

Sri Lanka and its democratic revolution: The constitutional challenge of unity and diversity

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*The results of Sri Lanka's parliamentary election on 17 August can be seen as an endorsement of recent reforms to limit the powers of the executive presidency and strengthen democratic governance. But **Asanga Welikala** stresses that the political difficulties ahead must not be underestimated, particularly the challenge of finding a constitutional settlement that addresses ethnic and religious pluralism while maintaining the unitary character of the Sri Lankan state.*



Sri Lanka concluded its most peaceful and orderly parliamentary election in living memory on 17 August, demonstrating how even a modest de-politicisation of state institutions, together with a political leadership that broadly respects the rule of law and civic freedoms, can significantly improve the quality of democracy almost overnight. The election result, which returned the government headed by President Maithripala Sirisena and Prime Minister Ranil Wickremesinghe, can be seen as an endorsement of the constitutional reforms enacted in April to significantly prune the powers of the executive presidency and strengthen democratic governance; and a mandate for further reforms to consolidate these and to address minority aspirations to devolution. Even though several other measures of the government's 100-day programme were not successfully enacted, this can be welcomed as an important re-validation of the democratic revolution at the presidential election in January, which deposed the corrupt and autocratic Rajapaksa regime.



Prime Minister Ranil Wickremesinghe and his wife, Dr Maitree Wickremesinghe, following his victory. Image credit: facebook/UNPofficialpage

Nonetheless, the political difficulties that confront the next stage of constitutional reforms must not be underestimated. After all, a constitutional settlement addressing the challenge of ethnic and religious pluralism, especially, has eluded Sri Lanka throughout its post-colonial history and political opportunities as historic and as momentous as the present one have been squandered repeatedly in the past. At a similar moment in American history, Lincoln invoked not only the value and values of magnanimity and charity, but also the need for what he called 'firmness in the right' in striving to 'finish the work we are in, to bind up the nation's wounds.' If this challenge is to be met consistently with the democratic promise generated by the two elections of 2015, not only would Sri

Lanka's political leaders need to demonstrate an excellence of leadership they have never exercised in the past, but its civil society would have to continue to play the critical role it did in creating the conditions for the successful electoral revolution.

After Sirisena won the presidential election in January with the support of the common opposition led by the United National Party (UNP), he appointed the then Leader of the Opposition Wickremesinghe as the Prime Minister of a minority government. That government was appointed for the sole purpose of enacting the reforms outlined in the common opposition's 100-day programme. In this election, the United National Front for Good Governance led by the UNP of Prime Minister Wickremesinghe emerged as the single largest party with 106 seats, 7 seats short of an overall majority in the 225-member Parliament, which is elected through an open list system of proportional representation. The UNP won 5,098,916 votes or 45.66% of the total vote. On an upward swing of 16.32%, this was a gain of 46 seats from the last parliamentary election in 2010, where it won 60 seats and 29.34% of total votes.

The Sri Lanka Freedom Party (SLFP) led United People's Freedom Alliance (UPFA) won 95 seats, with 4,732,664 votes or 42.38% of the total vote. On a downward swing of 17.95%, the UPFA lost 49 seats from the last election where it had won 144 seats or 60.33% of the total vote. Sirisena had replaced Rajapaksa as the leader of both the SLFP and UPFA after the presidential election, but the latter and his loyalists were successful in transforming the UPFA campaign in the parliamentary election into a Rajapaksa comeback bid. Rajapaksa stood as a parliamentary candidate (unprecedented for a former President) and the entire UPFA platform was saturated with his regime's policies and personalities. Premised on the assumption that the January defeat was a mere aberration, their strategy was to force Sirisena to appoint Rajapaksa as the Prime Minister after winning a parliamentary majority. The result is significant therefore not only for the significant decrease in the UPFA vote share across the country, but also the decline of Rajapaksa's popularity as an electoral asset that many of his loyalists have traded on for so long.

In the Tamil-majority areas of the north and east the Tamil National Alliance (TNA) swept the poll, increasing their seats from 14 to 16. The moderates in the TNA successfully withstood a strong challenge from hard-line nationalists, especially in the Jaffna peninsula where Tamil politics has become the most pluralistic and competitive in decades, with the relative relaxation of the repressive atmosphere created first by the long dominance of the Liberation Tigers of Tamil Eelam (LTTE) and then by the militarised post-war administration of the Rajapaksa regime.

