

## **Sri Lanka Project Briefing**

### **12 November 2003**



## **Sri Lanka on the brink of political chaos**

### **Parliament suspended**

The peace process in Sri Lanka suffered a serious blow in early November when President Chandrika Kumaratunge took a series of measures endangering the 20-month ceasefire and negotiations aimed at ending a 20-year civil war. She dismissed three Cabinet ministers on 4 November, while Prime Minister Ranil Wickremasinghe was away in the US to discuss the island's peace process with President George Bush. The sacked Cabinet members are Defence minister Tilak Marapane, Interior minister John Amaratunge and Mass Communication and Media minister Imthiaz Bakeer Markar. Finance minister KN Choksy is said to be on the firing line.

In a letter on the same day to Speaker Joseph Michael Perera, the President notified that Parliament was prorogued until 19 November 2003 under constitutional powers (Article 70). The Sri Lankan Constitution does not preclude the President from proroguing Parliament again.

She also sacked the secretaries of two ministries, replacing Austin Fernando with former Inspector General of Police (IGP) Cyril Herath as Defence Secretary. Thilak Ranavirajah replaced Kumar Abeysinghe as Mass Communication Secretary. Interior Ministry Secretary MN Junaid will retain his position. According to press reports, the IGP Indra de Silva, under the direction of the President, has appointed a committee comprising Deputy Inspector General of Police (DIG) Jayatissa Herath, DIG Jayantha Wickremaratne and Superintendent of Police (SP) Mahinda Hettiarachchi, to co-ordinate security measures.

### **Presidential powers**

Prime Minister Wickremasinghe's United National Front (UNF) forms the government and the Cabinet while the President belongs to the opposition People's Alliance (PA). Under the Constitution, the President is the commander-in-chief of the armed forces and police. She has the power to change subjects of ministers at any time [Article 45 (2)] and sack ministers, including the Prime Minister [Article 47 (a)]. She is head of state and government and member of the Cabinet and heads the Cabinet. President Chandrika was elected in 1999 in a separate election and will hold office until 2005. But her party, PA, lost parliamentary elections to the UNF in December 2001. The UNF also won local government elections held in 2002.

## **Control of media**

The Army and the Presidential Security Division (PSD) were deployed at several institutions, including the state-controlled Sri Lanka Broadcasting Corporation (SLBC) (radio), Sri Lanka Rupawahini Corporation (SLRC) (TV) and the government Printing Press. According to reports, SLRC's head Ganganath Dissanayake was replaced by presidential spokesman Harim Peiris. She replaced Nalin Luduwahetty, chairman of the government-controlled Lake House (Associated Newspapers of Ceylon Ltd) with Kesaralal Gunasekara. She is also said to have removed Independent Television Network (ITN) Chairman Gayrika Perusinghe and brought in Newton Gunaratne.

Sri Lanka's Free Media Movement (FMM) says President Kumaratunge undemocratically changed the editors and directors of state media institutions and in some instances, journalists have been thrown out by the new political bosses of the state media and changes in the reporting are already visible. The FMM alleges that these newly appointed heads of media are accompanied by armed officers of the PSD.

## **LTTE proposals**

The President's measures came four days after the Liberation Tigers of Tamil Eelam (LTTE) submitted their proposals for an Interim Self-governing Authority (ISGA) for the north-east region, in response to proposals made by the government on 18 July 2003. In an address to the nation on 4 November, the President said: "The disturbing developments of the past few months culminating in the events of the last few days and the ineffective steps taken by the administration to ensure national security have led me to take the view that firm and steadfast action is necessary to remedy the situation". The President had continued to express concern over LTTE's acquisition of arms, child recruitment and human rights violations. She had also accused the UNF government of granting too many concessions to the Tigers.

Addressing a public meeting on 3 November, the President had said that although she believed in power-sharing, the Tiger proposals went beyond devolution. Under LTTE proposals, the ISGA, which will be composed of LTTE, Sri Lanka government and Muslim members (with an LTTE majority), will control administrative and financial functions, including taxation with powers to borrow internally and externally, receive aid directly and engage in internal and external trade. The ISGA will control land in the north-east, natural resources, marine and offshore resources of adjacent seas and will have power over law and order. The Tigers have also proposed a separate judiciary for the north-east and a separate human rights commission.

