

## **The End of Sri Lanka's Political Crisis: What Next?**

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### **Executive Summary**

*On 13 December 2018, the seven-judge bench of the Supreme Court of Sri Lanka ruled that President Maithripala Sirisena's decision to dissolve the parliament on 9 November 2018 is unconstitutional and that it cannot be dissolved until it completes four and a half years of its term. Following this landmark decision, Mahinda Rajapaksa resigned from his post and Ranil Wickremesinghe was reinstated and sworn in as the legitimate Prime Minister. The 50-days of political crisis has seemingly come to an end. This paper examines the aftermath of the political crisis.*

### **Introduction**

Sri Lanka was embroiled in a political and constitutional crisis after President Maithripala Sirisena sacked Prime Minister Ranil Wickremesinghe and appointed Mahinda Rajapaksa as the Prime Minister on 26 October 2018. He then suspended the parliament in a move to prevent Wickremesinghe and his supporters from challenging his decision in the legislature. On 9 November 2018, the President dissolved the parliament through a gazette notification and called for snap elections to be held on 5 January 2019. Following which, 13 petitions were filed at the Supreme Court by political parties and several civil society groups against a parliament dissolution.

After the final hearings of the petitions, on 13 December 2018, the Supreme Court made a landmark decision by overturning the President's move to dissolve parliament. Furthermore, a resolution was passed in parliament a day earlier expressing confidence in Wickremesinghe and requesting him to be re-appointed as the Prime Minister. With that, Rajapaksa stepped down and Wickremesinghe was reappointed bringing an end to the power vacuum in Sri Lanka.

### **Gains and Loses**

The new string of events indicate multiple gains and losses for the country:

#### Independence of the Judiciary

The political and constitutional crisis has tested the judiciary's abilities to function as an independent body, since the conflict was between the executive and a fraction of the legislature. Thus, the Supreme Court's verdict to overturn the President's decision underscored the impartiality and independence of the judiciary. The Supreme Court stood by the constitution where the President cannot dissolve the parliament until it has finished a four-and-half year term.

Over the years, there were multiple instances during which the independence of the judiciary was questioned. The reforms to the 19th Amendment to the Constitution to establish independent commissions, including the judiciary, was a necessary step towards democracy. The Supreme Court's overturning of the dissolution of parliament ensured that the judiciary has the ability to act in independence. Montesquieu's separation of powers ensures that the three organs of state provide a check and balance on each other. The judiciary has been the saving grace where it has upheld principles of the rule of law and democratic freedoms. This was further demonstrated when the Court of Appeal (CoA) issued an order barring Rajapaksa and his cabinet from holding office. Even though the political crisis has painted Sri Lanka in a negative light, it has restored public confidence in the legal system.

### Understanding of the Democratic Values

In the meantime, the political crisis opened up a wider discussion on the democratic values in the country. The public was interested to understand its democratic and constitutional rights. Social media indicated an increase in the public discourse on democratic rights and constitutional rights during the crisis.

The political conflict even produced instances of brawls and fights in parliament, making the public question the qualifications, capabilities and discipline of the legislators. It became difficult to keep count of the number of times some MPs changed their loyalty from one faction to another. There were also allegations of luring MPs through bribes and ministerial positions.<sup>1</sup> These incidents emphasized the responsibility of the public in using their votes to appoint suitable representatives.

### Impact on the Economy

The economic cost of the crisis is massive. Following the end of the protracted civil war, Sri Lanka managed to reel from its past and gain growing investor confidence. However, the sudden power struggle pushed the country back into political limbo. The country was moving towards a complete shutdown where a parliament vote could not be passed for a budget for next year. Sri Lanka also had to make the arrangements to repay a foreign debt of US\$1 billion (SGD 1.37 billion) due in January 2019.<sup>2</sup> The country was in a predicament on how to meet its public expenditures. There was no legal way to use money without the

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<sup>1</sup>Kelum Bandara 'Will not declare snap presidential poll President', *Daily Mirror* (10 December 2018), <http://www.dailymirror.lk/plus/article/Will-not-declare-snap-presidential-poll-President-159574.html>. Accessed 16 December 2018

<sup>2</sup>'Sri Lanka's disputed PM Mahinda Rajapaksa to step down', *Al Jazeera* (14 December 2018), <https://www.aljazeera.com/news/2018/12/sri-lanka-disputed-pm-mahinda-rajapaksa-steps-son-181214134052835.html>. Accessed on 16 December 2018.

budget 2019 been approved.<sup>3</sup> The only way the President could use money from the consolidated fund for a period of three months was when the parliament was dissolved.<sup>4</sup>

The enduring crisis also raised concerns on how the government would service its debt.<sup>5</sup> On the other hand, the tourism industry received a blow due to a decline in business visits, cancelled conferences and meetings and cancelled tourist visits due to safety concerns.<sup>6</sup>

## Future of the Key Players

The end of the political crisis has different likely outcomes for the key players involved.

