

Sri Lanka: Opposition candidate challenges election result

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A petition was filed in the Sri Lankan Supreme Court on February 16 on behalf of defeated opposition candidate General Sarath Fonseka, seeking to overturn the result of the January 26 presidential election. The legal challenge is part of continuing bitter infighting within the Colombo political establishment following the poll.

Fonseka is in military custody after being arrested on February 9 by military police on the basis of unsubstantiated allegations that he was planning a coup against President Mahinda Rajapakse. Formal charges have not been laid. In a separate Supreme Court petition, Fonseka's wife is challenging the legality of the arrest.

Fonseka's bid to reverse the election result has been backed by the opposition parties—the United National Party (UNP) and Janatha Vimukthi Peramuna (JVP)—that supported the retired general in the election. Rajapakse has been named the first respondent. Others include Elections Commissioner Dayananda Dissanayake, Sri Lanka Broadcasting Corporation chairman Hudson Samarasinghe and National Freedom Front (NFF) leader Wimal Weerawansa.

The petition claims that various sections of the Presidential Election Act were violated to favour Rajapakse. Allegations include the “general intimidation” of voters, the “corrupt practices” of threats, bribery, misconduct and misuse of state resources, and the making of false statements that affected Fonseka's campaign.

There is certainly an element of truth in these charges. Both government and opposition supporters were involved in election violence against their rivals. Various election monitoring groups received more than 900 such complaints, including physical violence and attacks on election offices. Most complaints were against the ruling alliance.

Rajapakse also blatantly used the state media as a

propaganda tool for his campaign, ignoring a call from the elections commissioner for even-handed coverage. The British Commonwealth's election monitoring team reported: “One of the major complaints from opposition parties was the extent of bias in the state-owned media... In an unprecedented blurring of the lines between party and state, senior positions at all three state-owned broadcasters are held by regional political organisers for the ruling party.”

The report cited a Reporters Sans Frontières survey of the state media for the final seven days of the election campaign. It found that 96 percent of the news and current affairs coverage on the state-owned television stations Rupavahini and ITN was favourable to the president. Fonseka and the opposition parties received just 3.3 percent of coverage.

Rajapakse also used the presidential residence to conduct meetings of state employees to encourage them to vote for him. As an inducement, Rajapakse announced small salary increases to be introduced in the next budget.

Fonseka's petition cites a circular issued on December 8 by the elections commissioner to all government ministries and institutions laying out guidelines to ensure state resources were not misused for electoral purposes. Fonseka's lawyers allege that the ruling coalition openly flouted the directive in using state money, personnel and vehicles for the campaign.

Fonseka's right-wing politics are also on display in the legal document. He insists that he was falsely accused by the ruling coalition of having a secret pact with the Tamil National Alliance (TNA) to divide the country if he became president. In Sinhala communal politics, such a charge is tantamount to treason. Even minimal concessions to the country's Tamil minority would be regarded as treachery.

Like Rajapakse, Fonseka is thoroughly imbued with Sinhala supremacism. He promoted himself during the

election campaign as the incorruptible general who achieved victory over the separatist Liberation Tigers of Tamil Eelam (LTTE). He and Rajapakse were both responsible for ruthlessly prosecuting the war from mid-2006 and for the military's war crimes and abuses of democratic rights. He fell out with Rajapakse after the LTTE's defeat and resigned his post last November to contest the election.

The government's smear was certainly untrue. The TNA, which functioned as the LTTE's mouthpiece during the war, sought to accommodate itself to the Colombo establishment following the LTTE's defeat. While the TNA majority backed Fonseka as the better option, a minority of party leaders fell in behind Rajapakse. Neither Rajapakse nor Fonseka made any significant concessions to the Tamil elites that the TNA represents.

However, the assumption underlying Fonseka's argument is also false. The notion that the government's lie swung the election assumes that the country's Sinhalese majority is just as committed to right-wing, communal politics as Rajapakse and Fonseka. In reality, among broad layers of Sinhalese workers and rural poor there is an elemental recognition that they face the same oppressive conditions as their Tamil counterparts. Those sentiments find no expression in the Colombo political establishment, which offered voters only two choices—the president who restarted the war, or the general who waged it—that is, no choice at all.

Fonseka's petition further complains about government claims that he was not eligible to stand. On the day of the election, it emerged that Fonseka was not registered as a voter. Rajapakse supporters and the state media seized on the news to claim that Fonseka was not qualified to be a presidential candidate and would be disqualified even if he won. However, the election commissioner pointed out that not being registered as a voter did not prevent someone from standing as a candidate.

The obvious question remains: even if Fonseka's allegations about electoral violations were true, what was their impact on the result? According to the official result, Rajapakse won by a landslide—58 percent to Fonseka's 40 percent. Even without the election violence, misuse of state resources and ballot stuffing—all of which are common in Sri Lankan elections—it is unlikely that the outcome would have been different.

The question is significant because Fonseka is not seeking to have the election re-run but rather to be installed as the rightful president. Whichever way the Supreme Court rules,

its decision will only compound the political warfare between the government and opposition parties. In fact, the courts, along with the state apparatus as a whole, have become increasingly politicised and polarised. In the wake of the election, Rajapakse removed a number of top military and police officers who were known to be Fonseka supporters.

The sharp divisions reflect tactical differences within the ruling elite over how to impose the burdens of the island's worsening economic crisis on working people and where to line up in the deepening rivalry between the major powers—particularly between the US and China. Rajapakse relied heavily on Chinese arms, finance and political support in waging the civil war. During the campaign, Fonseka was critical of Rajapakse for alienating the US and especially the EU, which is moving to end trade preferences for the island.

To date, the US and its European allies have made only limited criticisms of the election and Rajapakse's subsequent crackdown on opposition parties. Releasing the report of its election monitoring team, Commonwealth Secretary-General Kamallesh Sharma cautiously declared that "shortcomings primarily in the pre-election period" meant the poll "did not fully meet key benchmarks for democratic elections". Washington diplomatically expressed concerns about the arrest of General Fonseka. That cautious approach could rapidly change, however, if the US and Europe decide to exploit the political feuding in Colombo for their own purposes.

The intensifying political crisis in Sri Lanka will inevitably find its expression in the Supreme Court proceedings to decide the election outcome.



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