

**POLITICAL PRISONERS
IN SRI LANKA**



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203 Eshleman Hall

University of California, Berkeley, 94720

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Next April it will be four years since this "Pearl of the East" was bloodied by a paroxysm of massacre and execution by the Bandarnaike government against JVP - Janata Vimukthi Perumana (People's Liberation Front) the very group which had helped elect this government to power. The mass murder of over 2500 youth, arrest and later torture of 16,000 persons and the reign of terror unleashed by the government is unknown and unparalleled in the history of Sri Lanka. Never since direct British rule ended in Sri Lanka, on February 4th, 1948, has arbitrary deprivation of life and liberty and suppression of democratic freedoms occurred on such a scale or to such an extent as since March, 1971 when Sri Lanka became a police state.

THE POLITICAL BACKGROUND

The present government is a coalition led by Madame. Bandaranaike and her party, Sri Lanka Freedom Party. It was elected to power in May 1970. In the coalition, with the SLFP are the Communist Party (pro Moscow) and the ex-Trotskyist, Lanka Sama Samaja Party (LSSP). The SLFP controls 96 out of the 120 seats on the government's side of the house of Parliament.

The coalition parties came to power by promising to take steps to solve the country's economic ills amongst which a very high level of unemployment and rapidly increasing cost of living were pressing problems. The coalition's leaders promised to nationalise foreign owned plantations, banks and other major institutions and to carry-out a programme of agrarian reform. However, within a

short time of its election to power, the coalition government began to move rapidly away from its declared policies. Although the majority of working people had supported the government it acted to curtail and attack basic trade union rights and crushed industrial action with a heavy hand. In September 1970 two workers were killed by the police while on a picket line. Unemployment continued to rise whilst corruption and nepotism continued to affect every aspect of life in the country. Within six months of the election of May 1970 disillusionment spread among those same section of the people who had so enthusiastically voted the coalition parties to power.

The JVP, which had supported and campaigned for selected candidates of the coalition parties, was already critical of the government. The JVP had grown rapidly, particularly among the youth and educated unemployed in the rural areas. In this context it is worth noting that over 90 per cent of Ceylon's population is literate and 60 percent is under 25 years of age. Thousands of people flocked to meetings organised by the JVP; at these meetings the JVP leaders made clear that if the government continued to impose measures against the interests of the people it would mobilise all its forces to resist the government.

The campaign of repression that was initiated by the government in 1971, when many thousands of people were summarily executed by the police and the army, was justified on the grounds that the JVP had planned and carried out an armed uprising against the government. While it is difficult to ascertain all the facts which led to the most

brutal repression that Sri Lanka had ever known a closer examination of government statements and certain relevant facts throw considerable doubt on the credibility of the government's version of the events. Firstly, the JVP 'uprising' took place on the 5th of April; the government imposed a State of Emergency on March 16th, almost three weeks before the 'uprising'. All attempts to discover the facts relating to the events of that time, when the police arrested a large number of JVP members and others, have been obstructed by the government. The process of repression started, in fact, long before the 'uprising'. The declaration of a State of Emergency on March 16th 1971 was justified on the grounds that the American Embassy in Colombo had been attacked with hand-grenades by a group of people. This attack took place on March 5th. The Prime Minister, immediately, accused the JVP of having instigated the attack. The JVP publicly denied responsibility for the act. Indeed, those who were tried in court for the offense were acquitted of the crime.

POLICE STATE

The S.L.F.P. Coalition which came to power on a programme to "Resist all attempts at authoritarianism and safeguarding and broaden the democratic rights of the people", embarked on the high-road towards the creation of police state. Under the Emergency declared in March 1971 (which continued to operate to this date), the people were deprived of their hard-won and most cherished democratic rights. The worst-ever rigorous censorship of news was introduced. Arbitrary arrests and detention without trial became the order of the day. All

forms of industrial action including strikes were declared illegal, demonstrations and meetings (even in private places) were banned. The police and the military were given unlimited powers of arrest, search and detention. Retired "higher-ups" of the police and the army who served under the previous U.N.P. regime were brought back into active service to coordinate "national security". Large quantities of military supplies and financial aid were obtained from the governments of the U.S.A., U.K., France, Pakistan, India, and the U.S.S.R. (The U.S. Government gave in one instance 18 million dollars worth of arms and helicopters).