### President Maithripala Sirisena

The enduring crisis has been an embarrassment for President Maithripala Sirisena where he has miscalculated his moves. He thought that he could manoeuvre his way even if that meant undermining the constitution, the rule of law and democracy. However, it only resulted in a further loss of his credibility, and jeopardizing his own political career, which was already in question for the past three years. Despite being the instigator of the political crisis, he continues to avoid shouldering the responsibility for it. In his recent address, following the re-appointment of Wickremesinghe as the Prime Minister, Sirisena continued to justify his decision emphasizing how Wickremesinghe overruled his authority in decision-making in the government.<sup>7</sup> He continued criticizing Wickremesinghe and his party for their way of governance during the past three years, and accused them of purposely delaying bringing the perpetrators of the bond scam before the law.

### Prime Minister Ranil Wickremesinghe

The political crisis was a blessing in disguise for Wickremesinghe. Prior to the crisis, Wickremesinghe's popularity was plunging due to the failure of his government to uphold the election promises made in 2015. The crisis gave him an opportunity to emerge as a saviour of democratic values. Following his reappointment, Wickremesinghe stressed that

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<sup>3</sup> 'Sri Lanka heads for government shut down as crisis drags, *Economynext* (9 December 2018), <https://economynext.com/Sri-Lanka-heads-for-government-shut-down-as-crisis-drags-3-12851.html>. Accessed on 17 December 2018.

<sup>4</sup> Article 150 (3) "Where the President dissolves Parliament before the Appropriation Bill for the financial year has passed into law, he may, unless Parliament shall have already made provision, authorize the issue from the Consolidated Fund and the expenditure of such sums as he may consider necessary for the public services until the expiry of a period of three months from the date on which the new Parliament is summoned to meet", *The Constitution of the Democratic Socialist Republic of Sri Lanka (As amended up to 15<sup>th</sup> May 2015)*.

<sup>5</sup> Shihar Aneez, Abhirup Roy, 'Sri Lanka's political crisis triggers major economic concerns', *Reuters* (30 October 2018), <https://www.reuters.com/article/us-sri-lanka-politics-economy-analysis-idUSKCN1N324P>. (Accessed 16 December 2018)

<sup>6</sup> Marisa Wikramanayake, 'Bad for Business: Sri Lanka's Political Crisis Sees Work Travellers Bypass Tourism', *South China Morning Post* (15 December 2018), <https://www.scmp.com/week-asia/economics/article/2178076/bad-business-sri-lankas-political-crisis-sees-work-travellers>. Accessed 17 December 2018

<sup>7</sup> 'Visibly Angry Sirisena Hits Out At CC: Says He Didn't Act like a Toddler and Top Lawyers Advised Him on Gazettes', *Colombo Gazette* (16 December 2018), <https://www.colombotelegraph.com/index.php/visibly-angry-sirisena-hits-out-at-cc-says-he-didnt-act-like-a-toddler-and-top-lawyers-advised-him-on-gazettes/>. Accessed 17 December 2018

his fight was for the sake of democracy, justice, protection of the Constitution, adherence of the rule of the law and civilized and moral conduct of society.<sup>8</sup> The public has momentarily forgot the allegations against him in connection to the bond scam, government failure and rising domestic economic issues of the people.

### Mahinda Rajapaksa

Rajapaksa faces the biggest disappointment from this political fiasco. Prior to him accepting an unconstitutional premiership, his ability to make a comeback in an election in 2019 was almost certain. The landslide victory of the Sri Lanka Podu Jana Peramuna (SLPP), of which he recently became a member and leader, indicated the cards are clearly on his side. Indeed Rajapaksa was overconfident that he could pass the floor test but instead, he lost multiple no-confidence motions. The Court of Appeal's verdict to prevent him and his cabinet from holding power dented his legitimacy further. This opened the room for his opponents to criticize him on his stance as a "people's leader" and an advocate of democracy. Now that he no longer has the legal or constitutional power to hold office, his ability to make a comeback will no longer be a smooth ride.

