Sri Lankan government revives emergency powers in a new guise

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With the expiry of longstanding emergency regulations at the end of last month, Sri Lankan President Mahinda Rajapakse has imposed new regulations and revived old police-state laws to ensure that the security forces have the same repressive powers.

Firstly, the president issued four proclamations dated August 29 to incorporate new regulations under the Prevention of Terrorism Act (PTA), which provides for extended detention without trial. The measures include: continuing the ban on the separatist Liberation Tigers of Tamil Eelam (LTTE), which was militarily defeated in May 2009, and the continued detention of Tamil youth as "LTTE suspects" in so-called rehabilitation camps.

About 6,000 people are being held for "rehabilitation." None have been charged with any offense. Under the PTA, confessions extracted under duress can be used in court against "suspects." The onus of proof in such cases rests with the accused—in other words, they are judged guilty unless they can prove their innocence.

Highlighting the government's contempt for the constitution and the legal system, the president's proclamations were simply announced and not properly gazetted as required by law until last week.

Secondly, Rajapakse issued a proclamation on September 3, declaring the Ceylon Electricity Board (CEB), the main state-owned energy supplier, to be an essential service and thereby outlawing all industrial action by its employees. The president issued the order under the rarely-used 1979 Essential Public Services Act to ban a one-day strike called by the CEB unions for September 7.

Previously governments have used emergency regulations for the same purposes. The sole limitation in using the 1979 Act is that it only covers public sector employees.

Under the newly-announced regulations, anyone engaging in strikes "impeding" the work of the institution named, compelling other workers to take industrial action or "inciting such action by writing and speech" will face stiff penalties.

Punishment includes rigorous imprisonment for two to five years and/or fines of up to 5,000 rupees ($US45). If found guilty, a person's property can be forfeited to the state. The Act specifically rules out any defence based the proposition that the employee engaged in industrial action was following a union decision.

Thirdly, the government attempted on September 5 to amend the country's criminal code to strengthen the powers of police to extend the period of a suspect's detention from 24 to 48 hours. The amendment was initially passed as a temporary measure in 2007 and lapsed in 2009. After the opposition objected to the legality of the new amendment, the ruling coalition backed down but vowed to rapidly introduce legislation to impose the measure.

Fourthly, Rajapakse notified parliament on September 7 that he had issued an order under Public Security Act calling on the three armed forces to deploy in 22 districts of the country "for the maintenance of public order."

The order maintains what is effectively a military occupation, particularly in the North and East of the island. The Public Security Act enables the government to continue wartime security checkpoints and street patrols, and to use the military to suppress civil unrest. Members

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of the military called out under this law have sweeping powers, including of search and arrest.

Rajapakse is engaged in a diplomatic sleight of hand. The government ended the state of emergency not out of a new-found concern for democracy, but to blunt international criticism of its war crimes and abuses of democratic rights prior to the 18th session of the UN Human Rights Council that began on Monday in Geneva.

The Sri Lankan government was desperate to avoid a discussion of a report produced by a UN panel appointed by Secretary General Ban Ki-moon that found "credible evidence" of war crimes by the Sri Lankan military in the final months of the civil war against the LTTE.

The US, India and the European powers—all of which backed Rajapakse's communal war and turned a blind eye to its war crimes for year—seized on the issue of democratic rights to pressure the Sri Lankan government into distancing itself from China. Beijing had provided substantial military and economic assistance to Colombo during the war.

The US, India and the EU have been advising Rajapakse to end the state of emergency and establish a credible investigation into allegations of abuses. The government's own Lessons Learnt and Reconciliation Commission is a sham that is stacked with its appointees to whitewash the record of the government and the military during the war.

Having allowed the emergency to lapse, Rajapakse has no intention of dismantling the vast police-state apparatus built up during a quarter century of civil war. The government is acutely conscious that its implementation of the International Monetary Fund's austerity measures is deepening the social divide, giving rise to mounting discontent among workers, young people and the urban and rural poor.

In particular, the imposition of an essential services order on CEB workers is a warning to the entire working class. The government did not hesitate to deploy the military against striking workers during the war and will do so again under the Public Security Act in the name of maintaining essential services.

During the parliamentary debate on the deployment of the military under the Public Security Act, cabinet minister Nimal Siripala de Silva justified the government actions, saying: "We need them [such laws] to prevent possible threats of terrorism in future and to ensure public security." As further justification, he referred to the US Patriot Act, noting: "If anyone is arrested under it, we will not know what will happen to him or her."

None of the trade unions opposed the imposition of the essential services order against the CEB employees. This includes the Ceylon Electricity Employees Union, controlled by the opposition Janatha Vimukthi Peramuna (JVP), that is the leading force among the CEB unions. The trade union combine simply called off the September 7 strike, saying the minister had promised to pay salary arrears withheld since last year January. The unions are continuing their role during the war as industrial policemen for the government and employers.

The response of the opposition parties—the JVP and United National Party (UNP)—has been to meekly accept most of the new regulations and orders. Their occasional posturing about democratic rights is completely cynical. They fully backed the communal war and continued to vote for the monthly extension of the state of emergency until well after the LTTE's defeat. Both parties voted in 2007 for the extension of the police powers to which they now object. This record underscores the fact that there is no constituency within the Colombo political establishment for the defence of basic democratic rights and legal norms.

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