Responding to the proposals, advisor to the President, Lakshman Kadirgamar declared that Sri Lanka's sovereignty is not negotiable. But the President assures that the ceasefire agreement of February 2002 will continue and says that she is willing to discuss a just and balanced solution with the LTTE within the parameters of unity, territorial integrity and sovereignty of Sri Lanka. The Prime Minister, however, in a message from the US, vowed that the government will not be deviated from the mandate given by the people to pursue peace, security and economic prosperity.



## **Supreme Court ruling**

On 4 November, the Supreme Court ruled that the Defence Minister had no legal authority to amend regulations under the Army, Navy and Airforce laws, as the power to make regulations is vested only in the President. Defence minister Tilak Marapane had issued gazette notifications last year extending the services of Army officers. In an application, President Chandrika had invoked the consultative jurisdiction of the Supreme Court [Article 129 (1)] and asked the court to rule on whether,

- 1) the powers vested in the Defence minister who is appointed by the President are subject to the overriding authority of the President, and
- 2) amendments made by the Defence minister to regulations under the Army, Navy and Airforce Acts encroached upon the powers vested in the President.

The Supreme Court bench, which included the Chief Justice Sarath N. Silva, ruled that the amendments are invalid and of no force in law. According to reports, some UNF MPs submitted a notice on the same day (under Article 107 of the Constitution) to the Parliament Speaker for the impeachment of the Chief Justice. The Bar Association of Sri Lanka (BASL) has condemned the impeachment motion as an attempt to undermine the judicial power of the Supreme Court and a direct interference with the independence with the judiciary. The BASL has called on the MPs to withdraw the impeachment motion. Reports say that the Prime Minister is also not in favour of the motion.

## **Emergency rule**

Press reports said that the President had introduced Emergency rule on 5 November under the Public Security Ordinance. But on 7 November, the President denied that she had signed a proclamation declaring Emergency. Colombo observers say that false information that Emergency has been declared may have been deliberately put out, in order, firstly, to prevent the UNF organising demonstrations in Colombo and marching on the presidential residence and, secondly, to take immediate control of the media. Under Emergency rule, the President is empowered to make regulations, which will have the effect of overriding, amending or suspending any law, except the provisions of the Constitution. Parliament must approve the declaration within ten days and thereafter sanction the continuation of Emergency every month. The PA does not have the majority in Parliament to approve the Emergency. Observers also say that the President issued instructions to the government printer on 6 November not to proceed with the printing of the gazette notification declaring Emergency, after it was clear that no new support would be forthcoming in Parliament to continue Emergency rule.

## **Support for Prime Minister**

The UNF met on 5 November and Chief Government Whip Mahinda Samarasinghe announced that the government has the support of 129 of the 225 MPs. Copies of a document signed by the 129 MPs pledging support to the Prime Minister were sent to the Speaker and the President. The UNF has 114 seats in the 225-member legislature [UNP, the Ceylon Workers Congress (CWC) and the Up-Country People's Front (UPF) 109 and Sri Lanka Muslim Congress (SLMC) 5]. The PA and its allies have a

total of 95 seats [PA 77; People's Liberation Front (JVP) 16; Eelam People's Democratic Party (EPDP) 2]. The Tamil National Alliance (TNA) has 15 seats and the People's Liberation Organisation of Tamil Eelam (PLOTE) has one seat. The former has indicated that it will support the UNF. The PA and its allies are short of 18 seats for an overall majority. So far, the CWC, UPF and the SLMC have indicated that they will continue to support Prime Minister Ranil Wickremasinghe's government.

However, according to reports, senior PA leaders are engaged in attempts to attract the UNF MPs by making financial and other offers and are also trying to exploit the divisions within the SLMC. Rauf Hakeem, the SLMC leader, says that his party would submit alternative proposals for an interim administration in the north-east within the next two months. The SLMC is expected to submit proposals for a separate autonomous devolutionary unit for the Muslim community in the Eastern Province.

The Prime Minister, on returning to the island on 7 November, asserted that he had been mandated by the people to put the peace process on track and both the UNF and the PA may have to work together towards such a goal. Since independence in 1948, a number of agreements between governments and Tamil leaders on autonomy for Sri Lanka's Tamil regions have failed, following violent demonstrations by the respective opposition party - usually the UNF's main constituent the United National Party (UNP) or PA's main constituent the Sri Lanka Freedom Party (SLFP). In April 1997, a bipartisan agreement, brokered by the then British Foreign Office Minister Liam Fox, was signed between the UNP and the PA. The Fox Agreement said that discussions or decisions between the government and any other party, including the LTTE, undertaken in concurrence, would not be undermined by the opposition and either party will also honour such decisions on election to government. Unfortunately, the agreement has not been honoured by both parties.