### **End of the power struggle?**

Despite the political crisis ending and status quo established, the power struggle may not have ended. Even though some may term the end of the political impasse as the triumph of good over evil, there are still others who question if true democracy was established. Anura Kumara Disanayake, the leader of the Janatha Vimukthi Peramuna (JVP), emphasized that all three fractions – Sirisena, Rajapaksa and Wickremesinghe – have no moral and democratic right to represent people in Parliament.<sup>9</sup>

On the other hand, the President is susceptible for impeachment or even criminal prosecution soon after he completes his presidential term.<sup>10</sup> The JVP Propaganda Secretary Vijitha Herath mentioned that his party may embark a process of impeachment if the President continues to violate the constitution.<sup>11</sup>

The President made a speech following the swearing-in of Wickremesinghe, which further revealed his lack of confidence and displeasure in working with the Prime Minister. He continued to repeat the allegations against Wickremesinghe and his team and emphasized that his decision to reappoint him is not because he thinks the situation has changed, but

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<sup>8</sup> 'Special Statement Made By Prime Minister Ranil Wickremesinghe – Full Text', *Colombo Telegraph* (16 December 2018), <https://www.colombotelegraph.com/index.php/special-statement-made-by-prime-minister-ranil-wickremesinghe-full-text/comment-page-2/#comment-2236606>. Accessed 17 December 2018

<sup>9</sup>Parliament still should be dissolved: Anura', *Daily Mirror – Sri Lanka* (13 December 2018), <http://www.dailymirror.lk/article/Parliament-still-should-be-dissolved-Anura-159749.html>. Accessed 15 December 2018

<sup>10</sup> 'Sri Lanka heads for government shut down as crisis drags', *Economynext* (9 December 2018), [https://economynext.com/Sri\\_Lanka\\_heads\\_for\\_government\\_shut\\_down\\_as\\_crisis\\_draggs-3-12851.html](https://economynext.com/Sri_Lanka_heads_for_government_shut_down_as_crisis_draggs-3-12851.html). Accessed on 17 December 2018.

<sup>11</sup>'JVP to Initiate Impeachment Process against Sirisena for Violating Constitution', *Asian Mirror* (13 December 2018), <http://asianmirror.lk/news/item/28772-jvp-to-initiate-impeachment-process-against-sirisena-for-violating-constitution>. Accessed 16 December 2018

because of his utmost respect for parliamentary traditions.<sup>12</sup> Rajapaksa, in his resignation speech delivered on 15 December 2018, said that his party and him, along with the President's party, will continue their struggle to bring political changes.<sup>13</sup>

## Conclusion

2019 is going to be a significant year as the country gears for elections. For the time being, the United National Party (UNP) may have the upper hand since its ministers were illegally sacked from office. However, UNP will have to show results of its ability in order to continue to win public support.

Wickremesinghe's government is now holding a simple majority in parliament. There are many challenges and uncertainties that lie ahead. In a special statement, Wickremesinghe was seen pledging to abolish the executive presidency in his coming days in office and bringing a new constitution.<sup>14</sup> However, he will require a two-third majority to realize this task.

On the other hand, the general public is observing how justice will be brought to the perpetrators of the bond scam. While the public is applauding the independence of the judiciary at the wake of this political crisis, they are equally observing how the justice will serve to address the fraud and corruption of which Wickremesinghe's party members are equally involved. They are also observing how he will address grassroots issues since the UNP is purported for being detached from the rural community.

Electoral performances will also depend on alliances made to face the elections. It was reported in November 2018 that the UNP had completed discussions with the Sri Lanka Muslim Congress (SLMC), All Ceylon Makkal Congress (ACMC), Tamil Progressive Alliance (TPA) and the Jathika Hela Urumya (JHU) for alliance.<sup>15</sup> It is trying to convince the Janatha Vimukthi Peramuna (JVP) to join the broad coalition, which may be an uphill task. On the other hand, Rajapaksa and Sirisena are likely to form a coalition together to face the upcoming elections. The performance of the Wickremesinghe government, and the acceptance of the alliances, will decide who will win the upcoming elections.

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<sup>12</sup> 'Visibly Angry Sirisena Hits Out At CC: Says He Didn't Act like a Toddler and Top Lawyers Advised Him on Gazettes', *Colombo Gazette* (16 December 2018), <https://www.colombotelegraph.com/index.php/visibly-angry-sirisena-hits-out-at-cc-says-he-didnt-act-like-a-toddler-and-top-lawyers-advised-him-on-gazettes/>. Accessed 17 December 2018

<sup>13</sup> 'Our Pledge To The People – Full Text of Fake PM Mahinda Rajapaksa's Resignation Speech', *Colombo Gazette* (15 December 2018), <https://www.colombotelegraph.com/index.php/our-pledge-to-the-people-full-test-of-fake-pm-mahinda-rajapaksas-resignation-speech/>. Accessed 16 December 2018

<sup>14</sup> 'Special Statement Made By Prime Minister Ranil Wickremesinghe – Full Text', *Colombo Telegraph* (16 December 2018), <https://www.colombotelegraph.com/index.php/special-statement-made-by-prime-minister-ranil-wickremesinghe-full-text/comment-page-2/#comment-2236606>. Accessed 17 December 2018

<sup>15</sup> 'UNP to form broad political alliance', *Daily Mirror*, (21 November 2018), <http://www.dailymirror.lk/158659/UNP-to-form-broad-political-alliance>. Accessed on 16 December 2018.

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