

Provincial election anarchy

In a widely-acclaimed judgment on 27 January, the Supreme Court of Sri Lanka declared that voting is a fundamental right within the ambit of the freedom of expression, and ordered Elections Commissioner Dayananda Dissanayake to hold elections for five provincial councils within three months.

President Chandrika Kumaratunge used Emergency powers to suspend elections for the five Provincial Councils - Central, North-Central, Sabragamuwa, Uva and Western - scheduled for 28 August last year. The Sri Lankan Free Media Movement's Waruna Karunatileke and Sunanda Deshapriya challenged the decision before the Supreme Court.

The Court said that the suspension of elections was arbitrary and unreasonable. Rights of speech and expression were violated and the Elections Commissioner, who has independent status under the Sri Lankan constitution, made no effort to ascertain the legal position or challenge the President's decision.

The constitutional provision that there shall be no legal proceedings against the President for acts or omissions during office will not transform an unlawful act into a lawful one. The presidential immunity from legal action does not exclude judicial review of the lawfulness or propriety of an act or omission, the Court explained.

The Supreme Court declared that the Elections Commissioner also breached the constitutional provision which guaranteed equality before the law in that he treated voters in the five provinces less favourably than those in the North-Western Province where elections were held on 25 January.

Favourites they may be, but the people of North-Western Province faced mob rule in the run-up to and during elections. The North-Western Provincial election was a litmus test before other provincial polls later this year and the presidential and parliamentary elections in the year 2000. Victory at any cost was essential for both the ruling People's

The Supreme Court of Sri Lanka says that the silent and secret expression of a citizen's preference between two candidates by voting is no less an exercise of the freedom of speech and expression, than the most eloquent speech from a political platform.

Alliance (PA) and the main opposition United National Party (UNP). The turnout in the province comprising Kurunegala and Puttalam districts with 1.3 million voters, was 76%. The PA won 30 seats in the 52-member council, gaining 57% of the votes. The UNP took 19 seats with 37%. The Centre for Monitoring Election Violence (CMEV) says that the 'scale and magnitude of the violence is unprecedented for an election of its kind'.

In the run-up to the election, thugs sponsored by both major parties roamed the districts carrying guns, assaulting and shooting opponents. According to election monitoring agencies, the Movement for Free and Fair Elections (MFFE) and People's Action for Free and Fair Elections (PAFFREL), over 700 complaints were made to the police, including 310 against the PA and 160 against the UNP. Two people, including a UNP candidate, were killed and there were 25 attempted murders and shooting. Eight cases of arson, 89 threats and 66 assaults were also recorded.

On election day, armed thugs stormed polling stations, intimidating police officers. Vote rigging and impersonation were widespread. Many voters found that their votes had already been cast. In some areas, election monitors were threatened or assaulted. The CMEV says that senior PA members, including Trade

minister Kingsley Wickremaratne and Lands minister DM Jayaratne, abetted election violations. The government-controlled newspaper *Daily News* says that two cabinet ministers plan to sue the election monitors for criminal defamation. Former military officers accused of human rights violations were involved in election campaigning for the UNP.

Extreme violence at elections in a country described as 'a longstanding democratic republic' has upset Western nations. The US embassy in Colombo expressed concern and called for measures to ensure public confidence in the electoral process. According to press reports, the Sri Lankan Foreign Ministry sent a note to all foreign missions warning that public statements on the elections broke established diplomatic norms and would be considered as interference in the internal affairs of Sri Lanka.

PAFFREL and MFFE declared the election as flawed. An application has been made to the Supreme Court to invalidate the election. Media minister Mangala Samaraweera says that violence is not institutionalised like during the previous regime and has rejected reports of vote rigging.

The President and the government have come under severe criticism. Colombo journal *Pravada* says that President Chandrika's 'cavalier attitude to election violence and her excessively partisan approach to the practices of electoral competition' during elections is a demonstration of the serious crisis of political leadership in Sri Lanka today. The President has applied the Sri Lankan panacea - the appointment of a commission to investigate the election violence.

