

# Sri Lanka: Military trials of Fonseka begin

**K. Ratnayake**  
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The courts martial of retired general Sarath Fonseka, the opposition candidate in the January 26 presidential election, began behind closed doors at the navy headquarters complex in Colombo on Tuesday and Wednesday. Fonseka was arrested by military police on February 8 and held without charge for more than a month, on unsubstantiated allegations that he had plotted a coup against President Mahinda Rajapakse and his government.

The political character of the trials is underscored by the government's close involvement. Rajapakse appointed the presiding military judges on the recommendation of Army Commander Lieutenant General Jagath Jayasuriya. Although the proceedings are formally being conducted by the military, the Attorney General's department sent several civilian lawyers to the military court to act on behalf of the army commander.

Fonseka faces two sets of charges. On Tuesday, a court martial commenced proceedings on three charges that Fonseka violated the Army Act by engaging in political activities while in uniform. On Wednesday, a second court martial, presided over by the same judges, began hearing four charges that the former general violated army procedures in the procurement of arms.

None of the charges allege a coup attempt. Neither the government nor the military has attempted to justify Fonseka's continued detention despite the relatively minor character of the charges. As far as the government is concerned, the trials are part of its efforts to undermine the opposition parties prior to the April 8 parliamentary elections and consolidate its grip on power.

Limited information is available about the proceedings, which were barred to the public and the media.

In Tuesday's hearings, defence lawyers objected to the biased character of the court. They pointed out that the presiding judge, Major General H. L. Weeratunge, was the brother-in-law of the army commander and that the two other judges, Major Generals A. L. R. Wijetunge and D. R. A. Jayatileke, were punished while Fonseka was army commander. Wijetunge was found guilty of malpractice in a military tender, while Jayatileke was demoted for inefficiency. The judges overruled the objections.

Fonseka pleaded not guilty to the charges and also declared that he did not accept the jurisdiction of the court martial. Defence lawyers argued that court had been hastily established and had no power to hear the case, as Fonseka was now a civilian. They

requested more time to prepare submissions after holding discussions with Fonseka. The case was postponed until April 6, just two days before the general election.

At Wednesday's hearing, the presiding judge abruptly announced that the court would be adjourned. He said that an issue had arisen as to whether the same judges could preside in two courts martial and he had referred the matter to President Rajapakse. Defence attorney Nuwan Bopage told the Associated Press that the judges gave no reason for their sudden decision.

A short note on the army web site claimed that "the Army Act empowers the same members of one Court Martial to sit on another tribunal for the same accused, provided alleged prosecuting charges are of different nature". However, it added, the military would prefer the panel be reconvened "for the sake of maintaining a high degree of transparency and the unprejudiced nature" of the trials.

The army's expression of concern about fair trials stands in contrast to the treatment of Fonseka from the outset. The delays appear to be connected to the government's determination to prolong Fonseka's prosecution to prevent him from campaigning in the election—he is standing as a candidate for the Democratic National Alliance (DNA) set up in partnership with the Sinhala extremist Janatha Vimukthi Peramuna (JVP).

An unnamed official told Agence France Presse that "the cases would be dragged out for weeks, if not for months". According to military spokesmen, army prosecutors have recorded statements from 35 witnesses, including 22 security personnel, 7 policemen and 6 civilians, all of whom could be called to give evidence.

Fonseka's wife Anoma has filed a fundamental rights petition in the Supreme Court calling for the general's arrest to be declared illegal. The court has agreed to hear the petition but refused to order Fonseka's release on bail and set the next hearing for April 26. Anoma Fonseka has also sought a habeas corpus writ in the Appeal Court to free her husband and that case will be heard tomorrow.

Fonseka's arrest is bound up with bitter divisions within Sri Lankan ruling circles that have sharpened since the army's defeat of the separatist Liberation Tigers of Tamil Eelam (LTTE) last May. Rajapakse restarted the long-running communal conflict in mid-2006 and Fonseka, as army commander, ruthlessly prosecuted

the war. Both men are responsible for the military's war crimes and abuses of democratic rights.

Fonseka subsequently fell out with Rajapakse, reflecting hostility in sections of the officer caste to the government claiming credit for the army's victory. Fonseka resigned last November to stand against Rajapakse as the common candidate of the opposition parties—the JVP and right-wing United National Party (UNP). He was defeated but is challenging the outcome of the presidential election in the Supreme Court.

Despite winning a landslide victory in the official election count, Rajapakse is determined to consolidate his grip on power in preparation for a confrontation with the working class. The government confronts International Monetary Fund demands to halve its budget deficit by the end of next year, and that can be achieved only by drastically cutting public spending and raising taxes. The ruling coalition is seeking a two-thirds majority in parliament to allow it to change the constitution and consolidate the police-state apparatus established during the war.

The opposition parties have no fundamental differences with the government over the economic agenda that has to be imposed. Tactical differences exist, however, over the methods to be used and the orientation of foreign policy. To wage his war, Rajapakse turned sharply to China in particular for diplomatic, financial and military support. In the course of the presidential election campaign, Fonseka accused Rajapakse of alienating the “international community”—a reference to Sri Lanka's traditional allies in Europe and the US, which are concerned at China's growing influence in Colombo.

Fonseka's arrest was part of an extraordinary campaign against the opposition following the presidential election. The government created a climate of fear with a series of arrests and other forms of intimidation against Fonseka, the opposition parties and pro-opposition media. A lurid campaign was conducted by ministers, officials and the state-owned media alleging that Fonseka and the opposition were planning to assassinate Rajapakse and his brothers. Police arrested about 50 of Fonseka's close supporters, including a number of retired officers.

Whether the government intends to bring charges over its coup allegations is not clear. More than half of Fonseka's arrested supporters have been released by courts for lack of any evidence against them. Three more were released yesterday.

As for the military charges, Fonseka would hardly be the first serving officer to engage in political activity—openly or covertly. In fact, as army commander, Fonseka made a number of political statements about the war, including allegations about politicians in the southern Indian state of Tamil Nadu that provoked an international furore. The government took no action in these cases because Fonseka was simply saying openly what Rajapakse could not, for reasons of diplomacy.

Moreover, Defence Secretary Gotabhaya Rajapakse, the president's brother, feels no compunction about making overtly political statements even though, as a top state official, he is prohibited from engaging in political activities by the civil services codes. He is currently appearing on platforms for the ruling United Peoples Freedom Alliance (UPFA), calling on voters to elect a strong government. In an interview with the Singapore-based *Straits Times*, Rajapakse also made a series of statements openly prejudicial to Fonseka's trials. He asserted that Fonseka was guilty of planning a coup and even forecast his sentence.

The charge of corrupt practices in relation to military procurements is one that could be brought against many in the defence establishment. In the course of the country's 26-year war, the military has been expanded into one of the largest per capita in the world. It is involved in large numbers of lucrative contracts. In 2007, relatives of President Rajapakse were implicated in a corruption scandal involving the purchase of fighter aircraft from the Ukraine. The journalist who broke the story was hounded into silence through a campaign of thinly veiled threats (see: “Sri Lankan government silences journalist over defence corruption scandal”).

If he had won the election, Fonseka and the opposition parties would have been just as determined as Rajapakse in pursuing an anti-working class agenda. Nevertheless his arrest and prosecution is a sharp warning to working people of what is in store after the April 8 election. If the government is prepared to persecute the country's former top general in this manner, it will be even more ruthless in cracking down on opposition by workers, farmers and youth to its imposition of austerity measures.



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