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Justice delayed is justice denied - The Story of the Political Prisoners in Sri Lanka

The prolonged agony of the political prisoners in about 12 jails and detention centres is causing concern for the people who are keen on building up a just and peaceful society in Sri Lanka. The case of the political prisoners seems to be a forgotten one. These unfortunate people in the past have voiced their grievances on several occasions by hunger-strikes and petitions. Every time the politicians and the rulers promised to do something about their case and at the end nothing substantial has been done.

In the month of Oct. 2015 when the political prisoners started a massive hunger-strike campaign the President and the politicians promised to do something within a few months and so far no substantial step has been taken. Now, again 15 of them are starting a hunger-strike to draw the attention of the concerned authorities to do something about their speedy release.

In the meantime the statements made by some leaders in authority indicating that there are no political prisoners and only those who were involved in some criminal activities are detained etc. cause a lot of concern and worry.

The case study of some of them will show how genuine their grievances are. The still existing draconian PTA (Prevention of Terrorism Act) which is questioned by the Human Rights Organizations, the using of confession of suspects under torture as evidence against them etc. and the unusually long duration of detention before being charge-sheeted etc. all indicate that the trauma of these political prisoners and their dependants are real. For lasting peace and reconciliation to be achieved in our country, among other things the case of the political prisoners has to be resolved at the earliest.

“நீதியால் விளைவன என்றுமுள அமைதியும் நம்பிக்கையும்.”எசா. 32:17

“Justice will bring about peace.” Is 32:17

The following is the available list of Political Prisoners

| No. | Prison or Det. Centre | Number of Persons | Sentenced |
|-----|-----------------------|--|-----------|
| 1. | Anuradhapura | 23 | 3 |
| 2. | Batticaloa | 06 | 01 |
| 3. | Bohambara | 13 | 01 |
| 4. | Boosa | 04 | — |
| 5. | Jaffna | 01 | 03 |
| 6. | Kaluthura | — | 02 |
| 7. | Magazine | 66 (Women) – 03 (in remand) – 04 | 27 |
| 8. | Mahara | 01 | 01 |
| 9. | Monaragala | 03 | — |
| 10. | Negombo | 01 | 01 |
| 11. | Vavuniya | 01 | — |
| 12. | Welikada | — | 1 |
| | Total | 126 | 40 |

The following have been in detention for 3-5 years. They have not been charge-sheeted so far. They have been detained under PTA. These people in the Magazine prison have started an indefinite hunger strike on 23.02.2015

- 1) Nades Kuganathan
- 2) Devasagayam Uthayakumar
- 3) Joseph Sebastian
- 4) Nadesan Tharmarasa
- 5) Sivasubramaniam Thillairaj
- 6) Muththu Sivan Sivanathan
- 7) Augustine Gnanaseelan
- 8) Sellathurai Kirupanathan
- 9) Subramaniam Kapilan
- 10) Rasathurai Thiruvarul
- 11) Markandu Neminathan
- 12) Satkunasingam Thayaparan
- 13) Karuval Thambi Vethanayagam
- 14) Balasingam Manoharan
- 15) Kumarasamy Mathani (F)

Special Court

In Oct. 2012 a special court was set up at Anuradhapura to take up the cases of political prisoners. But about 300 cases of child abuse cases were handed over to this court! Only 19 of political prisoners' cases were sent to this court. But so far their cases have not yet been taken up. Only 2 of the accused admitted that they had committed the crime even when they had not done it. They did it to escape from the undue prolongation of the cases against them and to serve the sentence so that they can be reunited with their families as early as possible. The other 17 continue to be remanded after being given new dates every time their cases were taken.

In Colombo also to expedite the proceedings of cases of political prisoners, a special court was set up on 10.12.2015. So far (up to 19.02.2016) cases of 50 suspects have been transferred to this court. Here also no case has been taken so far for hearing. Only dates are given every time for further hearing. For the special court a retired Judge Ahirangani Perera has been appointed. Since the inception of this Court 2 months ago the State Counsel has been replaced twice. Every time a new State Counsel is appointed citing their new appointment as the reason they get another date for hearing. In this court 2 suspects (Pushpakumar and Saman Sugivan) admitted that they are guilty even when they had not committed the crime. They did this with the hope that the sentence they receive would be shorter than their prolonged and indefinite stay in the prison.