In a hard-hitting statement, Catholic Bishop Marcus Fernando called for fresh elections and stressed the importance of ending the war in the north-east. The Bishop said: "As long as the war lasts - with its rhetoric and political jostling, its deserters and firearms, its new bulletins and killings - we cannot think of overcoming this culture of violence. Thus ending the war is another imperative".

JAFFNA

Deaths in Jaffna

A young man was killed and two others were wounded when an Airforce helicopter fired on refugees returning to Jaffna from the Vanni on 28 January. The incident took place at Manputty where refugees from Pooneryn on the mainland land and thereafter are transported by the Army to Gurunagar.

Reports say that in January, 17 people were killed in the Jaffna peninsula. Unidentified gunmen shot dead Nixon near Jaffna town on 4 January. On 23 January, the Army killed fisherman A Thiviyarajah in Gurunagar for violating curfew. The LTTE shot dead PP Nishan at Kopay on the same day. Tamil group PLOTE's Jaffna organiser T Chandramohan was killed by gunmen in Jaffna town on 25 January. S Thayalaruban 17, who was returning home after attending a cultural event was shot dead by the Army on 31 January in Udupiddy.

The Army continues search operations in Jaffna, particularly in southern Thenmaratchy, where LTTE cadre from the Vanni are suspected to enter the peninsula. Reports say the Army and the LTTE clashed at Thanankilappu near Chavakachcheri on 18 January. Following the fighting, the Army handed over six bodies to Jaffna hospital. Two soldiers were killed in a landmine attack on 26 January in Jaffna town.

Complaints have been made to the Sri Lankan Human Rights Commission that the Army has arrested many youths in

southern Thenmaratchy and northern Vadamarchy. In these cases, receipts confirming arrests had not been issued to relatives. Three youths, including Rajappu Peter, 19, of Point Pedro were detained in mid-January. S Selvaratnam of Kayts Island has been removed by the security forces to Colombo for interrogation. A Kanagaratnam was detained in Valvettithurai on 14 January. Two days later, N Vasanthan, 15, was arrested in Nallur.

Jaffna's local councillors continue to receive death threats from the LTTE. EPDP's Valikamam councillor Nadarajah Sivarajah, 60, was killed near Kopay in early February. TELO's Valvettithurai Town Council member Jacob Anthony was shot dead in Nelliady on 11 January.

There is shortage of food in Jaffna. Potato is sold at Rs 350 a kilo. Although the ship *Ocean Success* is authorised to carry food transported by private traders, disputes among traders in January continued to cause disruption. Shortage of medicines and medical equipment in the Jaffna hospital is badly affecting service, reports say.

A recent NGO survey in Jaffna indicates that 67% of students are malnourished and 10,000 children remain without primary education as a result of poverty. Around 9,000 young men and women are unemployed in the peninsula and 20,000 widows suffer without proper income or regular support.

Homecoming

Tamil party EPRLF leader and former North-East Chief Minister Varatharaja Perumal returned to Sri Lanka in January after nine-year exile in India, leading to speculation that the government and the EPRLF have agreed on cooperation for the general and presidential elections in the year 2000.

Torture

The Hong Kong-based Asian Human Rights Commission says that Anura Sambath died on 30 December after being tortured at a police station in Moratuwa, 10 miles south of Colombo.

Interrogation

The police questioned Tamil Congress leader Kumar Ponnambalam in January accusing him of intending to cause communal disharmony, which is punishable under the Prevention of Terrorism Act. Mr Ponnambalam had earlier criticised President Chandrika for saying that the Tamils are not the original people of Sri Lanka.

Arrest

In January, over 125 refugees from Sri Lanka arrived in Tamil Nadu, India. Reports say that eight other Sri Lankan refugees were arrested at Calicut in Kerala state on 11 January.

