

Sri Lankan president moves to reinstate the death penalty

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Sri Lankan president Chandrika Kumaratunga has seized on the murder of a high court judge last Friday as the pretext to reactivate the death penalty for the crimes of murder, rape and drug dealing. Judge Sarath Ambepitiya and his body guard were gunned down with automatic weapons shortly after returning to his home at the end of a day at the courts. The unknown assailants escaped in a van and to date police investigators have few leads.

Even though Sri Lanka has a history of war and political violence, the brazen killing of Ambepitiya is the first time that a judge has been murdered. Sections of the Colombo media immediately speculated that it was the work of the Liberation Tigers of Tamil Eelam (LTTE). Particular note was taken of Ambepitiya's sentencing of LTTE leader Velupillai Prabhakaran in 2002 to a jail term of 200 years for his role in the bombing of the Central Bank in 1996.

However, without any substantive evidence of LTTE involvement, the press focussed most attention on the country's drug barons, rising levels of organised crime and Ambepitiya's reputation as a defender of "law-and-order": he was prepared to impose harsh sentences. Just prior to his murder, the judge had sentenced a woman convicted of drug dealing to life imprisonment and, according to Chief Justice Sarath Silva, was hearing another high profile drug case, in which a verdict was due to be delivered.

Kumaratunga immediately exploited public shock over the killing to proceed with her longstanding ambition of reinstituting the death penalty, which, while still on the country's law books, has not been carried out since 1976. The day after the murder she called an emergency meeting with her Public Security, Law and Order Minister Ratnasiri Wickremanayake and other top officials and issued an edict reinstating capital punishment and stepping up security for judges.

Kumaratunga's decision is a cynical move aimed at using appeals to reactionary "law-and-order" measures to divert public attention from the real causes of mounting social tensions and political crisis. The real causes of growing crime rates and rise of drug addiction lie in the policies pursued by successive governments that have resulted in deepening social inequality, growing unemployment particularly among young

people, and the systematic dismantlement of the country's limited social services.

All of these factors have been compounded by the country's protracted civil war. Many of the unemployed youth who were recruited into the army as cannon fodder in its vicious war against the country's Tamil minority have deserted. There are an estimated 30,000 deserters, all of them with military training and in some cases with access to modern weapons, who provide a large pool of desperate guns-for-hire.

It is an open secret that the major political parties hire many of these thugs to act as bodyguards or to terrorise and intimidate their political opponents. This has led to close connections between politicians, criminal gangsters and the state apparatus itself, including the police and army. So blatant is the process that it is a matter for comment in the press.

The *Island*, for instance, declared in its editorial: "Our leading politicians—and this is no secret—have precipitated this near anarchic state.... If the executive president tolerates ministers and deputy ministers associating with criminals and acting as their patron saints, then a process beginnings that is virtually unstoppable. It results in high ministry officials, heads of departments, heads of services, middle ranking officials right down to the peons being associated with corruption and criminal activity."

The *Daily Mirror* scathingly commented that Ambepitiya's murder was not unexpected. "The signs were clear. Political interference in the judiciary in a big way; military deserters roaming at will as private guards of politicians doing their bidding, including bashing up patrons in dance halls; police top brass hand-in-hand with the underworld; and politicians—even cabinet ministers—hand-in-glove with the underworld. It was a deadly cocktail for the body politic of a small country to absorb."

In this context it is worth noting that there are a number of unanswered questions surrounding Ambepitiya's murder. Three days prior to the killing, his additional police security escort was withdrawn. According to police officials there had been a manpower shortage, but the judge's widow has angrily criticised the decision. She has also threatened not to cooperate with any investigation unless the police produce the record book related to the security escort.

Based on Ambepitiya's judicial record, the media have suggested that the LTTE or drug lords might have had reason to kill him. But little has been said about several verdicts that no doubt provoked an angry reaction among layers of the police and security forces and suggest possible motives for their involvement in Ambepitiya's assassination.

