

Sri Lankan Supreme Court hands land powers to central government

Sujeewa Amaranath, Panini Wijesiriwardane
10 October 2013

Sri Lanka's Supreme Court, headed by Chief Justice Mohan Peiris, last month ruled that authority over state-owned land is vested in the central government, rather than the country's provincial councils. The verdict overturns constitutional provisions and further strengthens the authoritarian administration of President Mahinda Rajapakse.

Twice previously, under former Chief Justices Sarath N. Silva and Shirani Bandaranayake, the Supreme Court ruled that the constitution's 13th amendment handed land powers to the provincial councils. About 80 percent of all land in Sri Lanka is state-owned. The 13th amendment was part of the 1987 Indo-Lanka Accord brokered between New Delhi and Colombo to disarm the separatist Liberation Tigers of Tamil Eelam (LTTE). The amendment devolved limited powers to the Tamil elite in the North and East of Sri Lanka, in a bid to end the civil war that was fuelling unrest in India's Tamil Nadu state.

In 2011, the Rajapakse administration was compelled to withdraw land and planning legislation when the Supreme Court found that the government could not unilaterally deal in state lands. The verdict rested on the constitution's unambiguous statements that "land shall be a provincial council subject," with the councils to "administer, control, and utilise such state land" as they require.

The Supreme Court's latest ruling followed a government appeal against a lower court's verdict last year that the country's provincial high courts had jurisdiction over legal disputes regarding state lands. Chief Justice Peiris, a Rajapakse appointee, overturned this finding, declaring "the centre has not ceded its dominium over state lands to the provincial councils except in some limited circumstances."

This contention clearly contradicts previous rulings

and constitutional provisions on the devolution of power to provincial councils. The Supreme Court ruling is in line with Rajapakse's moves to strip land and police powers from the councils.

In June, the president prepared a parliamentary amendment asserting the central government's control over these powers. Rajapakse was backed by the Sinhala extremist parties within the ruling coalition, the Jathika Hela Urumaya (JHU) and the National Freedom Front. Right-wing Buddhist groups, such as Bodu Bala Sena and Sihala Ravaya, as well as the opposition Janatha Vimukthi Peramuna (JVP), have campaigned for the abolition of the 13th amendment and backed Rajapakse's moves.

The administration had to back down after New Delhi warned against diluting the Indo-Lanka Accord. Now, however, Rajapakse has got what he wanted via the Supreme Court ruling.

The Sri Lankan judiciary has increasingly functioned as an appendage of governments. A Supreme Court bench headed by former Chief Justice Shirani Bandaranayake approved an 18th amendment to the constitution in 2010 that removed presidential term limits and gave the president wide powers to appoint the highest state bureaucrats, including top judges.

Last year, when Bandaranayake ruled against a bill concentrating economic powers in the Rajapakse government, she was impeached on bogus corruption charges. Her successor, Peiris was a defence ministry advisor and close confidante of Rajapakse.

Peiris's latest ruling is bound to increase tensions between the government and the Tamil and Muslim elite, and also with New Delhi. The Supreme Court decision came just five days after the Tamil National Alliance (TNA) won the northern provincial election with more than a two-thirds majority. The TNA is

clamouring for more authority for provincial councils, including land and police powers.

The TNA is seeking the intervention of international powers, including the US and India, to press the Rajapakse government for a rapprochement with the Tamil elite. Far from seeking to defend the democratic rights of Tamil working people, the TNA is pursuing a power-sharing “autonomy” arrangement to enable the Tamil capitalist elite to exploit workers and poor in the North and East, and open the door for international investors.

The main party of the Muslim elite, the Sri Lanka Muslim Congress (SLMC), is part of the ruling coalition and is also demanding more powers for the provinces. On October 2, SLMC provincial councillors in the eastern province adopted a resolution opposing the “dilution” of 13th amendment and requesting more powers for provincial administrations. The resolution was passed with the support of the TNA and the right-wing opposition United National Party.

India has opposed the overturning of any of the constitutional changes introduced under Indo-Lanka Accord. Last week, Indian Prime Minister Manmohan Singh declared: “On an umpteen number of occasions, we have discussed with the Sri Lankan President the need to implement the 13th amendment.” Indian External Affairs Minister Salman Khurshid reiterated at a press conference on Monday in Colombo that India hoped the Sri Lankan government would carry forward a “reconciliation” process.

India’s concern is not for the democratic rights of Tamil people but to placate opposition in Tamil Nadu. The Congress-led government worries that opposition in Tamil Nadu will affect its prospects in the national election due early next year. Like Washington, New Delhi is also using the issue to put pressure on Sri Lanka to distance itself from India’s regional rival, China.

Rajapakse and his ruling cabal are determined to concentrate power in Colombo in every sector. A police state is being developed in order to suppress workers, youth and the oppressed, who are being radicalised and pushed forward into struggle by the government’s austerity measures dictated by the International Monetary Fund.

On September 28, just two days after the land powers judgment, the Supreme Court heard a case involving

the government’s forcible eviction of 70,000 Colombo shanty dwellers in order to release land for foreign investors and big business. Chief Justice Peiris ruled: “No one should obstruct the [government’s] development program.”

The author recommends:

Sri Lankan chief justice backs Colombo evictions
[5 October 2013]



To contact the WSWs and the
Socialist Equality Party visit:

wsws.org/contact