There are a number of important implications of this set of results for the reform agenda in the new Parliament. The Rajapaksa challenge in the south meant that the UNP had to protect a vulnerable flank in the Sinhala-Buddhist heartland against charges that it would go soft on Tamil nationalists and dissipate the war victory against secessionism. Consequently, while it promised further devolution in amorphous terms, it had to expressly make a commitment to maintain the unitary character of the Sri Lankan state. The prima facie implication of this is that any devolution would be circumscribed by the centralising dictates of the unitary state and that federalism, on which the TNA won its mandate, is off the agenda. Given that 42.38% of the electorate – the great majority of it in the dominantly Sinhala-majority districts – voted for the Rajapaksa vision, this would seem to have been a wise strategic move by the UNP.

However, given that the TNA delivered the northern vote to the common opposition in the presidential election without which Sirisena would not have won, and saw off the Tamil hard-liners in the parliamentary election, the government would now have to negotiate with the TNA in finding a constitutional arrangement that satisfies Tamil aspirations, even if that falls short of full-blown federalism. This will be a difficult challenge, requiring much political leadership, negotiating skill, and intellectual imagination from both sides, especially in transcending the either/or terms on which the unitary-federal debate has been conducted so far. And in so doing, the UNP in government will have a major task in engaging and persuading the sceptical half of the Sinhala electorate that a just and fair settlement of Tamil grievances is in the broader national interest.

The two elections also evince a deeper political paradox that will underpin – and bedevil – constitutional reform efforts. Both Sirisena and Wickremesinghe rely on the support of the minorities for their mandates, dictated in part by Rajapaksa's strategy of marginalising the minorities and relying solely on Sinhala-Buddhist chauvinism. The

plural basis of the new government's electoral mandates, drawing support from all ethnic and religious communities, is therefore a strong incentive for bringing together these communities around a new sense of 'Sri Lankan' unity based on a commonality of shared values and a democratic renewal that all played a part in creating. This is a powerful force for national unity in a communally plural polity – a civic nation-building moment – that the new government's constitution-makers would no doubt seek to harness. And it would be a progressive direction that would be lauded by the international community and in particular India and the United States, Sri Lanka's new best friends, whose own successful nation-states have been built on this model.

Yet the paradox is that building a single sense of Sri Lankan nationhood is inherently a monistic discourse of nation-state building that will exclude the particular discourse of pluralism that is produced by the Tamil claim to distinct nationhood and for constitutional accommodation on that specific basis. In other words, even a tolerant and civic conception of Sri Lankan nation-statehood that makes concessions to internal ethnic and religious diversity, necessarily precludes any space for multiple nations to be accommodated within the Sri Lankan state. While this integrating model of liberal 'Sri Lankan-ness' will be perfectly adequate for meeting the cultural claims of Muslims and the even smaller minorities, it is less clear if it could satisfactorily accommodate, at least conceptually, the Tamils' more fundamental desire for territorial self-government and to the recognition of their identity as a nation. This is a much deeper problem than formalistic disputes over descriptive labels such as whether the state ought to be unitary or federal. It would be a truly extraordinary achievement if Sri Lanka manages to resolve this constitutional challenge in the forthcoming phase of reform.

The failures of the past should strengthen the resolve of the current constitution-makers, and there is no better cautionary precedent than the general election of 1970, which mandated the Dominion of Ceylon's transformation into the Republic of Sri Lanka. The broad social consensus for the establishment of a republic was hijacked in the Constituent Assembly by the constitutional agenda of Sinhala-Buddhist nationalism. By institutionalising the unitary state and the 'foremost place' of Buddhism, and by giving constitutional status only to the Sinhala language, the first republican constitution registered the Sinhala-Buddhist ownership of the Sri Lankan state. The Tamil federalists, who had defeated incipient secessionists in the election, found themselves isolated, ignored, and insulted in the Constituent Assembly. No one even dreamt that within a decade, armed militants would supersede Tamil parliamentary parties. The authoritarian powers given to the government by the new constitution could never be a sufficient counterweight to the fundamental illegitimacy of the state that it created. The upshot was a thirty-year civil war.

Sri Lankans can be justly proud of the depth of their democratic traditions that have enabled them to create another historic opportunity to re-constitutionalise a better Sri Lankan state. But its political culture remains as ramshackle as ever, and a dystopian breakdown at any moment never seems too far away. Whether the institutional reforms that have been passed would be sufficient to rejuvenate the culture of politics and afford the space for less partisanship, and more reflection and restraint, deliberation and moderation, remains to be seen. Lincoln spoke of the 'firmness in the right, as God gives us to see the right'. A lot more than divine inspiration would be needed in firmly pursuing the right in the Sri Lanka of the present.

About the Author

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