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Democratization and Democratic Backsliding in Sri Lanka

*with reference to the Sirisena-Wickremasinghe
Government of 2015-2019*

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Abstract

Sri Lanka's discourse of democracy must be read alongside ethnonationalism and contestations over power sharing among the majority Sinhalese and Tamil-Muslim minorities. Political dynasties that came into power triumphed over ethnonationalism and with constitutional attempts that entrenched majoritarianism and authoritarianism. Sri Lanka since the 1960s, displayed features of an illiberal democracy buttressed by the executive presidency which was formed in 1978 and retained throughout political history. Over 40 years of experience with a semi-presidential system and centralization of power deeply conditioned the psyche of the people that a strong leader is needed to govern the country. Attempts at changing this mindset with liberal reforms of 2015-2019 failed largely due to deficiencies of the person holding office, ideological differences among political parties and events that contributed to lack of public faith in the government such as the Constitutional Coup of 2018, and Easter Sunday Attacks of 2019 etc. Due to these issues collectively, the vibrant activism which brought the change of regime in 2015 quickly backslided. There was a renewed call for a strong leader who could guarantee security of the nation enabling the Rajapaksas – who had built personas of national security guarantors to make a powerful comeback into politics.

Democratic Backsliding, Constitutional Coup, Semi-Presidential System, Sri Lanka

1. Introduction

Sri Lanka's electoral politics commenced in 1931, when she gained universal suffrage. Since then, Sri Lanka experienced several important constitutional reforms (Watagedara, 2016). Firstly, Sri Lanka gained independence from the British in 1948 and remained a member of the commonwealth until 1972. The second most important change came about in 1972 when Sri Lanka became a Republic. The third important change was introduced in 1978 with the second republican constitution that created a semi-presidential system retained to this date. The 1978 constitution made significant changes to Sri Lanka's electoral politics – it introduced the executive presidency positioning the president as Head of State, Government, and the Commander-in-Chief of the Armed Forces.

Since then, the constitution was amended several times. In 1987, with the Indo Lanka accords, the Thirteenth Amendment which created Provincial Councils was introduced to devolve powers to decentralize governance (Premdas et al, 1988). This happened in the backdrop of a civil war in Sri Lanka between the Tamil Tigers (who were demanding for a separate state), and the Sri Lankan government (who did not appease to separatist demands from Tamil Tigers).¹ In 2000, there was a failed attempt to re-make the constitution granting federal status to Sri Lanka in appeasement to demands from Tamils. In 2001, the 17th amendment was passed to create a constitutional council which established independent commissions such as the human rights commission, elections commission and police commission.

Subsequently, the peace talks between the government and Tigers failed and the war intensified. In 2005, after the election of President Mahinda Rajapaksa there was a massive upheaval of nationalism, and the government was able to end the war obliterating the Tamil Tigers. Rajapaksa gained much popularity for the war victory and was therefore re-elected in 2010. Unfortunately, Sri Lanka experienced much democratic backsliding during the Rajapaksa regime when he had centralized power by extending his patronage to almost all activities concerning governance, except the judiciary. His attempt to introduce the 18th amendment arming the president with absolute power, including power over the judiciary alarmed the public. This was considered a grave affront to democracy and his attempt was thwarted by a massive revival of activism from human rights advocates, civil society movements etc. Even some members of his own cabinet broke away in protest.²

Therefore, it could be argued the process of democratization in Sri Lanka was not a linear one due to a

1 The Liberation Tigers of Tamil Eelam demanded a separate state in Sri Lanka and later regional autonomy in the form of a federal system of governance.