The Cabinet met on 7 November and moved a resolution demanding the President to reinstate the three ministers. By then the President had softened her approach. She said that the UNF government will continue to negotiate with the LTTE and will be 'guided and supported'.

### **Dissolution of Parliament**

The President told the *BBC* that she was not going to dissolve parliament unless she is forced. The President will not be able to dissolve while an impeachment motion against her is pending before Parliament [Article 70 (1)]. In this light, some UNF MPs are demanding impeachment of the President, but Mr Wickremasinghe has so far resisted the demand. Parliamentary elections must be held within three months of the date of dissolution. The President is said to have taken the extreme measures on the assurance of senior members of the PA that several UNF MPs could be persuaded to cross over to her party. But these attempts seem to have not succeeded. A parliamentary election could plunge the country into violence and hurt the economy. More than 50 people were killed in the run-up to and during the last general elections in December 2001.



## **Effects on the economy**

The President told leaders of industry that she had taken the harsh measures to ensure national security and thereby increase investor confidence. However, the business community in Sri Lanka has expressed grave concern. Reports say tourism may be affected by the present crisis. Tourist arrivals between January and September 2003 stood at 338,000 an increase of nearly 22% from 277,300 for the same period last year. According to the government, there has been 2,000 cancellations of planned holidays in Sri Lanka since the problem began. Tourism minister Gamini Lokuge expressed concern that over 100,000 people in the tourist sector may be affected and blamed the international media of blowing the crisis out of all proportions.

It is likely that Ms Kumaratunge suspended Parliament to prevent the UNF budget being presented on 12 November. Finance minister KN Choksy, in an unprecedented move, announced some of the budget proposals on 5 November. There would have been a wage rise for all public officers, including police and armed forces and public corporation employees. Fertilisers would have been further subsidized and farmers granted relief in loan commitments. Mr Choksy regretted that he would not be able to provide these benefits to the people following suspension of Parliament.

When the UNF came to power in December 2001, it inherited an economy whose growth rate was the lowest since independence – 1%. Strict fiscal policies saw improvements. The *Economist Intelligence Unit* (London) reported real GDP growth by 5.6% in the first half of 2003 underpinned by strong recovery in exports, increased consumer confidence owing to the peaceful atmosphere and rising demands for goods and services. But the events of early November have shaken investor confidence. The Sri Lankan Joint Business Forum has urged both the President and the Prime Minister and all political parties to ‘act with caution in the best interests of the country without using the situation to political advantage’. On 4 November, the Colombo stock market crashed with the two indices (ASPI and MPI) plunging 70 and 141 points respectively, losing Rs 17.2 billion (\$181 million).

According to *Reuters*, the second tranche of \$80 million out of the \$567 million loan from the International Monetary Fund (IMF) may be delayed. The IMF is now unclear about Sri Lanka's fiscal policies in 2004. The US has delayed finalising a free trade agreement with Sri Lanka. The reconstruction aid of \$4.5 billion, pledged at the Tokyo donor conference in June 2003, is also likely to be delayed, as assistance by donors must be closely linked to substantial and parallel progress in the peace process. President Kumaratunga meanwhile has said that the UNF government will be allowed to present the budget in Parliament at the end of its prorogation on 19 November.

## **International concern**

There has been international concern over the President's actions. *The Times* (London 5 November) said that her dismissal of the ministers and suspension of Parliament reflect far more her enduring personal rivalry with Mr Wickremasinghe than any imminent danger to the country's sovereignty, even though it was that which she cited in her announcement. *Reuters* observed that the President's moves have already created unease among the Tamils, who fear arbitrary arrests and a return to war. *The Guardian* (London 5 November) pointed out that Sri Lanka's minority Tamil



population suffered most during the country's last state of Emergency, often enduring brutal treatment by security forces. On 6 November, military checkpoints on all roads in around Colombo were re-established. According to reports, the military in Jaffna is strengthening checkpoints and bunkers.

