

"Heroes Day"-message

Mr. Velupillai Pirapaharan, the leader of the 'Liberation Tigers of Tamil Eelam' (LTTE), in his annual Heroes Day message (27. Nov. 1999), called upon the Sri Lanka government to de-escalate the armed conflict by ending military aggression and occupation of the Tamil homeland and initiate peace talks under conditions of normalcy for a negotiated political settlement of the Tamil conflict. The text of the LTTE leaders speech, released in a press release from the 'Tigers' London officers follows:

Though the LTTE stands today as a formidable force with the military capability to liberate our homeland, we have not abandoned the path of peace. We want to resolve the Tamil conflict through peaceful means; through civilised methods without recourse to bloodbath and destruction of life, Mr. Pirapaharan declared. The Tamil Tiger leader emphasised that peace talks cannot be held under the conditions of war, military aggression, occupation and economic strangulation of the Tamil nation. He accused Chandrika Kumaratunga government of having utilised these oppressive methods as tactics of pressure to subjugate the Tamils. Mr. Pirapaharan said that peace talks should be held in a peaceful cordial atmosphere of mutual trust with the assistance of international third party mediation. He defines peaceful atmosphere as a condition of normalcy characterised by cessation of armed hostilities, withdrawal of troops occupying the Tamil lands and the absence of economic blockades.

The LTTE leader also expressed grave doubts whether Sinhala chauvinistic leaders would seek a negotiated settlement by renouncing the path of military violence and terror against the Tamils. This anti-Tamil racial politics offers no alternative to the Tamils other than to fight and establish an independent Tamil state, Mr. Pirapaharan declared.

The following are extracts from the translated text of Mr. Pirapaharans speech:

"Our current military successes have surprised and astounded the world. This is a unique historical achievement in the art of contemporary warfare. The dimensions of this military victory have not only amazed our enemy but also astonished several international countries that have been actively helping Sri Lankas war effort by providing training, arms and funds.

The vast tracts of fertile lands of Vanni, which were invaded and occupied by the Sinhala armed forces afters years and months of massive military campaigns, after sacrificing thousands of lives, have been liberated by our fighters at a rapid pace within a short span of time. A colossal military structure with its multiple military complexes, well fortified bases and camps suddenly collapsed with the onslaught of the Tiger offensive. We have liberated almost all the ancient strategic towns in the Vanni region. I am happy that we have redeemed a sector of Manal Aru, which is the heartland of Vanni where the states army massacred the indigenous Tamils and created Sinhala settlements.

Our massive offensive campaign in Vanni code-named 'Unceasing Waves 3' has effectively demonstrated to the world the extra-ordinary growth and development of the Tiger fighting forces in the art of modern warfare. The speed of our strikes, the ability of rapid deployment, the unified command, the high discipline, the spectacular offensive tactics and the tremendous courage displayed by our fighting formations have astounded the world military experts.

This war is being waged for liberation of our land. Tamil Eelam is our homeland, a land which belongs to us historically, a land on which we were born and bred, a land of our sustenance and resources, a land that forms the very foundation of our national identity. Our enemy claims that this land belongs to him.

For more than fifty years - ever since the Sinhala chauvinists assumed political power in the island -

the lands of the Tamils have been systematically usurped. Our land has been subjected to tyranny and oppression. On one side, there have been devious schemes by which our lands have been forcefully annexed and given to Sinhala colonisers. On the other hand, our lands have been militarily occupied and their resources destroyed and the people who lived on those lands have been reduced to the state of destitution. It is against this injustice we have been fighting. Therefore our liberation war is essentially a war to liberate our lands and to establish our sovereignty: our right to rule in our homeland.

Our people have now understood the aim and objective of this liberation war. Our people, who have lost their lands and the livelihood that derived from the lands and have become destitute, realise the value and significance of their own lands. They also realise the necessity of chasing away the alien forces that have invaded and occupied our territories. It is because of this realisation wide sections of the popular Tamil masses are supporting and participating in this war of liberating our homeland. Our liberation war has now expanded and developed into a higher stage as the peoples war of liberation.

