

Sri Lanka: Rift between president and judiciary

Sanjaya Jayasekera
12 October 2012

Lower court judges and lawyers in Sri Lanka boycotted judicial work on Monday and Tuesday, to protest an attack on Judicial Service Commission (JSC) secretary Manjula Tilakaratne by pistol-wielding thugs on Sunday.

The JSC is a constitutionally independent body, headed by the chief justice and two Supreme Court judges, and responsible for the recruitment and transfers of lower court judges, and any disciplinary action against them.

The assault on the senior judicial official occurred near Mount Lavinia Hotel, 15 kilometres from Colombo. The incident has the hallmarks of the work of pro-government gangs of thugs that operate in Sri Lanka, in collaboration with the police and military, to suppress political opposition and criticism.

The attack occurred amid a sharp conflict between the judiciary and President Mahinda Rajapakse. The rift reflects growing differences within the ruling class over Rajapakse's policies that flout the law, including the constitution, help business cronies and antagonise Western powers.

Tensions between the judiciary and the president came to surface on September 18, when the JSC released an unprecedented communiqué, declaring it “has been subjected to threats and intimidation from persons holding different status.” The statement, issued by Tilakaratne, complained that “the main objective of those behind the conspiracy trying to undermine the JSC and Judiciary is to destroy the independence of the judiciary and the rule of law.”

The communiqué reported an “attempt to call for a meeting with the chairperson of the JSC, who is the Hon. Chief Justice and two other Supreme Court judges.” The

JSC warned that any direct or indirect attempt to influence the JSC was a punishable offence. The statement did not name the “conspirators” but it is clear that the JSC was referring to Rajapakse and the government.

At a press conference with selected editors, Rajapakse tried to cover up the government's role, saying he had invited the JSC members to a meeting, not to “interfere” with its work, but to discuss the financial allocations for judges' training and welfare in the upcoming budget.

The *Sunday Times* reported that Rajapakse had briefed the cabinet that the JSC “ridiculed the government and sought to destroy the confidence people had [in the government]” and “it appeared that there was a move to create a situation like in Pakistan.”

Rajapakse's reference to the ongoing standoff between the Pakistan government and that country's Supreme Court is significant. The Pakistani court has demanded that the government call on Swiss authorities to reactivate corruption cases against President Asif Ali Zardari.

Rajapakse is resorting to intimidatory tactics to send a message that the judiciary must toe the government's line. Last week, the cabinet appointed a committee to “examine the matter [with the JSC] in detail.” Media reports indicate that it also decided to find ways to take disciplinary action against Tilakaratne.

Recent Supreme Court decisions point to intensifying tensions between the government and the judges. In one case, the court angered the government by ruling that the Divineguma (Raising Lives) Development Bill was unconstitutional unless all provincial councils approved it.

The bill sought to amalgamate the Samurdhi (welfare), Southern and Upcountry Development Authorities into

one department, concentrating powers in the hands of the central government—that is, the tiny cabal around Rajapakse. The court said it unconstitutionally removed powers devolved to provincial councils.

Once established, the combined department would have a budget of 80 billion rupees, which under the bill would be controlled by Economic Development Minister Basil Rajapakse, the president's brother.

The Supreme Court ruling delayed the passage of the bill, which the government had nominated as “urgent”. The government remains determined to ram it through parliament, however, after using its majorities in provincial councils to secure their approval.

The anti-democratic nature of this course of action was highlighted by the fact that in the war-ravaged north, where there is no provincial council, the government will seek the “approval” of the governor, a military commander. The Supreme Court has yet to rule on a petition filed against the government's plan.

The tensions between the government and the JSC were also evident in July, when a mob allegedly instigated by cabinet minister Rishard Bathuideen attacked the Mannar magistrates courts complex. A magistrate complained to the JSC that Bathuideen had threatened him, demanding that he change a ruling in a dispute between Muslim and Tamil fishermen. Bathuideen also met the JSC secretary and unsuccessfully demanded that the magistrate be transferred.

Judges and lawyers widely condemned Bathuideen's action, but the government condoned it. Last week, Rajapakse said: “There is nothing wrong in that [asking the JSC to transfer the magistrate]. Otherwise where can an MP go to?”

The Sri Lankan judiciary has been highly politicised under successive governments, which have appointed favourites to senior posts. Under Rajapakse, this process has deepened. Chief Justice Shirani Bandaranayake is the wife of Pradeep Kariyawasam, who was close to Rajapakse until recently and presided over a key government corporation and a bank.

Previous Supreme Court rulings endorsed the eighteenth amendment to the constitution, which gave Rajapakse

powers to appoint key government officials, thus increasing his already sweeping powers.

Now, however, the tensions with the Supreme Court reflect concerns within sections of the capitalist class that the ruling cabal's autocratic actions could undermine the bourgeois legal system. The JSC's clamour about “the independence of the judiciary” has nothing to do with defending the democratic rights of the working people.

Significant elements within the ruling elite have criticised the lack of “good governance,” the erosion of the rule of law, and favouritism toward government business cronies.

In a statement issued after Tilakaratne was assaulted, the Ceylon Chamber of Commerce (CCC) expressed “grave concern”, saying: “It is crucial that those responsible are brought to justice speedily. Failure to do so will harm the credibility of the government and the country's law enforcement agencies.”

This business body last month accused the government of allowing speculators and manipulators close to the government to take hold of the Colombo Share Market. The CCC's objective is essentially to demand equal footing for the interests and privileges of its members.

These sections of the business elite are also concerned about the government's anti-West bashing and its tilt toward China, although they have not spoken openly, fearing reprisals. Their fear is of losing their main export markets, in the US and the European Union.

The tensions within the ruling elite indicate the gathering political crisis faced by the Rajapakse government under the impact of the deepening international economic crisis. Rajapakse's ruling group is abandoning the pretence of the independence of the judiciary or any other institution, and strengthening its police-state apparatus as resistance develops in the working class to its austerity program.



To contact the WSWs and the
Socialist Equality Party visit:

wsws.org/contact