Sri Lankan Supreme Court overturns convictions in Bindunuwewa massacre

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The Supreme Court of Sri Lanka has acquitted the remaining four men convicted over the brutal massacre of Tamil detainees at the Bindunuwewa rehabilitation centre near Bandarawela in 2000. All charges against M.A. Sammy, D.M.S. Dissanayake, R.M. Premananda and S.J. Karunasena were dismissed on May 27 for "lack of evidence". The first three were residents of the area and Karunasena was a police inspector in Bandarawela at the time.

On the morning of October 25 2000, a crowd of several hundred whipped up by Sinhala extremists gathered outside the Bindunuwewa centre, which held suspected members of the Liberation Tigers of Tamil Eelam (LTTE). Most of the detainees were young Tamils held without trial. Posters declaring "Chase out the Tigers who have destroyed the country" and "Close down the LTTE rehabilitation camp" had been pasted up in the area.

In the presence of more than 60 heavily-armed police, a mob of thugs armed with iron bars, knives, axes and clubs broke into the camp, butchered 27 Tamil detainees and injured 14 others, in some cases seriously. Far from attempting to stop or arrest any of the mob, some of the police turned their guns on fleeing detainees.

The Supreme Court decision is the culmination of a lengthy process that demonstrates the deeply engrained racialist bias of the entire legal system in Sri Lanka—from official investigations to the prosecution case and the decisions taken at each level of the court system. A Sinhala mob murdered 27 unarmed Tamils in broad daylight while armed police stood by, and yet no one has been found guilty of any crime.

Following the police investigation, 41 people were charged and brought before the High Court. Of those, 23 people were released on the grounds that there was no case to answer. By the end of the trial 13 of the remaining 18 were also acquitted for lack of evidence. Only five were found guilty in July 2003 and sentenced to death—the four now released and T.R. Ratnayake, a police subinspector from Bandarawela, whose sentence was earlier overturned in the Supreme Court "for lack of evidence".

The *World Socialist Web Site* wrote at the time of the High Court convictions that the five were being made scapegoats. The police investigation and prosecution case failed to follow up evidence that at the very least pointed to the negligence of senior police and army officers in failing to protect the Bindunuwewa detainees. Nor did they investigate the possibility of a high-level conspiracy.

The police and an army unit had first arrived at the camp the previous night in response to an alleged disruption inside the camp. Some of the police remained outside. According to a Human Rights Commission investigation, the police officers at the camp informed the Head Quarters Inspector at 6.45 a.m. that a mob was gathering and at 8.15 a.m. that people were entering the camp. No attempt was made to send army or police reinforcements.

The Sinhala Veera Vidahana, a front organised by the chauvinist Sihala Urumaya (SU) party, had been agitating in the area for about a year. A petition was circulating in the local area calling for the closure of the camp. These organisations have close links to the police and military, both of which are deeply imbued with anti-Tamil racism. Chillingly, an SU election candidate told the WSWS at the time: "I did not participate in it. But the job was well done."

According to local villagers, who insisted that they got on well with the detainees, most of the mob were outsiders brought in by vehicle. Yet the activities of the SU and the failure of the police and army to send reinforcements were never seriously investigated. After he was found guilty and sentenced to death, Karunasena declared: "Those who gave the orders that day have been spared." He specifically named Assistant Superintendent of Police (ASP) A.W. Dayaratna and Head Quarters Inspector (HQI) Jayantha Seneviratna, but their role was not examined and they were never charged.

In the wake of the massacre, protests by Tamil plantation workers broke out in neighbouring tea estate areas, putting pressure on the Peoples Alliance government and the police to take action against the perpetrators. Local villagers told the WSWS at the time that the police rounded up several hundred people, including women and children, for questioning and even asked for "volunteers" to confess.

No attempt was made by the police present to go into the camp until after the murders had taken place. Police took the bodies from the scene ruling out any serious forensic investigation. One of the inmates was shot dead, but the prosecution failed to produce the bullets in court or identify what gun they came from. Terrified of the consequences, none of the surviving victims testified in the High Court cases. Their evidence was limited to statements to a magistrate.

Now the Supreme Court has cleared the scapegoats. The original High Court convictions were under a broad and undemocratic law dealing with "unlawful assembly". According to this law, any member of an "unlawful assembly" with "common object" is liable for prosecution for any crime committed by that assembly. The Supreme Court did not challenge the law, which can be used against any protests declared to be "unlawful," but threw out the evidence.

* The High Court convicted M.A. Sammy on the basis of two eyewitnesses. Piyasena told the court she had seen him with a club in his hand about 100 metres from the camp around 9 a.m. Ariyasena, who had been helping two injured detainees, testified to seeing Sammy with a club in the playground of the camp premises. Sammy claimed he had not attacked anyone, but had only gone to see what was happening. The defence did not challenge Ariyasena's evidence.