In my annual speeches on the Martyrs Day, I have always emphasised the importance of peace and peaceful ways of seeking a negotiated political settlement. At the same-time, I have also pointed out the fact that Sinhala Buddhist chauvinism was not prepared to resolve the ethnic conflict through peaceful means.

The two major Sinhala political parties, who have assumed political power alternatively in the Sri Lankan political system, are essentially chauvinistic organisations. Both these political parties have bred and flourished in the anti-Tamil Sinhala Buddhist racist ideology. For the last half a century these parties competed with each other in intensifying the oppression against the Tamil people. In this diabolical history of racist oppression it is Chandrikas regime which has inflicted the worst form of tyrannical oppression.

The five-year rule of Chandrika has

been a curse on the Tamil people. The monumental tragedy that our people encountered in the form of war, violence, death, destruction, displacement, hunger and starvation was the worst form of tyranny ever suffered by the Tamils. Chandrikas oppressive rule marks an epoch consisting of blood stained pages of our history. Her tyrannical rule left a permanent scar on the soul of the Tamil nation.

While masterminding an authoritarian tyrannical rule against the Tamils internally, Chandrika Kumartunga portrayed herself internationally as a goddess of democracy committed to peace. Having implemented a notorious military programme aimed at the total invasion of the Tamil homeland she interpreted her project as a war effort for peace. The entire international community believed her and supported her military project. In this deceptive disinformation campaign to cheat the world, treacherous Tamil elements played a crucial role.

We do not trust Chandrika. She does not have the honesty and determination to resolve the Tamil national conflict in a fair and reasonable manner. We perceive her as a modern representative of a neo-Sinhala-Buddhist chauvinism. It is for this reason we refused to engage in a direct dialogue with her. Yet, we did not close the doors for peace. I made an announcement last year in my Martyrs Day message that we were prepared for peace talks with the assistance on international third party mediation.

Though we called for third party mediation we have emphasised the necessity of creating certain objective conditions conducive for peace talks. We explained very clearly that these objective conditions entail a situation of normalcy free from military aggression, occupation and economic strangulation of the Tamil nation.

Chandrikas government refused to accept our proposal for creating a congenial peaceful atmosphere for peace talks. Chandrika was not prepared to bring an end to the war, to stop the military aggression of our land and to lift the economic blockades. The government wanted to use the military campaigns and

the economic embargoes as political pressures on the Tamils. The concept of the 'war for peace' as enunciated by Chandrikas government signified a military solution.

This grand military project aimed at a total invasion of the Tamil homeland and envisages the defeat of the Tamil Tiger movement and finally the eventual subjugation of the Tamil nation. Chandrika worked tirelessly for the last five years to implement her military scheme. Though the project brought about severe setbacks and debacles to the armed forces, she was determined not to abandon her military programme. Therefore, she did not reflect seriously about peace nor has she taken any constructive steps towards peace talks.

Chandrika conveyed to us a message through third party source that she was prepared to hold secret talks with certain conditions while continuing the war effort. We rejected her proposal. It is absurd and practically impossible to hold peace talks on one side while engaging in a bloody war on the other side. It is an extremely difficult task to involve in a friendly dialogue with the enemy while our people are subjected to death, destruction and suffering.

Furthermore, we do not want to engage in a negotiating process with conditions and time frames. Chandrika did not sincerely extend her hand of friendship. She wanted to lay a trap under the cover of peace talks. But we were not prepared to fall into that peace trap. Swept by the 'Unceasing Waves' of the Liberation Tigers, Chandrikas military project crumbled as a house of sand built on the seashore. The spectacular victories that we gained in this current offensive campaign have turned the balance of military power in our favour. The massive effort made by Chandrika over the last five years to weaken the LTTE and to achieve military hegemony was shattered by us in the matter of a few days. Though we stand today as a formidable force strengthened by manpower, firepower, moral power, and peoples power and have the military capability to liberate our homeland, we have not abandoned the path of