This week Ambepitiya was due to preside over the case of five soldiers indicted for their involvement in the murder of eight Tamil civilians on December 19, 2000 at Mirusuvil in the north of the island. The trial at bar inquiry into the Mirusuvil case was to be heard by Ambepitiya in January last year but was delayed for nearly two years after a supreme court appeal by one of the accused.

Ambepitiya was also president of a three-judge high court panel that last year sentenced several policemen and soldiers to death for their role in the massacre of 27 Tamil detainees at the Bindunuwewa detention camp in 2000.

The death penalty, and popular opposition to it, has a long history in Sri Lanka. The British colonial authorities, after taking control of the whole island in 1815, abolished the arbitrary legal procedures of the decaying feudal kingdom of Sinhala rulers. The new judicial system included the death penalty for murder, as well as for "waging war against the [British] King".

The imposition of the death penalty for political crimes provoked widespread opposition. In the 1940s and 1950s, the Lanka Sama Samaja Party (LSSP), then based on the principles of Trotskyism, was in the forefront of the struggle for basic democratic rights, including the abolition of the death penalty. Kumaratunga's Sri Lanka Freedom Party (SLFP), which was founded by her father S.W.R.D. Bandaranaike, sought to undermine the LSSP's support by combining Sinhala chauvinism with "democratic" and even "socialist" rhetoric.

Bandaranaike won power in 1956 on the basis of the communalist demand for "Sinhala only" as the national language, but also sought to give his government a progressive veneer. He suspended the death penalty but it was rapidly reintroduced after Bandaranaike was assassinated in 1959 by a clique within his own party and a layer of the Buddhist hierarchy, incensed that he had not implemented their chauvinist demands.

In a speech delivered during the 1956 parliamentary debate on the suspension of the death penalty, LSSP leader Colvin R de Silva eloquently made the point that crime was the product of an unjust society and that capital punishment stood in the way of fundamental social reform.

"If we will not face up to the responsibility that the society must take over every single member of that society, are not ready to face up to the fact that, in every murder, we are also participants in the murder inasmuch as we have tolerated the existence of such a social background and context, upbringing, education, economic and psychological situation which produce such men: unless we understand that, we will never face up to

this question of the death penalty squarely," he said.

By 1964, the LSSP completely capitulated to the SLFP, betrayed its international socialist principles and joined the bourgeois government led by Bandaranaike's widow. But the political struggle that the LSSP waged nevertheless created ongoing resistance among working people to attacks on democratic rights, including to the death penalty. Even the right-wing United National Party government of J.R.Jayawardene felt compelled to modify the use of capital punishment in its autocratic constitution of 1978.

Under the new legal arrangement, state executions could only be carried out with the unanimous approval of the trial judge, the attorney general and the minister of justice. When there was no agreement, the sentence was to be commuted to life imprisonment. Before being carried out, the death sentence also had to be finally authorised by the president—a clause that effectively ended executions. The last hanging took place in 1976.

Over the last decade, however, President Kumaratunga has made several attempts to reintroduce the death penalty. Confronting mounting opposition over the failure to end the war and the continuing deterioration of living standards, she and her coalition government turned to the right-wing nostrums of "law and order" to divert attention from their broken promises and lies. The LSSP, which is widely discredited and little more than a hollow shell, has been no obstacle.

In March 1999, as she neared the end of her first term of office, Kumaratunga demagogically declared at a provincial council election rally: "The crime rate is rising and it's no time to pour compassion on criminals who have no respect for human life. My government therefore, decided to re-introduce the death penalty." She was compelled to back down in the face of widespread protests. Since then, the issue has hung in the balance: no death sentence has been commuted to life imprisonment, but neither has it been carried out.

The UNP-led coalition government, which held office from 2001 to April 2004, also made moves to revive state executions in 2003. But confronting widespread opposition over the impact of its economic restructuring policies, it proved incapable of implementing its plan. After her United Peoples Freedom Front (UPFA) coalition won the April election, Kumaratunga is now attempting to do the same.



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