Resumed

Air services to Jaffna, disrupted in September, resumed on 25 January. The Sri Lankan Airforce and Helitours are operating passenger flights between Colombo and Palaly in Jaffna.

The disappeared in the Vanni

REPORTS say that the fate of 109 people who disappeared in 1998 during the Army occupation of Kilinochchi remains unknown. Complaints of 164 disappearances were made and NGOs have ascertained that 47 had been released and eight died in Army custody.

The police say the LTTE killed two Sinhalese farmers and a Home Guard at Mahakachchakody in Vavuniya on 9 January. The Airforce bombed Mullaitivu on 24 January killing a civilian and wounding seven others, including four children.

While the LTTE and the Army fight in the Vanni, the ordeal of the refugees continues to cause concern. Government

restrictions on food to Tiger-held areas in the Vanni remain. Torrential rains prevented food supply to Kilinochchi and Mullaitivu districts in early January.

Rains have led to disease in the Vanni. Cholera is on the rise again and refugee student S Janita died of the disease in Mallavi. Refugees Suppiah Sinnammah and Santhalingam Renuka died in late January at Mulliyavalai in Mullaitivu District, after eating contaminated roots. Two others are seriously ill in Mullaitivu hospital. Reports say that these refugees had no access to food aid.

A survey by Kilinochchi Health Department indicates that 52% of the children below five years of age in 47

refugee camps in the district are malnourished. Shortage of medicines in the Vanni hospitals is making the situation worse. Kilinochchi Government Agent (GA) T Rajanayagam says malaria is spreading fast and drugs for the disease are not available in hospitals.

The displacement of 15,000 new refugees last month, following Army operation *Rivi Bala* (Sun Power) has put strain on the resources in Mullaitivu. The people have continued to demonstrate before the UNHCR office in Mallavi for the fourth month, demanding the international refugee agency to bring pressure on the Sri Lankan government to restore food aid to all refugees.

■ Electricity supply restored in Batticaloa

Denying development

REPORTS say that the LTTE allowed restoration of electricity supply to Batticaloa District, a day before Tamil *Thaipongal* festival on 14 January. The district has been without regular supply since mid-October last year. During this period 102 electricity transformers in Army-controlled areas were damaged.

The Tigers blasted two telecommunication installations in the district in early January disabling over 400 telephones. While the LTTE targets Army-controlled areas, the government is reported to have decided not to implement any development programme in Tiger-held territory in the current year. The decision will hit Batticaloa District, where Norwegian development agency NORAD was

expected to spend Rs 100 million (\$1.5 million) a year under a five-year plan. The Norwegian ambassador, on a visit to Batticaloa on 22 January, made it clear that the responsibility to decide where projects are implemented lies solely with the government of Sri Lanka.

Some areas in the east controlled by the Army earlier were later declared "uncleared" or Tiger-held areas, following the withdrawal of troops for military operations in Jaffna and the Vanni. The fate of the projects already begun in LTTE territory remains unclear. Army camps appear to be a pre-requisite in areas where development programmes will be implemented. Around 90,000 people living in Tiger-held areas of

Batticaloa suffer as a result of the government's economic blockade.

Batticaloa MP K Thuraiarajasingham says that 92 fishermen arrested by the Army in the east remain in custody. Seventy two Batticaloa residents working in Polonnaruwa District rice mills are also in detention. Nallathamby Sabanayagam who was taking an asthma patient to Eravur hospital was shot dead by police at a checkpoint on 4 January.

Woodcutter E Anantharajah was killed by gunmen at Sathurukondan in mid-January. K Gopal of Vaharai who went into the jungle to collect honey was shot dead by the Army on 13 January. Three others, detained by police were released after the local MP intervened. In a clash at Mankerni on 30 January, nine Tigers and three soldiers were killed.

A shell fired from Usan Etram Army camp seriously injured K Tharmaratnam and his daughter Yasotha at Kayankerni on 11 January. The security forces searched villages in Valaichenai on 16 January and detained over 200 people. Reports say that two civilians from Mandur, asked to report at Vellaveli police station, have disappeared.