2 "Lankan Minister Defects To Challenge Rajapaksa In Polls". 2014. Business-Standard.Com. https://www.business-standard.com/article/pti-stories/lankan-minister-defects-to-challenge-rajapaksa-in-polls-114112101371_1.html. Sirisena was Health Minister of the Rajapaksa government and his defection to emerge as opposition candidate took Rajapaksa by surprise. Another notable defection is Minister Rajitha Senarathna who was the Fisheries Minister that played a key role in the 2015 election victory of Sirisena.

recurring pattern of ethnocentric politics, constant reliance on the ethnic majority for electoral advantage, and the proclivity towards centralization of power. Sri Lanka, like in many other South Asian or Southeast Asian countries is a hotbed for dynastic politics which is a peculiarity in statecraft and governance. Political families from Bandaranaike's to the Rajapaksa's had historically engaged in persuasive rhetoric to entrench a majoritarian preponderance in politics. For example: S.W.R.D. Bandaranaike, his widow Sirimavo Bandaranaike and daughter Chandrika Bandaranaike Kumaratunga were precursors of the political dynasty that is to follow, known for the notoriety in advancing the Sinhala-Buddhist ethno-nationalism to the detriment of political ambitions of the Tamil and Muslim minority³.

The government change in 2015 was a result of the aforementioned democratic revival in Sri Lanka but with a catch 22 situation. The government that came into being in 2015 was a political coalition of the Sri Lanka Freedom Party (SLFP) headed by Sirisena and the faction which broke away from Rajapaksa's United People's Freedom Alliance (UPFA). Sirisena's presidency was supported by the United National Party (UNP) headed by Ranil Wickremasinghe, Tamil and Muslim political parties such as the Tamil National Alliance (TNA) along with the Janatha Vimukthi Peramuna (JVP), activists, academia, trade unions and civil society.

Unfortunately, the 'Yahapalanaya' (meaning good governance) government of Sirisena-Wickremasinghe coalition did not last for long, due to intra-party conflicts between the UNP and the SLFP among other reasons. Therefore, this research article is focused on answering the question- **Why did democratization during the Sirisena-Wickremasinghe government of 2015-2019 backslide?** The answer to this question is approached in three parts – firstly by examining the enduring effects of the executive presidency under the 1978 constitutional reforms. The second part of the answer will address how intra party politics affected decision-making during the 2015-2019 government. The third part of the answer investigates the effects of the 2018 constitutional coup which is interpreted as the precursor event signaling change of government in 2020.

2. Executive Presidency of Sri Lanka, concentration of powers and pitfalls of the semi-presidential system.

Sri Lanka's political history since independence was marked by political violence from 1915 Buddhist-Muslim riots, attempted military coup in 1962, Marxist insurrections of 1972 and 1987, 'Black July' Sinhalese-Tamil riots of 1983, and the Sinhalese-Muslim riots of 2014 and 2018 (Kannangara, 1984; Morrison,

3 Fernando, Laksiri. 2014. "SWRD Bandaranaike, DA Rajapaksa And Dynastic Politics". Colombo Telegraph. <https://www.colombotelegraph.com/index.php/swrd-bandaranaike-da-rajapaksa-and-dynastic-politics/>. In this commentary Dr. Laksiri Fernando writes about the political dynasties of the Bandaranaike and Rajapaksa families making an observation that "dynasties closely go hand in hand with centralization and/or authoritarianism". Moreover, this is not isolated to Sri Lanka but also in other parts of the world, particularly South Asia where political dynasties have had party control at multiple levels of government. For example, Nehru family, Gandhi family, Karunanidhi family in Tamil Nadu, and Koirala family in Nepal.

2020) Sri Lanka also experienced a three decade long civil war with separatist terrorist organization, the Liberation Tigers of Tamil Eelam (LTTE). Despite the end of the war on terror with the LTTE, religious radicalisation was pervasive throughout history – problems ranging from religious extremism and communal violence perpetrated by groups such as the Bodu Bala Sena (BBS) and Ravana Balakaya. Therefore, national security and leaders that promised to ensure national security in rhetoric and practice have always been popular and at the forefront in domestic politics.

The executive presidency of Sri Lanka positing President as Commander in Chief of the Armed Forces emerged during the backdrop of political strife and conflict with much stress on national security. During the tenure of Sirimao Bandaranaike in the late 1970s, left wing radicalism was growing, calling for a Marxist revolution in Sri Lanka. The combined threat of extreme left youth radicalization, ethnic riots and a stagnant economy paved the backdrop in which J.R. Jayawardena’s proposal for an all-powerful executive president came into force.

