

Former Sri Lankan army chief convicted for second time

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A Sri Lankan court martial convicted former army chief Sarath Fonseka last Friday on a charge of violating military procurement procedures and sentenced him to three years jail. Fonseka, who is also head of the opposition Democratic National Alliance (DNA), was found guilty of breaching procedure in purchasing night vision-devices, generators, batteries and VHF direction finders while serving as army commander.

Fonseka denied the allegations and rejected the verdict. In a statement on September 9, he declared: “[T]his entire exercise of trying me before this court martial ... and in the High Courts is all politically motivated”. Fonseka also accused the three-judge panel of bias. He noted that he had disciplined the chief judge, Major General M.P. Peiris, over an integrity issue. He added that Major General S.W. L. Daulagala, another panel member, was a very close associate of Defense Secretary Gotabhaya Rajapakse, a brother of President Mahinda Rajapakse.

Senior defence counsel Rienzie Arsekularatne told reporters that the charges against his client were “frivolous” and that the decision would be challenged in the appeal court. He said defence lawyers had pointed out that the 2006 procurement guidelines that Fonseka allegedly violated were a temporary measure, introduced prior to a statute passed in the House. As such, the procurement guidelines did not contain any penalties for breaches.

The military court hearings were held behind closed doors and the ruling has not been made public. The judges have sent their decision to President Rajapakse, who as commander-in-chief, will almost certainly

rubberstamp the conviction once he returns from the UN General Assembly meeting in New York this week. If this second conviction is ratified, Fonseka will automatically lose his parliamentary seat.

In August, a separate military court convicted Fonseka of “engaging in active politics while in uniform”. He was stripped of his military rank, medals, honours, pension and other benefits, and was barred from all military installations. His appeal against the first conviction was dismissed by the appeal court but he has filed another challenge in the Supreme Court. On Wednesday, the Supreme Court set down the case for December 3.

The central purpose of the charges against Fonseka has been to politically destroy a potential challenger to President Rajapakse. Fonseka stood against Rajapakse as the common candidate of the main opposition parties in the presidential election on January 26. After losing, Fonseka disputed the result, alleging widespread corruption and malpractice, and indicated he would appeal to the Supreme Court to have it overturned.

In extraordinary scenes the day after the election, the government dispatched hundreds of heavily armed troops to surround the Cinnamon Lakeside Hotel, where Fonseka and opposition leaders were staying. A military spokesman claimed that the soldiers were sent to arrest “army deserters” who had been assisting Fonseka. Over the next few days, security forces carried out a systematic crackdown, arresting Fonseka supporters and intimidating opposition politicians and journalists.

The repression was accompanied by a lurid campaign

alleging that Fonseka had been planning a coup to oust Rajapakse and assassinate his brothers. No evidence was provided to substantiate any of these claims. On February 8, soldiers broke into a meeting between Fonseka and opposition leaders and detained him at the navy's headquarters in Colombo.

The bogus nature of the "coup" allegations was underscored on February 17 when a magistrate court unconditionally released 14 of Fonseka's supporters. They had been accused of involvement in Fonseka's alleged coup attempt, but police were forced to admit that there was no evidence to support a case against any of the detainees. Significantly, when Fonseka was finally charged, none of the allegations related to a coup plot.

The differences between Fonseka and Rajapakse, while extremely bitter, are tactical in character. As army commander, Fonseka was part of Rajapakse's ruling cabal and ruthlessly prosecuted the renewed war against the separatist Liberation Tigers of Tamil Eelam (LTTE). Both men are responsible for war crimes that resulted in the deaths of tens of thousands of civilians in the final months of fighting. Immediately after the LTTE's defeat in May 2009, Rajapakse hailed Fonseka as the best army commander in the world.

Fonseka fell out with the president once it became clear that the latter was intent on claiming credit for defeating the LTTE as he prepared for early presidential elections. Fonseka was relegated to the specially-created and largely ceremonial post of chief of defence staff. He resigned from his new post, in late November, and announced his candidature in the presidential election.

The two major opposition parties—the United National Party (UNP) and Janatha Vimukthi Peramuna (JVP)—backed Fonseka as their joint presidential candidate. Immediately after the presidential election, Rajapakse called parliamentary elections for April. Despite being in military custody, Fonseka formed the Democratic National Alliance with the JVP and won a seat in parliament.

The continuing persecution of Fonseka reflects

divisions within the Sri Lankan ruling elite. The UNP and JVP both supported the communal war against the LTTE, the government's abuse of basic democratic rights and its agenda of pro-market restructuring. However, differences have emerged on the orientation of foreign policy amid the sharpening rivalry throughout the region between the US and China.

In the course of the war, Rajapakse relied increasingly on Chinese finance, arms and political support, granting Beijing various concessions in return. The growing influence of China stands in the way of the strategic interests of Western powers, particularly of the US. In the aftermath of the war, the US and European powers raised the issue of war crimes in Sri Lanka, primarily as a means of pressuring the Rajapakse government. During the election campaign, Fonseka hinted at his support for Sri Lanka's traditional allies by indicating his willingness to testify before an international tribunal.

Rajapakse's determination to press ahead with charges against Fonseka is part of a broader attack on basic democratic rights. The government faces rising popular resentment over the implementation of the austerity measures demanded by the International Monetary Fund (IMF) and the local corporate elite. The IMF granted a loan of \$US2.6 billion last year on condition that the budget deficit be halved from 9.9 percent of Gross Domestic Product in 2009 to 5 percent at the end of next year.

The ruthlessness with which Rajapakse has pursued his former ally Fonseka is a warning to workers of the police state measures that will be used to suppress popular resistance to the government's austerity measures.



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