Thousands were arrested and charged with conspiracy to wage war against the queen, of conspiring to overthrow by means of criminal force the government of Ceylon, of waging war, and abetting the waging of war. These charges are all offences under the normal provisions of the Penal Code, the Public Security Ordinance, the Fire Arms Ordinance, the Explosives Act, and the Offensive Weapons Act - valid at the time of the emergency.

As such, the detainees could have been tried under existing criminal law. However, as the minister of justice, Mr. Felix Dias Bandaranaike, pointed out in a house of representatives debate on the options before the government in handling the detainees: "The first of these is to charge them under existing law, that is one way. If we adopt that course, you will never be able to prove a single case. There is no harm in following that course, if what you want is to set them all free."

Since that patently was not the wish

of the government, he introduced the Criminal Justice Commission Act, No. 14 of 1972, which swiftly obtained the necessary two thirds majority in the house and became law. This act has a number of peculiar features.

The bill was rushed through parliament in an all-night session only 7 days after it was tabled by the Government, in order to preclude any possibility of public opposition to these new laws. M.P.'s were threatened with reprisals if they voted against the bill. 4 out of 6 M.P.'s of the Communist Party of Sri Lanka (which is a member of the United Front Government), who abstained in the voting, were expelled from the Government Parliamentary Group.

The Act could be invoked by the government to deal with any situation ranging from an armed insurrection to a strike throughout the Island, any province or town. It empowers the government to set-up special courts reminiscent of Hitler's 'people's courts'; these courts have the power to hold secret trials, allow confessions made by a prisoner to "whomsoever and in whatsoever circumstances" to be accepted as admissible evidence, permit certain officials of the government to give evidence by way of reports without allowing the accused or counsel to cross-examine such witnesses and permits the court to restrict the rights of counsel for the defence in the pleading of their case. Generally, counsel representing the accused are subjected to search by the police while they are in court. The decisions of these courts are final and no appeals is allowed under the Act. The General Council of Advocates in Sri Lanka passed a resolution in July 1972 by an overwhelming majority, calling upon the government to

repeal the Act. The resolution read: "The General Council of Advocates is of the opinion that the Criminal Justice Commissions Act No. 14 of 1972 precludes the application of principles of justice towards persons against whom proceedings may be taken under this Act. In the circumstances this General Council resolve that this inequitable law be replaced".

'CONFESSIONS' ADMITTED AS EVIDENCE !

C.J.C. Act, Section 11 (2) (b).

"A confession or other incriminatory statement, to whomsoever, and in whatsoever circumstances, made by any person who is alleged to have, or is suspected of having, committed an offence, at any inquiry before the commission may be proved against such person, so, however, that if sought by or on behalf of such person to reduce or minimise the weight that shall be attached to such confession or incriminatory statement, the burden of proving the facts necessary to support such contention shall lie on such person".

C.J.C. Act, Section 11 (2) (d).

"A confession or incriminatory statement made by an accomplice incriminating any other person suspected of having committed an offence shall be relevant and admissible against the latter person."

POLITICAL PRISONERS

According to a statement made in parliament by Felix Bandaranaike Minister of Justice and Home Affairs on November 30, 1971, the government has classified the detainees into four

categories (similar to the infamous Indonesian system). In the context of the present trials the sinister implications of this statement are obvious. This statement outlines the four categories of detainees in the following way: --
"Category A cases are people who had no involvement in the insurgency at all... 2600 of them out of 16000 have been released (but) have been required to report at the police station at intervals of one month."

Category B. "There are at least 5000 to 6000 of that category of persons in custody. In regard to these persons it will be extremely difficult to base any criminal charges against them. . . IT IS CLEAR THAT THERE IS NO BASIS ON WHICH THEY COULD POSSIBLY BE INDICTED OR BROUGHT TO TRIAL... (However) the simple position is that they constitute a security risk. . . They are still in custody in camps. . . their conduct will be watched and they will be put in WORK CAMPS."

Category C. "They are being classified and re-examined and depending on the ultimate results they are either re-classified as Category A persons, that is NOT GUILTY OF ANY OFFENCE, or classified as part of Category D.