In 1978 with the second republican constitutional reforms, the executive presidency was established with the purpose of creating “a political executive with a fixed term that would permit the incumbent to make unpopular decisions” such as moving from a closed economy to an open economy among other unpopular decisions in the name of national security.⁴ Subsequently, Ranasinghe Premadasa succeeded J.R. Jayawardena.⁵ During his tenure, Sri Lanka faced both domestic and external pressures: there were two youth insurrections in 1971 and 1987 along with hostilities from the LTTE which by then was a fully-fledged civil war (Samaranayake, 1999). Moreover, the activities of Tamil militancy had certain spillover effects on South India which is home to ethnic Tamils of Indian origin who shared grievances with the Sri Lankan Tamils (Nieto, 2008). In response to the Sri Lankan crisis, India’s imperative was to intervene in Sri Lanka. This fell short of a ‘foreign occupation’ of the country causing President Premadasa to expel the Indian Peacekeeping Force.

What is notable here is that executive presidency worked in extreme cases when stern decisions had to be made in the context of insurgency, civil war, or economic reforms. This model however became unsustainable and undemocratic. As DeVotta points out, Sri Lanka’s democratic trajectory gradually turned into an illiberal democracy in the 1970s bordering towards authoritarianism. Even though the appear-

4 Venugopal, Rajesh. 2015. “Democracy, Development And The Executive Presidency In Sri Lanka”. *Third World Quarterly* 36 (4): 670-690. doi:10.1080/01436597.2015.1024400. See also : Horowitz, Donald L. 2014. *Coup Theories and Officers’ Motives*. Princeton: Princeton University Press. The draconian Prevention of Terrorism Act was introduced during this period, and it was used to arrest dissidents of the government apart from being used to suppress terrorism.

5 Venugopal, Rajesh. 2015. “Democracy, Development and The Executive Presidency In Sri Lanka”. *Third World Quarterly* 36 (4): 670-690. doi:10.1080/01436597.2015.1024400. According to Venugopal, Sri Lanka’s executive presidency helped in the creation of open market economic reforms under Jayawardena and Premadasa, as they both retained legislative control and a personal commitment towards economic reform, but this failed under subsequent governments of Chandrika Bandaranaike (1994-2005) and also under the Rajapaksa tenure when Rajapaksa’s sole decisions made Sri Lanka fall into the Belt Road debt trap.

ance of free elections continued, election related violence and abuse of authority persisted throughout each successive government.⁶

Moreover, particular shortcomings of the executive presidency were observed during the tenure of Chandrika Bandaranaike Kumaratunga from 1994 – 2005. In this period, the majority of the parliament were from the UNP with Ranil Wickremasinghe as Prime Minister. These two individuals had different ideologies; Kumaratunga with leftist values did not see eye to eye with Wickremasinghe who had a more capitalist vision. Although Kumaratunga attempted to balance both the left wing and right-wing demands, the government collapsed due to failed peace talks with the LTTE. It was against the backdrop of a failing economy and internal security that Rajapaksa became President with a vow to end the civil conflict during which the executive presidency became a success story for Sri Lanka.

As Rajapaksa became the executive president of Sri Lanka in year 2005, nationalist sentiments were aroused and sustained till the civil war ended in 2009 and Rajapaksa was re-elected in 2010 (DeVotta, 2014; Hensman, 2010). Unfortunately, he projected Sri Lanka's democracy towards a dangerous trajectory when he attempted to pass the 18th amendment to the constitution. It removed vital checks and balances on the powers vested in the president. Firstly, it removed the two-term limit to hold office allowing Rajapaksa to contest any number of times. Secondly, it restricted the election commission's powers to issue directives to prevent misuse of government property during elections. Thirdly, it repealed the 17th amendment which established the constitutional council. The latter interfered with the judiciary which was a grave affront to the doctrine of separation of powers as it sought to replace the constitutional council with a parliamentary council. In effect, the 18th amendment vested unfettered powers for President to make key public service appointments including the judges of Supreme Court, Appellate Court and the Attorney General (The Centre for Policy Alternatives, 2011).