peace. We want to resolve the Tamil conflict through peaceful means, through civilized methods, without recourse to a bloodbath and the destruction of life. We wish to re-iterate that peace talks should be held in a cordial peaceful atmosphere of mutual trust and goodwill with the assistance of international third party mediation. By peaceful atmosphere we mean a condition of normalcy characterised by cessation of hostilities, withdrawal of troops occupying Tamil lands and the absence of economic blockades. We cannot allow the Sinhala State to use the conditions of war, military aggression of our lands, and economic blockades as tactics of pressure against the Tamils. We wish to engage in peace talks as equals with mutual understanding in a cordial environment without external coercion and constraints. We are keeping the doors of peace open and are sending signals of peace and goodwill to the Sinhala nation. But we are aware that Sinhala political leadership will not agree to create a peaceful environment as we suggest. We are also aware that Sinhala chauvinistic leadership will not easily abandon their longstanding policy of military violence and repression against the Tamils. Therefore we do not live in fantasy hoping to resolve our national conflict by engaging in a rational dialogue with Sinhala political leadership. The anti-Tamil Sinhala racist political system - which totally disregards human rights and liberties - offers no alternatives to the Tamils other than to fight, secede and establish an independent Tamil state. It is along this secessionist path that the Sinhala nation is driving the Tamil nation. Years ago our people made a decision that an independent state of Tamil Eelam is the only and the final solution to our national conflict. For the last several years, our freedom movement has been fighting a bloody liberation struggle carrying the cross of our peoples aspirations for freedom. Today we have reached a turning point in this long historical journey towards emancipation."

Dealing with Dissent: The "Black Laws" of Bangladesh

On 6 September 1999, the Cabinet of the Government of Bangladesh endorsed in principle the draft Public Security (Special Provision) Bill 1999. While the details of the proposal are not public, the Government has indicated that the Bill provides for Special Tribunals and stern punishment for specified crimes including extortion, hijacking, property damage and arson - acts that are already criminal under the Bangladesh Penal Code.

The Government has made no secret of the fact that the Bill is aimed at the arrest and detention of so-called "terrorists" and enemies of the state of Bangladesh. Inevitably, these so-called "terrorists" will include members of the political opposition to the Awami League Government.

The threat posed by the Public Security (Special Provision) Bill should be considered in light of Bangladesh's experience with national security legislation. The Suppression of Terrorism Act 1992 under which over 6.900 people were detained and subject to summary trials - lapsed in 1994. The Public Security (Special Provision) Bill simply appears to be its latest reincarnation. Indeed, Bangladesh's short history has been littered with preventive detention and anti-terrorism laws - the most well established and draconian of which is the Special Powers Act 1974.

Preventive detention laws have existed on the sub-continent since British colonial rule in the nineteenth

century. After gaining independence, both India and Pakistan allowed for the continuation of preventive detention laws in their respective constitutions. As a result, during the struggle for independence from Pakistan, Bengali freedom fighters were arbitrarily arrested and detained on a routine basis. Upon Independence, the political leadership of Bangladesh declared its commitment to ending this practice, and the Constitution of Bangladesh, promulgated on 6 December 1972, did not provide for preventive detention. However, the pledge was short-lived.

In September 1973, the Parliament passed the Second Amendment Bill which amended Article 33 of the Constitution of Bangladesh and authorised Parliament to pass preventive detention laws. While the inserted provision did provide for some safeguards - such as the production of the detainee before an Advisory Board within six months of his or her detention - the effect of the amendment was to open the way for wide-scale arbitrary detentions.

Five months after the adoption of the Second Amendment Act, the Special Powers Act 1974 (the Act) was passed. The Act was purportedly designed to crush "black marketeers." However, it was immediately used to neutralise political opponents. The primary targets of the Act were suspected members and sympathisers of the radical left and Jumma activists in the Chittagong Hill Tracts (CHTs). Over the following 25 years, successive governments have continued to use the Special Powers Act to control freedom of expression and to suppress political opposition. The limited safeguards provided in the Act

have also allowed District Administrators to use it as a tool of intimidation against suspected political opponents and their families and against people engaged in personal feuds with the authorities.

While political opposition parties have repeatedly promised to repeal the law if elected, the law has been maintained when various groups have come to power. For example, during the rule of the Bangladesh Nationalist Party (BNP) from 1991-1996, thousands of members of the Awami League were arrested under the Special Powers Act. During her election campaign, Prime Minister Sheikh Hasina undertook to repeal the Act if elected. In March 1997, Prime Minister Hasina announced there was no plan to repeal the Act; its utility to past governments justified its existence. Not surprisingly, the Awami League Government has extensively used the Act to detain BNP activists.

