

Sri Lankan president threatens the Supreme Court

Saman Gunadasa
3 July 2024

The Sri Lankan President Ranil Wickremesinghe made a statement to parliament last month condemning the Supreme Court, the country's highest court, and accusing it of "practicing judicial cannibalism."

Wickremesinghe made his scathing remarks on June 18 after a three-judge bench of the Supreme Court ruled that the government's Gender Equality Bill as a whole was inconsistent with the Constitution. As a result, the bill cannot be enacted without a two-thirds special parliamentary majority as well as approval at a referendum.

The president declared the decision was "a perverse determination" which parliament "should not follow." He called for a "parliamentary select committee" to be appointed, claiming the ruling "violates the powers of parliament" under the constitution.

A parliamentary select committee has the power to summon and question persons and report back to parliament to act upon its findings. Wickremesinghe said he did not propose hauling judges before a select committee, but it would nevertheless have wide powers to consider what should be done with the legislation.

The bill was presented by the Minister of Women, Child Affairs and Social Empowerment on May 9 to parliament, which sent it to the Supreme Court to determine its constitutionality.

The bill's stated objective is "to establish and facilitate gender equality principles in making social, economic, political, cultural and technological policies, and to ensure that every person enjoys, without discrimination based on sex or gender identity, the fundamental rights and freedoms guaranteed by the Constitution."

Further, it aimed at the "elimination of systemic and structural causes of gender inequality and gender-based discrimination" and taking "measures to redress disadvantage, marginalisation, sexism, stigma."

The legislation triggered strong opposition from Sinhala Buddhist chauvinists, who claimed the bill was against the country's "culture and the morals" and "family values" and urged it be ruled unconstitutional. It would allow same-sex marriage and even permit lesbians and gays to apply for jobs in Pirivena (education institutions mainly for Buddhist priests).

All Ceylon Buddhist Congress President Nimal Wakishta told the media that, if enacted, the bill would promote LGBTQ rights and transgender rights compromising local culture, ethos and values.

Cultura Vitae, a Catholic organisation "dedicated to combating abortion and prostitution worldwide," opposed the legislation, declaring it would erode the sanctity of marriage and family values.

The Supreme Court fell into line with these communalist layers, declaring that the bill as a whole was "inconsistent" with various articles of the constitution, particularly that referring to the protection of Buddhism.

"The de-criminalisation of homosexual relationships and recognition of same-sex marriages would have significant cultural and moral implications to the present moral fabric of Sri Lankan society. It would be contrary to the accepted moral and cultural standards in our Nation at present. They would be inconsistent with Buddhism" and other religious practices, it declared.

The ruling underscores the reactionary nature of the Sri Lankan constitution that dominates every aspect of the state and political establishment. The 1972 constitution recognises Sinhala as the official language and Buddhism as the "foremost religion," effectively reducing minority communities, especially Tamils, to second-class citizens.

Since formal independence from British imperialism in 1948, successive Sri Lankan governments exploited discrimination against Tamils and other ethnic and religious communities, invoking the supremacy of the majority Sinhalese-Buddhist population to divide the working class and prop up bourgeois rule.

Blatant ethnic discrimination and pogroms erupted in a bloody communal war against the separatist Liberation Tigers of Tamil Eelam in 1983 that only ended in 2009 and that resulted in the killing of hundreds of thousands of Tamil civilians.

Wickremesinghe himself has a long history of fully backing Sinhala-Buddhist supremacism and anti-Tamil discrimination, repression and war. During the public discussion of the Gender Equality Bill, he uttered not a word against the reactionary campaign waged by Sinhala and Catholic groups.

His support for the bill is not out of sympathy for democratic rights but is a calculated electoral ploy to mobilise the support of sections of the middle class campaigning for feminist rights and same-sex marriage. No one should believe his phony posturing as a democrat as he prepares for the upcoming presidential election.

As part of its defence of the democratic rights of working people, the Socialist Equality Party opposes the vicious campaign by reactionary communal forces and defends the right of women to abortion and an end to discrimination against the LGBTQ community.

Wickremesinghe is exploiting the Supreme Court ruling to erode the independence of the judiciary. He declared that “the sovereignty of the people must be upheld, and this sovereignty resides with the parliament and the president,” while “the judiciary derives its power through the parliament.”

Given that the executive presidency already has sweeping powers, the subordination of the judiciary would be another step towards autocratic forms of rule.

Justice Minister Wijeyadasa Rajapakse denounced the Supreme Court for suspending the powers of the constitutional council and the executive to appoint its judges—an interim order issued in April until October 4 in a fundamental rights case. “Are we going to allow this?” the minister declared.

The Leader of the House Susil Premajayantha lashed out at the court, saying: “We as the legislature can take action on this matter.” He pointed to the parliament impeachment of former Chief Justices Neville Samarakoon and Shirani Bandaranayake.

In the early 1980s, President J. R. Jayawardene attempted to intimidate the Supreme Court after it ruled against police officers who had violently attacked peaceful anti-government protesters. The parliamentary impeachment of Chief Justice Samarakoon failed.

However, in 2013, parliament succeeded in impeaching Chief Justice Shirani Bandaranayake after a Supreme Court bench that she chaired ruled that a bill presented by the government of President Mahinda Rajapakse was unconstitutional.

The current moves against the Supreme Court take place as the Wickremesinghe government ruthlessly implements the severe austerity measures demanded by the International Monetary Fund (IMF). The threat of parliamentary impeachment over its latest ruling is just the latest autocratic measure.

Another glaring example was the way the government ignored the Supreme Court determination on the Online Safety Bill, when it bulldozed the legislation through parliament in January without incorporating the recommendations of the highest court.

The bill is a far-reaching attack on basic democratic rights that criminalises anyone who uses social media to voice their opposition to the capitalist system. When it was pointed out that the government was ignoring the Supreme Court ruling, the justice minister claimed that the bill would include

amendments, but that never happened.

Wickremesinghe’s attack on the judiciary comes amid a highly-charged political situation. Protests and strikes involving hundreds of thousands of workers in key sectors have taken place against the IMF’s austerity dictates. Wickremesinghe and his government, and for that matter every faction of the political establishment, are well aware that the IMF agenda cannot be imposed democratically or peacefully, and that dictatorial forms of rule are needed.

Every section of the capitalist class and its political parties are haunted by the mass popular uprising of April-May 2022, which ousted then President Gotabhaya Rajapakse and his government.

The Bar Association of Sri Lanka condemned Wickremesinghe’s statement following the Supreme Court’s ruling on the Gender Equality Bill, declaring that the executive and legislature should respect the judiciary and allow it “to function independently and free from any kind of external pressure.”

The Supreme Court, however, is no bastion of democracy. Its decisions have enabled successive governments, including that of President Wickremesinghe, to carry out blatant attacks on the democratic rights of striking workers, university students and others on flimsy grounds. It has issued directives requested by the police to enable them to ban demonstrations and violently suppress protesters.

Likewise, the support of the opposition parties—the Samagi Jana Balawegaya and the Janatha Vimukthi Peramuna—for the Supreme Court is not to defend democratic rights. Rather they have fully backed the chauvinist campaign against the Gender Equality Bill.

There is no constituency in any section of the ruling class and the political establishment for the defence of basic democratic and social rights. Only the working class is able to wage a struggle for democratic rights as an integral part of the political fight for its class interests. It can only do so by mobilising independently of every faction of the ruling class, its fake-left hangers-on and trade union lackeys on the basis of a socialist and internationalist program.



To contact the WSWs and the Socialist Equality Party visit:

wsws.org/contact