Between the years of 2011-2015, Rajapaksa rule in Sri Lanka became very unpopular among the people who yearned for change. Firstly, there was activism in Sri Lanka from human rights advocates, politicians and civil society movements against Rajapaksa's authoritarianism. Abductions and extra-judicial killings of journalists and activists along with the treatment of political opponents such as Sarath Fonseka became intolerable. Media played a huge role in exposing corruptions, scandals and nepotism.⁷ Secondly as

6 DeVotta, Neil. 2011. "Sri Lanka: From Turmoil To Dynasty". *Journal Of Democracy* 22 (2): 130-144. doi:10.1353/jod.2011.0019. As DeVotta points out, both UNP and SLFP embraced Sinhalese Buddhist nationalism and this continuously influenced electoral victories and political survival. Tapping into the Sinhalese majority as a key voter base had always been a decisive factor in election victory. The Rajapaksas took this to a whole new level by galvanizing support from rural south (Rajapaksa's hometown) and weaponized to hijack the state. This was pertinent in 2011 presidential elections when Sarath Fonseka, the common candidate was stripped of his military titles, and imprisoned. The military in Sri Lanka always favored the Rajapaksas as their protectors from human rights probes. This became especially important in the analysis of intra-party political conflicts during the 2015-2019 Yahapalanaya government.

7 Dominiguez, Gabriel. 2015. "Sri Lankans Vote For Change - Sirisena Wins Historic Election". DW.COM. <https://www.dw.com>

Hensman points out, there was a local outcry to 'protect democratic spaces'.⁸ Removal of Rajapaksa was a considerable challenge as not many politicians had the personality nor electoral appeal to challenge him at elections. Moreover, Ranil Wickremasinghe, the leader of the second largest party in Sri Lanka did not have public appeal to rival Rajapaksa. Therefore, 'Sirisena' who had his roots from the Sri Lanka Freedom Party, with the blessings of former president Chandrika Bandaranaike Kumaratunga emerged a clean choice for Sri Lanka offering the promise of a corruption free government.

3. Sri Lanka's party history - ideological differences and intra-party conflicts

To answer the second part of the question, a brief overview of Sri Lanka's party system is warranted. Sri Lanka's first party under the British governance was the Ceylon National Congress (CNC), comprised of Sri Lanka's most elite persons who had a British university education, wealth and social status (Perera, 2020). Like in every other country, each political party in Sri Lanka has its own political ideology, and economic agenda. The UNP which descended from the CNC is considered a right leaning liberal party. The SLFP which was formed under SWRD Bandaranaike was a break away from the UNP with a more socialist orientation (Rampton and Welikala, 2005). The JVP shared its ideology with the SLFP but its Marxist orientation and failed insurrections made it unpopular. In the subsequent years, JVP underwent much reformation to fight corruption, nepotism, uphold constitutionalism and challenge authoritarianism. However, their political survival at the central government had always depended on coalitions.

The United People's Freedom Alliance (UPFA) was formed in 2004 between SLFP and the JVP as an electoral bulwark to oust the UNP government due to disagreement on Wickremasinghe's handling of the civil war. UPFA was able to gain majority seats in parliament only by absorbing smaller parties such as Mahajana Eksath Peramuna, Lanka Mahajana Pakshaya and defections from minority parties following the 2004 general elections from the Muslim National Congress, Eelam People's Democratic Party and Ceylon Workers' Congress etc. In Sri Lanka, such defections from parties often involved alleged bribes and