While President Bush expressed support to the Prime Minister's efforts at peace, Deputy Secretary of State Richard Armitage said that the LTTE proposals were significant in that this was the first time that such a comprehensive delineation has been made by the LTTE and may form the basis for a way forward. But he noted that the LTTE proposals go outside that envisioned in Oslo and Tokyo aid conferences which discussed federation, democratic society, respect for human rights and territorial integrity and there was a need to go back to the boundaries envisioned in Oslo. The US urged the Prime Minister and the President to work together. British Prime Minister Tony Blair also expressed concern over developments in Sri Lanka.

UN Secretary General Kofi Annan, in a statement on 4 November, hoped that the peace process would not be harmed by the sacking of ministers and the suspension of Parliament. The European Union (EU) says that the developments may put at risk the spirit of cohabitation which has proven vital for the sustained forward movement of the peace process. The EU urged the two principal parties to continue to work together in support of a negotiated political solution.

### **Indian involvement**

According to *Sunday Leader* (Colombo 9 November 2003), Indian Prime Minister Atal Behari Vajpayee expressed concern in a telephone conversation with President Chandrika on 6 November and urged her to avoid a constitutional crisis by discussions with Mr Wickremasinghe. Despite this development, Tamil observers allege that India had encouraged and provided intelligence support to President Chandrika in her attempts to destabilise the peace process. India has been concerned over LTTE's military strength, particularly the expansion of the naval wing, the *Sea Tigers*, and the possibility of a separate state in north-east Sri Lanka, which may trigger demands for separation in the southern Indian state of Tamil Nadu. The Indian media have criticized the LTTE proposals, particularly the provision which states that the ISGA should have control of marine and offshore installations and resources adjacent to the coastline of the north-east and power to regulate ports in the region.

The LTTE, meanwhile, reaffirmed their commitment to peace but warned that the decisions by the President will have serious implications for the peace process.

### **Peace talks postponed**

On 10 November, Constitutional Affairs minister GL Peiris announced that peace talks between the government and the LTTE have been indefinitely postponed. The announcement came after the Mr Wickremasinghe rejected the President's proposal for the formation of a unity government. The Prime Minister also says that it would be impossible for the government to continue peace talks with the LTTE without the vital ministries such as Defence and Communication under its control, and has asked President Chandrika to take over the task of peace negotiations. Norway's peace envoys Vidar Helgesen, Deputy Foreign minister and special representative Erik

Solheim arrived in Sri Lanka on the same day. President Kumaratunge has accused the Norwegians of supporting the LTTE and has demanded their withdrawal.

Amid growing concern and tension, the Prime Minister and the President met on 12 November. The Prime Minister's Secretary Bradman Weerakoon told reporters that there was an exchange of views and both will consult their parties before resuming talks next week.

### **Tamil concern**

There is extreme concern in the Tamil community within and outside Sri Lanka, over the possibility of the disruption of reconstruction and resumption of war. Tamils form the vast majority of some 650,000 internally displaced people in Sri Lanka and nearly a million refugees in other countries. Tamil observers say that the Tamil people, who have suffered for more than 50 years as result of the conflict, totally reject war. If war resumes, all parties - the government, the opposition, the LTTE and the international community - will be responsible for the failure of the peace process. These observers also say that the LTTE must be treated as a stakeholder in the peace process and the LTTE proposals taken as a starting point for further negotiations.

### **President's strategy**

Analysts believe that the chances of President Chandrika holding on to the three ministries and continuing to undermine the government would depend on the extent to which she enjoys support from the armed forces. The strategy may also be to provoke the LTTE and resume armed hostilities. The President will undoubtedly attempt to gain the support of the Sinhalese people by continuing to attack the LTTE proposals for an interim administration and tarnish the image of Norway and the Norwegian-led ceasefire monitoring body, the Sri Lanka Monitoring Mission (SLMM). If this strategy succeeds, time may be ripe after a few months for the dissolution of Parliament.

Regarding the suspension of Parliament, the Asian Human Rights Commission (AHRC) issued the following warning on 6 November 2003:

*"By putting the police and military in charge of law and order without the control of the parliament the President has all but declared a state of emergency. This move will seriously disrupt efforts to demilitarize the police. It will set back all initiatives to restore normal policing and end abuses of power. It is very likely that lawless elements will take advantage of this situation. People will have less protection from the police against crime. Torture is likely to increase. The lives of many civilians are now in grave danger. Meanwhile, basic commercial transactions are likely to be heavily affected by the deterioration of the rule of law".*

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