The Razik Group, operating in the east with the Army, shot dead Tiger cadre V Selvakumar on 12 January at Mahilavattavan. A week later, Razik Group member, S Ravi was wounded in a grenade attack. In Amparai District, farmer M Thamotham was shot dead by police in Savalakadai on 11 January. The police say that he is an LTTE suspect.

No Mercy War

THE International Working Group on Sri Lanka (IWG), a consortium of over 100 international NGOs, launched a new initiative in January to end the "No Mercy War" in the island. The IWG wrote to President Kumaratunge and LTTE leader V Prabhakaran, stressing the need to respect humanitarian principles in the battle zones. The US State Department in its 1998 human rights report criticising both parties, notes that few prisoners are taken in the war. The LTTE made a commitment at the 1988 session of the Human Rights Commission to abide by the Geneva Conventions. IWG says that the Australian Council for Overseas Aid (ACFOA) discussed its initiative with Foreign minister Lakshman Kadirgamar during his visit to Canberra in January. Amidst demonstrations by Tamil residents, Mr Kadirgamar continued his international campaign against the LTTE, urging the Australian government to prevent fundraising for the Tigers. Australia has assured action against raising funds for terrorism under the cloak of social service, reports say.

In mid-January, Thai Army officers denied Mr Kadirgamar's accusation that the LTTE has been allowed a base on Phuket Island on the west coast of Thailand. The LTTE is currently banned in India, Sri Lanka and the USA. The Indian ban in May 1992, followed the assassination of former Prime Minister Rajiv Gandhi. In late January, a New Delhi tribunal dismissed an appeal on behalf of the Tigers and validated the Indian government ban.

The hearing before the Indian Supreme Court on the appeal by the 26 accused in the Rajiv Gandhi murder case, against conviction and death sentence, was concluded in January. The Court has reserved judgment.

Special identity cards

THE Army launched a house-to-house search operation at Kalpitty in Puttalam District in mid-January after the LTTE abducted two fishermen in the area and released them later. Further north, LTTE activity has been observed in Mannar. The Navy and *Sea Tigers* clashed near Nachchikuda on 4 January.

People wishing to leave Mannar District are required to have special identity cards which are issued to residents in Army-controlled areas. Police say two men who attempted to go to Colombo with false identity cards were arrested in January. In mid January, 600 civilians were waiting in Mannar to go to Jaffna.

In Trincomalee, 1,237 Jaffna people arrived in the ship *Lanka Muditha* on 25

January. Another 7,000 in Jaffna have applied to travel to the south. Thousands of people who wish to go to Jaffna are stuck in Trincomalee. According to reports, the Defence Ministry has denied permission to a shipping company to run passenger services to Jaffna. North-East Governor Asoka Jayawardena says that the safety of the passengers is the main concern of the government. The LTTE has in the past hijacked or attacked military and cargo vessels near Trincomalee.

The police arrested farmers N Prabhakaran and S Balasingham at Muthur on 4 January on suspicion of LTTE links. Two LTTE boats were sunk when the Navy and *Sea Tigers* clashed at sea off Pulmoddai on 11 January.

Secret security operations in Colombo

Asylum-seeker killed in custody

SOURCES say that a Tamil killed in police custody in Colombo in 1995 was an asylum-seeker in Denmark and Sweden and had been deported. In 1995, some 30 bodies were found in Bolgoda Lake, 10 miles south of Colombo, and other lakes.

Twenty one of the dead were identified as Tamils, killed in the custody of the Special Task Force (STF) at its headquarters in the capital. Twenty two STF officers were charged, but the case was dismissed in March 1997, after the accused and the Attorney General failed to appear in court. Three STF members are now said to be facing charges of abduction and illegal detention.