[dw.com/en/sri-lankans-vote-for-change-sirisena-wins-historic-election/a-18181122](https://www.dw.com/en/sri-lankans-vote-for-change-sirisena-wins-historic-election/a-18181122). See also : Arudpragasam, Amita. 2015. "Maithripala Sirisena'S Victory: Winning The Hearts Of Women". Groundviews. <https://groundviews.org/2015/01/10/maithripala-sirisenas-victory-winning-the-hearts-of-women/>. Arudpragasam writes that Sirisena tapped into a key demographic of women who constitute 50% of the population during election rallies supported by female public figures, politicians, artists, academics, female civil rights activities. For example "Rosy Senanayake MP, Hirunika Premachandra, Jeevane Kariyawasam, Anoma Fonseka, Samanmalee Gunasinghe, Sandhya Ekanligoda, Chandrika Kumaratunga, Thalatha Atukorala". See also : Gunawardena, Nalaka. 2015. "Sri Lanka Parliamentary Election 2015: How Did Social Media Make A Difference?". Groundviews. <https://groundviews.org/2015/09/03/sri-lanka-parliamentary-election-2015-how-did-social-media-make-a-difference/>. The 2015 election was also largely shaped by freedom of speech and social media activism. Gunawardena writes about the digitalization of politics and how opinions expressed through social media became a key influencing factor to canvass for a political change in Sri Lanka.

allures of ministerial portfolios.⁹ Example : When the JVP broke away from UPFA alliance in 2005 citing differences with SLFP and Kumaratunga's appointment of Mahinda Rajapaksa as head of the UPFA, one of its prominent leaders Wimal Weerawansa broke away to join the UPFA. He formed his own party the Jathika Nidahas Peramuna. Since then, Wimal Weerawansa had been a Rajapaksa lackey whose electoral advantage had guaranteed him a seat in parliament and a cabinet portfolio under the Rajapaksa rule.¹⁰

The Marxist party JVP's political orientation has changed over time. Since the 2005 elections, JVP had challenged Rajapaksa-led UPFA government with numerous attempts to oust him. Once by forming an alliance with Sarath Fonseka in 2010 but unsuccessfully. Then, JVP succeeded the goal of ousting Rajapaksa only in 2015 when several parties formed an electoral bulwark against Mahinda Rajapaksa. The JVP, TNA, Jathika Hela Urumaya (JHU), Sobitha Thero (influential Sinhalese Buddhist monk), students, teachers, trade unionists and a variety of other activists supported the Sirisena victory. Sirisena's image as a man who hailed from the rural district of Polonnaruwa with a Sinhalese-Buddhist background supported by the Buddhist clergy and JHU mainly appealed to the Sinhalese-Buddhist majority. His manifesto which promised to fight corruption and nepotism also won the support of Muslim and Tamil minorities who were eager to see Rajapaksa ousted (DeVotta, 2016; Hensman and Zackaria, 2015). As observed in late 2018, with the constitutional coup, the Sirisena-Wickremasinghe government fell apart due to intra-party conflicts, ideological differences and personality clashes.

3.1. Sirisena-Wickremasinghe clash between 2015-2019

Wickremasinghe and Sirisena started falling out as early as 2015 when leading members of the UNP were involved in the 'Bond Scam' which was one of the biggest financial frauds in Sri Lanka's history. This portrayed the government in negative light as Yahapalanaya government came into power on the premise of fighting corruption. There were also personality clashes between Sirisena who hailed from rural

9 "US, Norway Deny Bribery Charges". 2010. Bbcsinhala.Com. https://www.bbc.com/sinhala/news/story/2010/01/100117_us_norway_weerawansa. In this article Wimal Weerawansa was allegedly offered a bribe to defect towards Sarath Fonseka's party during the 2010 Presidential elections. See also : "Mahinda Rajapaksa Summoned By Anti-Graft Commission". 2015. The Economic Times. <https://economictimes.indiatimes.com/news/international/world-news/mahinda-rajapaksa-summoned-by-anti-graft-commission/articleshow/46988304.cms?from=mdr>. In this article Mahinda Rajapaksa was probed for alleged bribery of Tissa Attanayake, the secretary of the UNP to defect to his side.

10 Uyangoda, Jayadeva. 2008. "The Janatha Vimukthi Peramuna Split". Economic And Political Weekly 43 (18): 08-10. <https://www.jstor.org/stable/40277655>. See also : "JVP Protests Karuna Appointment". 2008. Bbcsinhala.Com. https://www.bbc.com/sinhala/news/story/2008/10/081006_karuna_mp. The JVP had multiple disagreements over appointments made by the UPFA including Karuna Amman (Former LTTE member who defected from Prabhakaran) as a National List member of parliament. See also : "Mahinda - Ranil In "Secret Pact"". 2007.BBSinhala.Com.https://www.bbc.com/sinhala/news/story/2007/03/070318_jvp_foreign. The JVP considered Wickremasinghe as unpatriotic and not befitting the role of opposition leader and positioned themselves as a patriotic opposition which the country needed (one that supports the military which played a crucial role in the victory over Tamil Tigers).

