

# Sri Lankan government moves to impeach chief justice

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Sri Lanka's ruling coalition began moves to impeach the country's chief justice, Shirani Bandaranayake, last Thursday, by handing a motion signed by its MPs to the parliamentary speaker, Chamal Rajapakse. The anti-democratic character of this action is underlined by the fact that none of the charges have been public.

The government took the decision at a meeting of all the coalition parties, presided over by President Mahinda Rajapakse on Wednesday. The motion was signed by 117 members of the ruling United People's Freedom Alliance—more than the one-third or 75 MPs constitutionally required to initiate proceedings against a higher court judge.

If a *prima facie* case is determined, the speaker calls for the appointment of a select committee of not less than seven MPs—with a majority representing the government. The speaker is the president's brother and has already accepted the motion. He announced that parliament will be asked to appoint a select committee this week. If the charges are "proven," the judge can be removed by a simple parliamentary majority.

After handing the motion to the speaker, cabinet minister Pavithra Wanniarachchi told the media that seven charges had been framed on Bandaranayake's "conduct in her personal and official capacities," but did not elaborate. Government members have accused the Supreme Court of seeking to "undermine sovereignty of the parliament."

In reality, the government is seeking to discipline the Supreme Court, which has cut across Rajapakse's flouting of the constitution and the legal system. As for parliament, the president has used his extensive powers

under the 1978 constitution to turn it into little more than a rubberstamp.

The MPs who lined up to sign the impeachment motion last week did not even know what allegations it contained. The *Sunday Times* reported: "In singles and groups, government MPs walked in to be briefed by Minister Mahindanada Aluthgamage on a proposed resolution to impeach the chief justice. The list of allegations was not on hand for them to see."

Though the conflict between the government and the chief justice has been simmering for months, the swift move to impeach Bandaranayake came when the Supreme Court ruled that the government's Divineguma Development Bill was unconstitutional unless first approved by provincial councils. This bill would take back some economic powers granted to the provincial councils under the 13<sup>th</sup> constitutional amendment.

Last week a Supreme Court bench headed by Bandaranayake also concluded 15 cases on the bill's constitutionality. While four were filed against the legislation, the government pushed 11 cases in support. Government lawyers argued that the Supreme Court had no powers to determine the constitutionality of a bill once it had been placed on the parliamentary Order Paper. The court's determination on these cases has been sent to the president and the speaker but has not been made public.

The Supreme Court is due to deliver another crucial ruling on November 12 as to whether the military governor of the Northern Province has the power to approve the Divineguma Development Bill. The province is still under military occupation following the

end of the country's civil war in 2009 and there is no provincial council. The government wants the military governor to sign off on the legislation.

The judiciary's clash with the president has nothing to do with defending the democratic rights of the working class and poor. Rather, it is a reflection of the deep concerns of sections of the country's ruling elite over Rajapakse's autocratic methods, which have marginalised layers of big business and concentrated power in the hands of a presidential cabal.

If the Divineguma Development Bill were passed, the president's brother, Economic Development Minister Basil Rajapakse, would have 169 billion rupees (\$US1.3 billion) at his disposal in the next budget, up from 89 billion rupees. Together, the Rajapakse brothers would control 45 percent of next year's government expenditure.

Together with other Supreme Court judges, Bandaranayake had backed Rajapakse's 18<sup>th</sup> amendment to the constitution. It removed the two-term limit on the presidency and granted sweeping powers to the president to appoint key government officials, including the chief justice.

The chief justice also supported the recognition of military tribunals as part of the country's judicial system. Sarath Fonseka, the former army commander and Rajapakse's rival presidential candidate, was convicted and jailed by a military tribunal on trumped-up charges.

Sections of big business have indicated their sympathy toward the Supreme Court's recent stand.

An unnamed writer in the *Business Times* declared: "Absolute arbitrary rule is spreading its tentacles to the last remaining independent institution of liberty—the judiciary. Without justice and rule of law not only business but all other interactions between members of society would be difficult to conduct."

A *Business Times* survey noted that "94 percent said this [clash with the judiciary] was an unhealthy development. Another 92 percent said the crisis would impact on business and investment."

Expressing the anxiety in layers of the ruling elite, an editorial in the *Island* stated: "The present government,

sozzled to the gills with power, does not know what it is doing. It bulldozes its way through." It warned that the government's actions were not "politically wise." The *Daily Mirror* editorial declared that the impeachment motion marked "a dangerous stage for democracy."

The main opposition parties—the United National Party (UNP) and Janatha Vimukthi Peramuna (JVP)—are posturing as opponents of the impeachment motion. Both parties have long records in attacking democratic rights, not defending them.

The UNP declared it would sit on the parliamentary select committee, so as to "not to allow a biased inquiry." Such a move would only lend credibility to what is a sham trial. JVP propaganda secretary Vijitha Herath told the media that his party would launch a "people's movement" to defend democratic rights.

The move to impeach the chief justice is a warning to the working class about the broader attacks on democratic rights being prepared. The next budget, to be announced on Thursday, will announce new austerity measures in line with the demands of the International Monetary Fund. The police-state measures built up during the civil war will be used to try to suppress any opposition by workers and peasants.

The working class cannot defend its democratic rights by taking sides in this faction fight in the ruling elite, but only through developing its own independent political movement based on the fight for a workers' and peasants' government to implement socialist policies.



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