

Sri Lanka heads toward constitutional crisis

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Sri Lanka is on a brink of a constitutional crisis. The government has decided to proceed with the impeachment of Chief Justice Shirani Bandaranayake, despite last week's Supreme Court ruling that such a move was illegal.

Citing provisions of the constitution, the Supreme Court ruled that a parliamentary select committee to investigate Bandaranayake had been established under a parliamentary standing order, not law. As such, it had "no legal power or authority to make a finding adversely affecting the legal rights of a judge."

On Monday, in line with the Supreme Court decision, the Court of Appeal granted Bandaranayake a writ of certiorari to quash the parliamentary committee report, which had declared her guilty on three charges of financial misappropriation. The appeal court said the report had "no legal validity."

Under the Sri Lankan constitution, parliament is bound to accept the ruling of the Supreme Court, which is the "sole authority" for interpreting the constitution. Nevertheless, the government has rejected the court rulings.

At a meeting of party leaders on Monday, parliamentary speaker Chamal Rajapakse announced that the government did not accept the Supreme Court determination. Government leaders fixed this Thursday and Friday for a parliamentary debate on the committee report. The debate will be followed by a vote on Bandaranayake's impeachment.

Opposition leaders from the United National Party (UNP), Tamil National Alliance (TNA) and the Janatha Vimukthi Peramuna (JVP) walked out in protest. Representatives from all these parties participated in the committee, thereby giving it legitimacy, and only withdrew at the last minute. The committee was a sham from outset, reaching its "verdict" in just hours.

President Mahinda Rajapakse on Tuesday confirmed the government's determination to impeach

Bandaranayake, declaring that "the Supreme Court has no right to go against the legislature." He added: "The chief justice must carry out the orders of the legislature. Unseating the chief justice rests with the legislature." In an attempt to whip up communal sentiment, he made the absurd claim that opponents of the impeachment supported the separatist Liberation Tigers of Tamil Eelam (LTTE) and were "attempting to topple the government."

The Rajapakse government has a record of violating the constitution, particularly during its communal war against the LTTE. However, its decision to ignore the court ruling indicates that it will tolerate no opposition, including from the judiciary, to its police-state methods of rule.

The two appeal court judges who delivered Monday's ruling have complained to the police of receiving threats, in all likelihood from pro-government thugs, not to attend court.

The government moved to impeach Bandaranayake after the Supreme Court ruled that the Divineguma Development Bill was unconstitutional unless the country's nine provincial councils approved it. While touted as a measure to alleviate poverty, the Bill was designed to concentrate economic powers, constitutionally assigned to the provincial councils, in the hands of economic development minister Basil Rajapakse.

On Tuesday, the government used its two-thirds majority in parliamentary to ram through the Bill. It is not clear whether the government's amendments satisfy the Supreme Court's instructions for the legislation to comply with the constitution.

Amid widespread opposition in the legal fraternity to the government's moves, a "lawyers collective" has organised a protest today, calling on all parties and groups to oppose the impeachment. The Sri Lanka Bar Association has called a strike for today and tomorrow.

The Association of Judicial Services, representing lower court judges, has issued a statement urging the government to respect the Supreme Court's ruling.

The standoff between the government and Supreme Court reflects sharp divisions in the country's ruling elite. Powerful sections of big business and the Colombo establishment are concerned that their interests are being jeopardised by the Rajapakse government's economic cronyism and its foreign policy orientation to China, rather than the island's traditional Western backers. They are also fearful that the government's undermining of basic democratic rights and constitutional norms will produce a dangerous political radicalisation among workers and youth.

Yesterday, the Federation of Chambers of Commerce and Industries issued a statement calling on the president to defuse the crisis, declaring it had "serious concerns on the negative impact of the final outcome [of the impeachment]."

Expressing similar fears, a *Sunday Times* editorial stated: "The battle will not necessarily end with the President asking the Chief Justice to go home. The government may have bitten off more than it can chew this time if the legal fraternity remains united, with both judges and lawyers resisting the government's bull-dozing ways." It warned of "frightful consequences" if judges refused to sit with a new chief justice installed by the government.

The right-wing UNP, assisted by various ex-left organisations, is posturing as a saviour of democracy. UNP leader Ranil Wickremesinghe initially supported the impeachment motion, saying parliament was "supreme" and calling on the speaker to act firmly on that basis. As protests emerged, he shifted position. Yesterday, he told a party meeting that as "neither the courts nor the media could topple the Mahinda Rajapakse regime, it could only be done through a people's uprising."

Wickremesinghe's "uprising" is no more than an appeal for voters to return the UNP to office at the 2014 election. Yet the pseudo-left Nava Sama Samaja Party (NSSP) promotes this big business party as a defender of democratic rights leading a popular insurgency. Speaking at a UNP-led Joint Opposition media conference, NSSP leader Wickramabahu Karunaratne declared: "If the government tries to ignore the

constitution and the law, as per the Supreme Court ruling, we will show the government what people's power means." The NSSP is part of the UNP's Joint Opposition, along with the ex-left United Socialist Party and several openly right-wing outfits.

The government's real target is the working class. It is strengthening its police-state methods of rule in preparation for suppressing the struggles of the working class and poor. President Rajapakse is acutely aware that social unrest is increasing as his government deepens its attacks on living conditions, as dictated by the International Monetary Fund.



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