The Act provides for the detention of individuals who might commit "prejudicial acts" against the State. Under Section 2(f) of the Act, "prejudicial acts" include undermining the sovereignty or security of Bangladesh, creating or exciting feelings of enmity and hatred between different communities and interfering with the maintenance of law and order. The Act provides no guidance on the burden of proof necessary for the government to conclude that an individual is likely to commit a prejudicial act. As a result, detentions under the Special Powers Act generally rely on allegations with very little evidence.

There are little, if any, institutional checks against abusive use of the Act by government officials. Deten-

tion under the Act is generally performed at the behest of the District Magistrate or Additional District Magistrate in the area. In most districts, the District Magistrate is also the District Administrator, as Article 115 of the Constitution of Bangladesh provides that subordinate courts are to be under the control of the Executive. The failure of the separation of powers has meant that detentions are often politically motivated within the districts. The Ministry of Home Affairs is supposed to provide a report within 30 days stating the grounds for detention of an individual. The Act allows for initial detention of a period of one month, after which time an Advisory Board can indefinitely extend the detention for six-month periods at a time. Additionally, detainees are denied the right to legal representation before the Advisory Board. The only hope for most detainees are the few lawyers who are willing and prepared to file habeas corpus petitions before the High Court Division of the Supreme Court of Bangladesh on a pro bono basis. The cost of legal fees for filing such petitions extends to over Taka 10.000 (or \$ US 200), which is well outside the financial reach of most people detained under the Act. As a result, only around half of those detained are ever able to take their cases before the High Court Division of the Supreme Court of Bangladesh. Review is limited. The High Court Division holds the only hope for the speedy release of detainees. From 1974 to March 1995, 10.372 petitions of habeas corpus were moved before the High Court in Dhaka. More recent figures indicate that in 10.651 (or 99,3 %) cases, the court found that there was a prima facie reason to believe that the detention was illegal. Ultimately, detention was found to be valid in only 8,57 % of cases. While the Supreme Court of Bangladesh in *Bilkis Akhte*.

The frequency with which the Special Powers Act has been used, has increased drastically since its introduction. In 1974, a total of 513 individuals were detained under the Act. In the first six months of 1999, 6.650 individuals were de-

tained under the Act. Various types of people are detained under the Act - politicians, students, family members of opposition leaders and personal enemies of police personnel and government administrators.

One of the latest targets under the Act are suspected opponents of the 2 December 1997 Peace Accord in the Chittagong Hill Tracts (CHTs). On 12 April 1999, Dipayan Khisa and Usain Marma, students in the CHT, were arrested without a warrant by the Bandarban Thana Police. They were produced before the local Magistrate and remanded for three days, after which time they were sent to Bandarban District Jail.

On 16 April 1999, the two students were served with orders and grounds of detention under the Special Powers Act. They were detained on the grounds that they were members of an armed terrorist group and had distributed leaflets that incited hatred against Bangladesh. Both students were fortunately able to secure the services of a lawyer who filed writ petitions No. 1375 and No. 1376 in the High Court Division of the Supreme Court. On 14 June 1999, the court found that their detention was illegal and ordered their release. Both of them had been illegally detained for two months and were nevertheless denied compensation.

The proposed Public Security (Special Provision) Bill would provide the Government of Bangladesh with yet another avenue for abuse of due process and the suppression of political opposition. In a region characterised by widespread human rights abuses excused in the name of "national security" the Special Powers Act is already one of the most resilient limits on democracy. Until the Government of Bangladesh genuinely commits to securing fair democratic processes for responding to dissent, the Special Powers Act will remain an accepted tool of government and an albatross around the neck of a country that aspires to be a mature democracy. The proposed Public Security

(Special Provision) Bill threatens to take Bangladesh further down the road away from democracy. The continuation, if not amplification, of abuses under the Special Powers Act indicate the experience that will likely be suffered under the Public Security (Special Provision) Bill if it passes into law.