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The High Court convicted Sammy declaring that he "assisted others who were carrying out that crime, through his actions by staying at that place with a club in his hand".

The Supreme Court, however, declared that the original court decision had been "erroneous for the reason that there was no evidence to that effect". The decision was based primarily on the assertion that the prosecution had failed to prove Sammy was present prior to the attack. What he was doing in the camp after the event with a club in his hand the Supreme Court passed over in silence.

* In convicting D.M.S. Dissanayake, the High Court cited testimony by Wickramasinghe Bandara, a technical officer at the teachers' training college adjoining the camp. Bandara said he had seen Dissanayake leaving the camp via the main entrance with a club in his hand. Dissanayake admitted being at the scene but like Sammy denied attacking anyone. The High Court found him guilty, beyond reasonable doubt, of being "a member of an armed unlawful assembly operating at that time".

The Supreme Court, however, noted that Bandara had "admitted that he gave false evidence in Court for fear of reprisal by the villagers" although "at a subsequent stage of his evidence he stated that he actually witnessed the incident and that his evidence was not false or hearsay". The Supreme Court ruled that it was "not prudent" to rely Bandara's evidence and threw the conviction out.

* The High Court's conviction of R.M. Premananda was based on the evidence of Sugath Jayantha and two doctors. Jayantha testified that he, Premananda and another man Padmananda had driven to the camp after hearing that the detainees were attacking the nearby village. Premananda went into the camp and emerged about 15 minutes later with a bleeding wrist. He claimed that he had cut his hand on an aluminium sheet and when he sought treatment from Dr Rick Anderson gave a false name—"Siripala". He received further treatment from Dr. Wijeratne.

The High Court decision pointed out that, although he denied harming anyone, Premananda did not challenge Jayantha's evidence or provide any explanation as to how he was injured. It concluded that he "had a clear want to cover up the fact related to how he got injured" and that his evasion established that he was involved in the attack on the camp. The Supreme Court, on the other hand, dismissed Premananda's evasions and concluded that his suspicious behaviour was not sufficient to establish a strong *prima facie* case.

* The overt police support for the attackers was so obvious that the High Court convicted S.J. Karunasena and T.R. Ratnayake for their failure to take action against the mob, for shooting at the fleeing inmates and for the removal of bodies from the crime scene. But the Supreme Court exonerated the police of all wrongdoing.

In relation to the shooting, the Supreme Court found: "In the circumstances it is highly probable that the detainee who succumbed to gun shot injuries was accidentally shot when the Police were firing in the air." No forensic evidence was available to disprove this unlikely hypothesis: the bullets, the gun, the placement of the victim, or bullet trajectories. Furthermore, the fact that none of the mob received injuries from police firing went unnoticed in the trials.

In dismissing charges that the police had destroyed vital evidence, the Supreme Court declared: "ASP Dayaratna conceded that he was instructed by the D.I.G. [Deputy Inspector General] to remove the bodies to preserve the peace in the area as there was a large concentration of Tamil estate workers in the surrounding area." The judgement affirmed that the police and armed forces had the "right" to remove the bodies.

The Supreme Court also justified the failure of the police to take action, stating: "In the circumstances it would be clear that the police were greatly outnumbered. Considering the public feeling against the detainees and the fact that the police were getting outnumbered, any attempt to arrest the offenders could have led to a backlash against the police." No such concern is displayed by the police toward striking workers or protesting farmers who threaten the interests of the political establishment.

This communal atrocity is not the first in Sri Lanka. All the major political parties have a long record of whipping up Sinhala chauvinism as a means for shoring up their base of support and dividing the working class to prevent a unified struggle for its own class interests.

In 1983, Sinhala mobs organised by the United National Party went on a rampage throughout the country, looting and burning Tamil homes and businesses and killing hundreds of Tamils. No one was ever prosecuted over the murders. The pogroms marked the beginning of a brutal 20-year civil war waged by successive governments in Colombo to suppress the democratic rights of the Tamil minority.

The massacre at the Bindunuwewa detention centre came just weeks after a general election campaign saturated with chauvinist politics. In April and May of 2000, the LTTE inflicted a series of major military defeats on the Sri Lankan armed forces, compelling the Peoples Alliance government to consider peace talks. Sinhala extremist parties waged a vicious campaign against any concessions to the LTTE. The Sihala Urumaya (SU) won a seat for the first time and the Janatha Vimukthi Peramuna (JVP) increased its vote. It was in this climate that the SU and its front organisation agitated for the closure of the Bindunuwewa detention centre.

The prosecution cases reflected the limited character of the "investigation" opening the door for the High Court to throw out most of the charges. Now, more than four years after the events, the Supreme Court has, in effect, swept the matter under the carpet. Within the confines of Sri Lankan legal system, the five-judge decision is the final verdict on this atrocity. The fact that there has been no justice for the victims is a damning indictment of the entire legal system and exposes the underlying communalism and contempt for democratic rights that permeates the entire political establishment.

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