Category D. "Will be brought to trial. . . there are 5000 persons approximately who will go up for trial altogether." (A more recent statement by this same minister made at a "special reception" given by the Prisons Department on Saturday July 15 at Welikade Jail, Colombo, says that "about 2500 to 3000 suspects would be tried before the Criminal Justice Commission". The same statement also observed that those who have so far been released have only been released "con-

ditionally". Ceylon Daily News, Monday July 17.)

Others. "There are about 70 or 80 persons who are detained as security risks by the Prime Minister. In regard to many of them no evidence whatsoever has transpired so far to implicate them with the "insurgents" . . . the Prime Minister is going into the security aspect. . . in regard to what constitutes a security risk, it is very difficult for us merely on a legal basis to give an answer. SECURITY RISKS AND LAW ARE TWO ENTIRELY DIFFERENT MATTERS. . . LAW AND ORDER ARE PARAMOUNT".

Those pronouncements speak for themselves. We need only to observe that those persons who have been released were, according to the minister's own words, completely innocent. They have been held in prison without charge or establishment of guilt, without access to lawyers or legal procedures, without compensation or aid to their families for nearly 1½ years. And on release they have to report daily, weekly, then monthly, at the local police station. Their movements, contacts, associates are under constant surveillance.

In the meantime, shootings have taken place in prisons and prison camps; whilst the statutory right of access of members of parliament to prisons has been denied, and whilst no means of investigation of complaints of brutalities against or shootings of prisoners is available to their relatives or to legal representatives, and visits to prisoners by their relatives are being arbitrarily restricted or even totally denied. Innumerable complaints have been made about the insanitary and unhygienic conditions in these camps and about the brutality suffered by the detainees at the hands of the police and the army. The

government stubbornly continues to refuse any impartial investigation of the complaints. On a number of occasions the army has fired into the prison camps killing some of the detainees. Against a background of such incidents the government's refusal to publish an official and complete list of names of all those who are detained is alarming. The government has illegally withdrawn the statutory right of members of parliament to visit prisons and detention centers. Lord Avebury who went to Sri Lanka, on a fact finding mission on behalf of Amnesty International, was expelled from the country immediately he tried to visit the prisons.

Hundreds of families of detainees have been exposed to harassment of various kinds, including the obstruction of their opportunity for employment, by agencies of the government. Identity cards, backed by the appropriate laws and resembling the pernicious 'pass' of South Africa, are used to reveal to the army and the police any personal or political connection the bearer may have with any of the detainees. According to Government statements "the detainees will be produced in batches before the Criminal Justice Commission in order to expedite the trials". These Tribunals or the Criminal Justice Commission have been blatantly rigged up to implicate political opponents of the Government in circumstances in which the existing laws and courts would not have applied. The reasoning behind these tribunals is quite clearly stated in Section 2 (1) of the Criminal Justice Commission Bill:

"The practice and procedure of the ordinary courts are inadequate to administer criminal justice for the purpose of securing the trial and punishment of

persons who have committed such offences."

The most disturbing provisions of the new law are:

1. "Confessions" are admissible as evidence, in violation of long established rules of evidence in Ceylon.
2. No trial by jury, but by judges appointed by the Government at its discretion.
3. Suspension of all normal rules of evidence, rights of cross-examination, etc.
4. No right of appeal against conviction.
5. Power to hold sittings in camera and the right to exclude press and public.

The detainees' counsel have argued that the CJC act is unconstitutional, in that in March 1972 Ceylon became the Independent Republic of Sri Lanka, so that the charge of "conspiracy to wage war against the queen" became redundant.

What is certain is that even if a few hundreds out of the thousands of persons now in custody are to be brought up for inquiries before the Commission, it will take several years before the Commission will be able to complete its task. Meanwhile thousands of persons will continue to languish in prison, and thousands of others may be taken into custody. Public attention, naturally, will be focused on the few persons facing each inquiry, and thus be diverted from the plight of the thousands of prisoners who will continue

to be held in prison, without even the pretence of a trial under this law.

It took two years to complete the "trial" of the first batch of 41, with 9 being tried in absentia. Mr. Rohana Wijeweera, the leader of JVP, on December 20, 1974 was sentenced to life imprisonment. Thirty one others also received sentences ranging from two to twelve years. How many more years it would take to bring the remaining of the nearly 6500 political prisoners languishing in jails to "trial" is anybody's guess.

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