Polonnaruwa as a village officer and Wickremasinghe who hailed from Colombo as a lawyer specialized in constitutional law (DeVotta, 2021).

There is a possibility that Sirisena thwarted Wickremasinghe's liberal reforms and legislative initiatives such as the proposed new constitution to Sri Lanka which promised a quasi-federal system, new counter terror law and the laws to enable transitional justice due to inter-personal rivalry and ideological differences.¹¹ Another example is the UNHRC resolution on Sri Lanka which promised reconciliation and accountability for atrocities committed during the war. The cabinet headed by Wickremasinghe co-sponsored this resolution but Sirisena at the 73rd Session of the UN General Assembly made contrary statements. Sirisena subsequently made statements that he wishes to withdraw from the UNHRC resolution.¹²

Subsequently, the portrayal of Wickremasinghe as a 'Western lackey' who succumbed to foreign pressures working against the interests of the state and against Sri Lanka's military that saved the nation from the clutches of terrorism was built into a narrative which worked in favor of Gotabhaya Rajapaksa's quest to power in 2019. The Easter Sunday Attacks worked in gaining public opinion in Gotabhaya's favor as the sole guarantor of security. In this situation, there was a remarkable change in what constituted 'security' to the people. On the one hand it meant security from terrorism and on the other, to prevent Sri Lanka from being 'divided'. Jayawickreme et al explains the psychology behind this peculiar phenomenon – It is in the psyche of the Sinhalese who represent a majority that Tamil demands for federalism and a 50/50 power sharing is unreasonable, unrealistic and disproportionate.¹³ Gotabhaya Rajapaksa articulated this well during his swearing-in speech when he vowed not to make any decisions against the majority of the country.¹⁴

11 Wikremasinghe's proposed new constitution was to change the character of government to a quasi-federal system. The laws to enable transitional justice such as legal act to establish a truth commission, establishment of the office for missing persons etc were perceived as anti-military laws.

12 « Give us space to resolve our problems, Sirisena appeals to international community». 2018. The Hindu. <https://www.thehindu.com/news/international/give-us-space-to-resolve-our-problems-sirisena-appeals-to-international-community/article25050099.ece>. See also : « Sirisena wants to withdraw from UNHRC resolution ». 2019. Tamil Guardian. <https://www.tamilguardian.com/content/sirisena-wants-withdraw-unhrc-resolution>.

13 Jayawickreme, Eranda, Nuwan Jayawickreme, and Elise Miller. 2010. "Triumphalism, Fear And Humiliation: The Psychological Legacy Of Sri Lanka's Civil War". *Dynamics Of Asymmetric Conflict* 3 (3): 208-222. doi:10.1080/17467586.2010.531031. See also : Rajasingham, Sanjayan. 2019. "Federal Or Unitary? The Power-Sharing Debate In Sri Lanka". *The Round Table* 108 (6): 653-665. doi:10.1080/00358533.2019.1688064. In this piece, Rajasingham writes about the debate of Federal State and Unitary state in Sri Lanka. He writes about political parties such as Ilankai Tamil Arasu Katchi (ITAK) which campaigned for federalism and failed while the TNA's attempt to make the new constitution promised by Wickremasinghe, a unitary state under a quasi-federal set-up also a failure.

