

Sri Lankan Supreme Court rejects petitions against new anti-democratic laws

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The Sri Lankan Supreme Court has refused leave to proceed with two fundamental rights petitions filed against new regulations announced by President Mahinda Rajapakse, as the defence minister, under the draconian Prevention of Terrorism Act (PTA).

The petitions were dismissed on October 12 and 13 by a three-judge bench headed by Chief Justice Shirani Bandaranayake, accepting the submissions of deputy solicitor general Shavendra Fernando. The Rajapakse government will use the ruling to further strengthen its anti-democratic measures.

The PTA was enacted as a temporary law in 1979 and made permanent in 1982. Detainees can be held without trial for indefinite periods, extended periodically on the “authorisation” of senior defence ministry officials. The PTA also allows for confessions, including those extracted by torture, to be used as evidence in court cases against detainees.

Rajapakse issued new regulations on August 29 that included the proscription of the separatist Liberation Tigers of Tamil Elam (LTTE) and the Tamil Rehabilitation Resettlement Organisation (TRRO), and the extension of the detention of “surrendees and remandees”.

On the same day, Rajapakse lifted emergency laws in an attempt to deflect mounting international pressure over his government’s human right abuses and war crimes. The regulations are nothing but emergency laws in another guise, permitting the prolonged detention of some 6,000 Tamil youth branded as “LTTE suspects”.

Rajapakse also unveiled other laws against workers and students. To replace essential services regulations under the emergency laws, he revived the Essential Public Services Act to ban a one-day strike by Electricity Board workers. He announced the calling out of the armed forces in all 22 districts of the country

under a Public Security Ordinance that could be used to break strikes or other mass agitations.

The first petitioner in the Supreme Court was parliamentarian Mavai Senathirajah, the general secretary of Tamil Arasu Katchi, the main party of the Sri Lankan Tamil bourgeoisie and partner of the Tamil National Alliance (TNA). The petition alleged that the defence minister had violated fundamental constitutional rights, including equality and equal protection of the law, and freedom from torture, arbitrary arrest and detention. His lawyers argued that the president could not make regulations to maintain practices conducted under the emergency.

The second petitioner, Pakiasothy Saravanamuttu, executive director of the Centre for Policy Alternatives (CPA), also cited violations of fundamental rights. Under the draconian regulations, any person who supports, advises, assists or acts on behalf of the LTTE is liable to imprisonment for up to 20 years. The CPA argued that the regulations “would effectively criminalise the provision of even professional legal services” to detainees. Its petition added that the detainees and remandees regulations stripped magistrates of discretionary powers to release detainees.

Answering the first petition, the deputy solicitor general admitted there were around 850 people under judicial custody apart from the so-called surrendees. He asserted, however, that the “petitioner is an interloper and usurped the fundamental rights of the ex-combatant surrendees” to freedom of thought and conscience. He ludicrously claimed that the detainees had voluntarily surrendered to the military and wanted to be subject to “rehabilitation”.

In reality, more than 11,000 persons were forced to surrender into military custody after threatening

announcements were made in camps where around 280,000 Tamil civilians were incarcerated after the LTTE's final defeat in 2009. People in the military-run camps were warned that anyone with a past connection to the LTTE should surrender for "rehabilitation" or face imprisonment for 20 years.

These detainees were then sent to closed camps run by the military. Not even the International Committee of the Red Cross was allowed into these camps.

Even the 5,000 detainees that the government claims to have since released remain subjected to military police surveillance. Fearful of state reprisals, they are afraid to file legal cases or take any other course of action to challenge their arrests. Since 2009, the government has only deepened the military occupation of the island's north and east. Opposition activists face frequent harassment, physical attacks and death.

The government's claim that Senathirajah, the Tamil MP, was an interloper who had usurped the rights of surrendees, in effect means that no citizen has a right to challenge the legality of detentions or other security measures.

Some Colombo media outlets approvingly reported the dismissal of the fundamental rights cases, while others did not even mention the rulings, even though the court has legitimised and enhanced the Rajapakse government's police-state methods of rule.

The emergency laws and PTA are sensitive issues for the government because of the pressure that the major international powers, including the United States and the European Union, have mounted on the regime, citing these laws as human rights violations. These powers, which tacitly backed the war against the LTTE, have no sympathy for democratic rights. They are only using the issue as leverage to re-assert their strategic interests, particularly against China's growing influence in Sri Lanka.

The Sri Lankan judiciary, like other government institutions, has been thoroughly politicised as successive governments have increasingly resorted to anti-democratic methods of rule. This process has deepened under Rajapakse. His government pushed a constitutional amendment through parliament to give the president greater powers to appoint key officials, including Supreme Court judges. Increasingly, the government has used the judiciary for its own ends, such as to outlaw industrial action by public sector

workers.

The repressive laws developed during the three decades of civil war have been used by one government after another against workers seeking to defend their jobs, wages, welfare measures and free education and health service. The transformation of the judiciary into a direct instrument of the police-military state highlights the fact that under conditions of deepening economic crisis globally and in Sri Lanka the capitalist class is doing away with even the semblance of previous democratic norms.

Following the court's rejection of the petitions, TNA leaders said they were considering taking cases to the UN Human Rights Council. TNA is simply seeking to use the human rights abuses to press for a power-sharing arrangement with the government and win support from the major global powers.

The defence of basic democratic rights is bound up with the political struggle to independently mobilise the working class on socialist policies against the government and the entire crisis-ridden capitalist system, which is the source of the assault on democratic rights. This is the axis of the campaign being waged by the Socialist Equality Party (SEP) to demand the immediate and unconditional release of all political prisoners. The SEP calls on all working people—Sinhala, Tamil and Muslim alike—to support this campaign.



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