barricades

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**Sri Lanka is in unprecedented political territory and turmoil. Since 1931 citizens have always changed governments through the ballot. It is a rich history of democratic governance, in fact the oldest in Asia. Sri Lanka has never known an alternative mode of governance and the system is quite simply not geared for unconstitutional transfers of power.**

Yet, as a result of the 20<sup>th</sup> Amendment to the constitution enacted in 2020, which built on the previous power grabs of the 18<sup>th</sup> Amendment of 2010 (now repealed), there are few constitutional options for a change of government and a presidency in the middle of a term.

Protests across the capital and the nation on 3 April, defied a blanket curfew and the sudden declaration of emergency by the President prohibiting gatherings in parks, on roads and “by the seaside”.

Perhaps never before in the history of Sri Lanka has a state of emergency been declared purely to protect the rulers from the wrath and disgust of the people. By their defiance, Sri Lankans have spoken loud and clear and in one voice. They no longer recognise the authority of President Gotabaya Rajapaksa’s Government – ergo, the Government of President Gotabaya Rajapaksa has lost the legitimacy to govern Sri Lanka.

It is in recognition of this sorry state of affairs that the Cabinet of Ministers resigned en masse on Sunday night. And it is a testament to the tone-deafness of the ruling family that there are no signs of the last two resignations taking place despite the overwhelming, unequivocal rejection of the current regime and its monumental policy errors that have led to an unprecedented economic crisis. Make no mistake; if the change the people are demanding does not happen, the top echelons of the regime and their kith and kin will be hooted and mobbed out of every flower show opening and rugby match. Given the mood of the citizenry, unless the regime resorts to brute force and sets the stage for a bloodbath, governance will become impossible.

President Rajapaksa cannot hope to continue with token changes to his administration. The demand of the people is for the whole clan to resign and be held accountable for the virtually irreparable damage that has been caused to the country through mismanagement and corruption. A shuffling of heads in the Cabinet will not suffice to meet the demands of a people who might just have launched a revolution last weekend.

As Sri Lanka ventures into constitutionally uncharted territory, all options to ensure a legitimate, smooth, and non-violent transition must be explored. Parliament must be empowered to usher in the political change that is demanded by the people. President Rajapaksa needs to resign and facilitate a transfer of power to the parliament.

Parliament can choose a new prime minister who enjoys the majority of the House or it can dissolve itself and call for a fresh general election. Either option is pointless under the current constitution that vests all executive power with the president. In the dicta of Justice Yasantha Kodagoda in the

case concerning the citizenship of candidate Gotabaya Rajapaksa prior to the presidential election of 2019, it was noted that all executive power of the State is repositied in the President in the absence of a Cabinet of Ministers. By this argument even if the whole cabinet, including the prime minister resigns, all executive power would reside with the President. Caretaker Governments with President Gotabaya Rajapaksa remaining in office or a mere reshuffle of cabinet will not resolve the current crisis. Therefore, under the current Constitution, there is no reasonable off-ramp for President Rajapaksa.

Under these circumstances, the only viable constitutional, nonviolent, option ahead is for the Parliament to immediately abolish the presidency by amending the Constitution, if necessary, with a referendum. Parliament can then pass a resolution of dissolution, paving the way for fresh elections. The main responsibility of all elected representatives including the president and prime minister at this juncture is to ensure a non-violent transfer of power.

Attempts to hang onto power through any means possible, especially by mobilising the military, will lead to violence. After 91 years of democracy, Sri Lanka is not ready or willing to allow such actions. If president Gotabaya Rajapaksa is to salvage an iota of dignity, he must find a way to vest power with Parliament and step down. That is his only path to redemption for the damage his administration has inflicted upon the country.

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