14 "If They Call You A Hitler, Then Be A Hitler And Build This Country,' Asgiriya Anunayaka Thero Tells Gotabaya - Colombo Telegraph". 2021. Colombo Telegraph. <https://www.colombotelegraph.com/index.php/if-they-call-you-a-hitler-then-be-a-hitler-and-build-this-country-asgiriya-anunayaka-thero-tells-gotabaya/>. Another pertinent example for democratic backsliding is when

Another explanation to the research question resonating the view of DeVotta is that Sri Lanka's democratic trajectory since the 1950s had vacillated between liberal democracy to illiberal democracy with ethno nationalism as the independent variable causing the style of government. DeVotta writes "Sinhalese Buddhist nationalism combines language, religion, and mythohistory to portray Sri Lanka as a sanctuary for Buddhism". Gaul argues that Rajapaksa's rhetoric had persuasive effect on the Sinhalese Buddhist majority through populist performances such as visits to temples, public displays of reaching out to the common man and standing up against elitism and performances of crisis. Through the latter he was able to forge two separate identities of 'people' (nationalists and patriots) and the 'other' (LTTE and separatists). Gaul refers to the civil war and the triumphalism on the war victory as discursive events, underlying rationale of which reinforced his legitimacy to rule. Despite the limits to his populist appeal in 2015, the same rationale resurfaced in 2019 with Gotabaya Rajapaksa, conferring a deeper meaning to 'the other' (comprising the LTTE and Islamist Terrorists along with their sympathizers) (Gaul, 2020).

It is not only the Rajapaksas that projected a Sinhalese Buddhist nationalism, but also Bandaranaike, Jayawardena (who converted from Anglicanism to Buddhism), Premadasa and Sirisena are all complicit in this trajectory. Moreover, Gotabhaya Rajapaksa's landslide election victory was premised on a carefully orchestrated campaign to 'save' the country from terrorism, prevent the military from being witch-hunted with 'human rights' laws and unite the country under the 'One Country One Law' ideology. Today, the extent to which ethno nationalism is entrenched in statecraft is apparent with the one country one law project, criticized as a legal hegemonic project aimed at marginalizing minorities (Ananthavinayagan, 2021). The appointment of Galbodaaththe Gnanasara Thero (spiritual leader of the extremist Bodu Bala Sena organization) to spearhead the presidential task force of the project further reinforces this trajectory.

4. Constitutional Coup of 2018

On the 26th of October 2018, an unusual event passed in Sri Lanka which signaled the end of the Sirisena-Wickremasinghe government. Sri Lanka's President Maithreepala Sirisena sacked the democratically elected Prime Minister Ranil Wickremasinghe and appointed former president Mahinda Rajapaksa who was also the opposition leader of Sri Lanka as the Prime Minister. The contestation was over the interpretation of the legal ambiguities surrounding the 19th amendment to Sri Lanka's constitution. The 19th amendment was considered a pillar of democracy which established certain checks and balances on the powers of the president. It limited presidential terms of office, reintroduced the constitutional council, placed restrictions on type and number of ministerial portfolios he/she may hold, and removed absolute immunity from suit (Perera, 2020).

Article 33 of the 19th amendment which establishes the duties and functions of the president contained

certain members of the clergy called upon Gotabhaya Rajapaksa to become a Hitler to rid the country of terrorism and normalized 'White Vanning', abductions and enforced disappearances as necessary acts during the civil war.

several ambiguous sub clauses.¹⁵ When the president Sirisena sacked Prime Minister Wickremasinghe and made a new appointment, there were contestations among various parties in describing such an action in both legal and political language. Some called this a ‘constitutional coup’ while others argued to justify the president’s actions as lawful. Although the matter was subjected to judicial settlement and was subsequently resolved, it demonstrated Sirisena’s lack of knowledge on the constitution, presidential powers and the integrity of political office. Both President Sirisena and Mahinda Rajapaksa justified the appointment as ‘lawful’ and as acting in ‘good faith’ on behalf of the people in the country. It was the president’s belief that the Prime Minister was leading the cabinet astray and therefore his intervention was warranted to rectify this situation. Contrarily, Ranil Wickremesinghe and a cohort of scholars, lawyers, and laymen called the event as a ‘constitutional coup’, ‘illegal’, or ‘unconstitutional’.

What is engrossing here is that while some saw the event as a violation of the constitution, others did not. The two parties to the conflict had two different lines of reasoning to justify their actions. One line of reasoning is that the 19th amendment reduced presidential powers and his sole discretion to make appointments and therefore sacking Prime Minister Wickremasinghe was unconstitutional (Welikala, 2018). Those who publicly denounced the act resonated with the opinion that President was subject to legal and political forms of accountability and is expected to act in good faith to uphold the constitution.