Ratnam Suresh was deported to Sri Lanka in March 1994 from Sweden after his attempt to enter Denmark failed and the Danish authorities returned him to Sweden. The Swedish authorities issued Mr Suresh an Emergency Identity Document to enable deportation. The Sri Lankan police have notified the ICRC that Mr Suresh was among those killed in the Bolgoda Lake cases.

In Colombo, arrest and detention of Tamils continue. The US State Department in its *Sri Lanka Country Report on Human Rights Practices for 1998*, says that arrest and detention by police took place in violation of the legal safeguards built into the Emergency regulations and other legislation, particularly regarding requirements that receipts be issued and that the Sri Lankan Human Rights Commission be notified of any arrest within 48 hours. The State Department also says that impunity for those responsible for human rights abuses remained as a serious problem.

The police say they have information on LTTE infiltration and the Tigers plan to disrupt electricity supply and telecommunication lines in the capital during the North-West Provincial Council elections. Two electricity transformers in Pettah suburb in Colombo were blasted with bombs on 18 January. The following day, the Army and police carried out a five-hour search operation in Pettah, Kotahena and Grandpass suburbs and arrested over 250 Tamils.

Bombs damaged three more transformers in Kotahena on 23 January. Following the blasts, ten Tamils were arrested in houses and lodges in the area.

Reports say that Operation Command Colombo (OCC) is authorised to carry out secret investigations and search operations without any notice to the local police.

Three days later, the security forces conducted a search on Armour Street and detained over 200 Tamils, after a bomb was found in Pettah.

Security force personnel are accused of attempting to search a Tamil women's hostel in Wellawatte suburb on 30 December, at 2.00am, without a woman officer. The officers, whose vehicle did not have number plates, belong to Operation Command Colombo (OCC) which is said to function in three divisions - Colombo North, Central and South - headed by senior officers in the Navy, Airforce and Army. Reports say that the OCC is authorised to carry out secret investigations and search operations without any notice to the local police. The Committee of Inquiry into Undue Arrest and Detention (CIUAD) has been notified of the incident.

Since establishment on 12 July last year, CIUAD has received 154 complaints upto end of January, including two disappearances. CIUAD chief Lakshman Jayakody says that many complaints relating to arrest and prolonged detention have been received. CIUAD is said to be taking action to offer legal aid to detainees and establish a computer database to prevent repeated arrests.

CIUAD is investigating allegations of torture in police custody of Muthuthamby Vanitha, a deportee from France. Meanwhile, Jaffna resident Damila Jayakanthan who arrived in Colombo to go to Italy to join her husband remains in custody. She was arrested in April last year and police have filed a case based on a confession obtained in detention.

Twenty Tamil youths working in Pettah were taken into custody on 13 January accused of not registering with the police. They were released after Colombo MP R Yogarajan pointed out that they are registered with the police in the area of their residence and there was no requirement to register also in the area of the work place.

On 14 January, Batticaloa's Alayadivembu regional council chairman R Nadarajah, held under the Prevention of Terrorism Act for the last three months, was released by a court after the Attorney General admitted that there was no evidence of LTTE links against him. Louis Rama, accused of being a *Sea Tiger*, was released by the Colombo High Court on 13 January. The Court rejected the confession obtained in custody, after the Judicial Medical Officer's evidence revealed that Ms Rama had suffered severe torture.

Twenty six Tamil prisoners in Kalutara resumed their hunger strike on 18 January demanding the authorities to file charges or release them. Following similar protests in December, the government appointed a committee headed by Justice Secretary Kamalini de Silva to expedite the cases against detainees. Although the protest ended on 25 January, the detainees say they will resume demonstrations if no action is taken. The Attorney General Department's Sugath Gamlath says that cases will be filed as soon as police reports on the detainees are received.

THE SRI LANKA MONITOR is part of an information service set-up by the British Refugee Council to keep Sri Lankan refugees in Britain, Europe and elsewhere, informed about the current situation in their home areas. If you have any information you wish to share, or any enquiries you wish to make regarding developments in Sri Lanka, contact

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