

Sri Lanka and its political detainees

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The jail system in Sri Lanka and the fate of prisoners who are being held therein have been discussed on several occasions, when major violence occurred within the system. However, the most recent discussion was based on a hunger strike a group of detained political prisoners had launched. According to the information we have received, these detainees have been held without charges for a period much longer than the time they would have been spent, even if they had been convicted for any charges possibly brought against them. Some of them would have been taken into custody much before the end of the armed conflict in 2009. Even under the Prevention of Terrorism Act (PTA), pre-trial detention of individuals is limited to a maximum of 18 months. Thus, the authorities have violated this provision by holding these prisoners in detention indefinitely. Violation of the rights of prisoners is nothing new in Sri Lanka. Political prisoners who are Tamil, have been subjected to severe abuse. The armed conflict ended in May 2009 and it has been more than six years since then. High Court of Sri Lanka recently found a Tamil woman who had been detained for more than 15 years in prison not guilty. It is not wrong to believe that there could be many more prisoners, who are being held in detention like this, as there are no bail provisions made available under the Prevention of Terrorism Act (PTA). According to the state, these prisoners are held for aiding or abetting acts of terror, while some others consider them as being held for political reasons.

My personal experience as a detainee in 1985 under the PTA, for having a discussion with a leader of Peoples' Liberation Organisation of Tamil Eelam (PLOTE), in which I emphatically refused to form an organisation similar to theirs in the south, was not different. Until my detention was politically and legally challenged, I was held without charges. Since the enacting of the PTA in the 1970s, many civil society organisations, political parties and groups both local and overseas have demanded for its repeal. The PTA provides the state and its security

apparatus wide-ranging powers to search and arrest people and hold them in detention. Evidence appears to be available that the PTA has been used inappropriately as the vague definition of an act of terror is used to disadvantage people and communities. The impunity the state has provided to its security personnel and its paramilitaries has made the situation worse and intractable. This impunity and lack of accountability of the part of the state has led to the plague of family bandyism, nepotism, authoritarianism, corruption and murder.

The election campaigns conducted by the President in January 2015, and by the Prime Minister led coalition in August 2015 discussed the issue of releasing all political prisoners. Later on the new regime also agreed to release them. However, recently the Cabinet spokesperson and the Minister for Justice of the Sri Lankan government have reiterated that there are no political prisoners in Sri Lanka's jails. This is strange when the very same persons have recognised the fact that the 30 year armed conflict occurred due to political causes that have been affecting the Tamil people of Sri Lanka. There are about 300 suspects held in detention for allegedly aiding or abetting acts of terrorism during this period. According to the government sources, the detainees against whom there is direct evidence of involvement in acts of terror, would be prosecuted as early as possible. The recent hunger strike ended after about a week, and President appears to have pledged to deal with this issue soon.

During the armed conflict, tens of thousands of Tamils had been detained in prisons, camps and police stations. Some Sinhalese, who had been arrested for the same reasons also faced similar abusive treatment. The Sri Lankan government has always contested the use of the term political prisoners for those whom it had detained. However, all those arrested under the PTA and the Emergency Regulations have been described as such. The detainees currently held have been suspected of aiding or abetting the activities of the Liberation Tigers of Tamil Eelam (LTTE). Obviously, the LTTE had its political goals, despite it having carried out acts of terror against many civilians and combatants. They had taken up arms for the

broader cause of establishing a separate state, which they believed to be the only way to achieve fairness and justice for Tamils in Sri Lanka. Obviously, this has been a political cause. Despite the government's rejection, the detainees, their families, opposition political parties, human rights organizations such as Amnesty International and the media have continued to identify them as political prisoners.

This is not the first time, Sri Lanka has gone through situations of this kind. Sri Lanka held close to 50,000 suspects during the JVP uprising in 1971. There have been many others, who had been held in the 1988-89 period, despite the alleged procedures some security personnel had followed, of "not taking any prisoners". The civil society, organisations and prominent individuals, particularly individuals such as late Ven Madihe Pannasiha Mahanayaka Thero and late Oblate Father Tissa Balasuriya, OMI had appealed to stop following the process of "not taking any prisoners" in non-combat situations. During the 30 year armed conflict, the alleged dictum of some security personnel was again, "not taking any prisoners". With many in the south justifying this process of elimination, the voices for sparing the lives of those taken into custody was minimal during this time. Despite this "not taking any prisoners" process, many other security personnel had taken thousands into custody and they had been held in detention in locations all over the island.

As the history has witnessed, the actions being taken by civil society, the state and the detainees themselves contributed to resolving the complex situation and issues that had arisen as a result of the uprising in April 1971. There was domestic and international pressure to release political prisoners held in detention. Many local organisations based in the south of Sri Lanka, including the Civil Rights Movement led by Ms Suriya Wickremasingha and PC Desmond Fernando and the Ceylon Mercantile Union led by comrade Bala Tampoe were behind this campaign. Internationally, many human rights organisations led by Amnesty International, campaigned for the release of political prisoners.

There are certain similarities of the current situation to what existed in April 1971, but at the same time there are certain differences. The arguments raised by the government then was not dissimilar to those raised by the previous and current regime regarding the prisoners held in detention. During the seventies, the government insisted that there were no political prisoners, and that only those who aided and abetted terrorist acts were being held in detention. Nonetheless, with the political opposition gaining ground in the country led to the triumph of the idea that those detainees and even those who had been convicted, had fought for an economic political cause; they were held for political reasons; and therefore they were political prisoners. If the same criteria are applied, the Tamil prisoners that are being held in detention for a long time, had also fought for a nationalist political cause, they have been held for political reasons and therefore, they are also political prisoners.

A major difference in the two situations is that most of the leaders of the April 1971 uprising had been held in detention; and that they had been able to lead the campaign for the release of political prisoners; while in the current situation, almost no leader of the LTTE is held in detention. Most of them had been killed during the armed conflict and the rest have become identified with the Sri Lankan state. One could question the ethical aspect of holding rank and file members in detention while their leaders have remained scot-free. Many domestic and international organisations have been asking the Sri Lankan government to release these Tamil political prisoners. Locally, the pressure to release these prisoners comes mainly from the Tamil leaders in Sri Lanka or in the diaspora. Recently, Tamil political party leaders and certain Sinhala activists held protests calling on the government to release those prisoners that are being kept detained. Certain Tamil civil society and political groups organised protest actions in the north and east and also in Colombo, with relatives and friends of the detainees playing a prominent role. Internationally,