The reasoning mentioned above stemmed from existing debates on the discourse of democracy when ‘constitutionality’ and ‘rule of law’ are understood as bedrocks of democracy. Those appearing on behalf of the president in his defense, argued against adjudication of the matter altogether. Their concerns included, that any allegation the President was violating the Constitution, is not for the courts to decide, but a matter for the Parliament through the procedure of impeachment. Subsequent actions which followed this event was Mahinda Rajapaksa receiving a no-confidence motion from a majority of the parliament and president’s decision being rescinded.

There were also those who interpreted the event as a ‘political crisis’ since it dealt with a member of the executive branch of government engaging in an illegal act. The event also crippled governance for a particular period as there were cabinet reshuffles and new appointments. Senaratna makes two observations – Firstly, more than the legal ambiguity of the 19th amendment, what’s more pertinent is the immaturity and constitutional literacy of the president. The event signaled the pitfalls of the semi-presidential system when the two heads of government are not in agreement or coordination on policy. Secondly, the event strengthens the position of those who push for the 20th amendment which envisions a prime ministerial system. However, after the presidential elections of 2019, it still remains to be seen whether Gotabhaya Rajapaksa would concede power to his brother Mahinda Rajapaksa (Senaratne, 2019).

On a final note, the event demonstrated the necessity for judicial independence in Sri Lanka as a bedrock to preserve democracy. Prominent lawyer, Gehan Gunatilleke referring to the judicial decision of the Supreme Court over the 19th amendment opined the “ruling demonstrated how important it was to

15 <https://www.parliament.lk/uploads/acts/gbills/english/5974.pdf>

guarantee separation of powers in any governance structure” (De Sayrah, 2018). Welikala observed the conclusion of this crisis as an example of institutional resilience in reference to Sri Lanka’s judiciary in upholding democracy (Welikala, 2019).

Conclusion

This paper was focused on answering the research question “Why did democratization during the Sirisena-Wickremasinghe government of 2015-2019 backslide?”. The paper begins with an introduction which sets the background and context to Sri Lanka’s electoral politics and constitutional reforms. Since Sri Lanka gained universal suffrage in 1931, there had been numerous constitutional reforms key of which were in 1948 when Sri Lanka gained independence, and in the years of 1972 and 1978, when the Republican Constitutions were formed. Sri Lanka’s political landscape changed drastically with the civil war, LTTE and internal security issues. Throughout the political history, the national question had been on power sharing between Tamils and Sinhalese. Despite the introduction of the 13th amendment to devolve powers to provinces which could have potentially resolved the crisis to an extent, there was no such consensus on the issue. Therefore, the war lasted 30 years and ending it was an ultimate triumph and success story of how the executive presidency had worked in times of civil unrest as previously experienced under the Jayawardena and Premadasa tenures. When Mahinda Rajapaksa came into power in 2005, his brother Gotabhaya Rajapaksa was appointed the secretary of defense and together they built a powerful image as security guarantors under whom terrorism could never prevail. Despite the loss of confidence in Mahinda Rajapaksa rule towards his second tenure, and subsequent electoral defeat in 2015 – the image of the Rajapaksa’s as security guarantors resurfaced amidst the multiple failures of the 2015-2019 government. It was apparent by 2016 that Sirisena and Wikremasinghe had fallen out due to the bond scam issue, disagreement over the UNHRC Resolution on Sri Lanka, disagreement over laws to enable transitional justice and the constitutional coup of 2018 which signaled the end of the Sirisena-Wickremasinghe government. The Easter Sunday Attacks of 2019 caused the people to re-think whether the UNP government or a weak leader as that of Sirisena could guarantee internal security. The Rajapaksa brothers coming into the political foray was therefore not a surprise but a reflection of how the character of democracy is understood as ‘rule of the majority’, in terms of ethno-nationalism, in terms of electing a strong leader, and understanding elections to mean electing those capable of guaranteeing national security.

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