The representative of the Attorney general has approached the suspects and told them to admit that they had committed the crime levelled against them and then they would be able to get the minimum sentence.

Earlier confessions of 7 suspects have been rejected by the High Courts of Vavuniya and Jaffna as it was proved that torture was used to extract these confessions. These cases have again been forwarded to the Special Court in Colombo with same 'Confessions' as evidence! Hence these 7 suspects who have been freed by the Vavuniya and Jaffna High Courts have been detained for hearing in the Special Court.

1. Some unique cases

Chelliah Navaratnam

He was a wanted person with regard to the bombing of the Central Bank. During the bombing and during the case proceedings he was not present as he was in Vanni which was in the area controlled by the LTTE. The case was also concluded in his absence and he was given a 200 years sentence. He was given an option to make an appeal against this sentence within 14 days. Since he was in the area controlled by the LTTE he could not come to Colombo and make an appeal. After the end of the war in 2009 he was arrested while in the detention camp and now he is serving the sentence. Since he could not and did not appeal in the prescribed time, he is not in a position to make an appeal. The entire case proceedings took place in his absence he had no chance to defend himself.

2. Victor Robinson

He was arrested for having in his possession a cache of arms and a case was filed in Vavuniya High Court. He was arrested in 1998 and released on bail in 2002. He went to his house in the Vanni area controlled then by the LTTE and could not return for the court hearing. The case continued in his absence. The case came to an end in Sept.

2007 and he was given two life-imprisonments. He was re arrested in 2015 and is now serving the sentence. Since he also lost the chance of appealing against the sentence he is now serving it. It is to be noted that his offence had been considered a bailable-offence.

3. Shanmugam Suthaharan and Umar Kathab

In connection with the suicide attack on Major Janaka Perera, he was arrested on 20.05.2009 and handed over to Anuradhapura High Court. State lawyers asked him to cooperate and to admit the guilt and then they will see to that he gets a less severe sentence and it would be at the most 5 years in jail. Hence he admitted the guilt and he was given a 20 years rigorous imprisonment. Now he has made an appeal.

In the same case 41 year old Umar Kathab is also one of the accused and he was arrested on 3.2.2009 and produced in the High Court of Anuradhapura and on Oct. 2014 the Court rejected his confession as not freely given. Then the CID looked for other witnesses. They were looking for his brother who absconded. Then they brought his 49 year old sister Thanuba Indiaf and wanted her to give evidence against her brother. On 18.2.2016 when she was produced in the Courts she did not testify against her brother and she was remanded. The Courts ordered her to be admitted in the hospital as she was not steady in her statements. The fact is that she was scared of the proceedings of the Courts.

4. Suspects in connection with the attack on Galle-Fort

A case was filed against 5 persons in connection with the attack on the Galle-Fort. For the last 8 years these 5 people from Akkaraipattu in Batticaloa, are in detention. The only evidence against them was the confession given by them under duress. There is no other evidence against them. Of these 5 persons, 4 are from one family. Bandula Santhaluxmy the wife of Bandula Kajaveera (43 years) who is in detention, says that she goes for 'coolie' work to support her 3 school- going children. Other detained from this family are:

- Gunaratne Kajaveera (Father, 70 years) a sickly man
- Vairamuthu Saroja (Mother, 64 years) a sickly woman
- Agith Nishantha Edirisinghe (Son-in-law, 45 Years) father of 4 children.
- Bandula Kajaveera (Husband, 43 years) father of 3 children

The main accusation was that one of the persons arrested in the Galle Fort attack was residing with them for a short time. This person, to whom residence was given has already been released after the investigation and court proceedings.

5. Suspects in connection with the suicide attack on Mrs. Chandrika Kumarathunga in 1999

Four people viz Velautham Varatharajan, Ragupathy Sharma, his wife Mrs. Vasanthy Ragupathy Sharma and Lingeswaran were the accused.

This case dragged on for 15 years. Their medical report indicated that their confessions were extracted under duress. But this medical report was not taken into consideration. The first accused was arrested in Vavuniya. The 2nd and 3rd suspects were arrested in Colombo. The fourth accused hoping that he would be given a lighter sentence if he accepted his involvement got a sentence for 25 years. The other suspects since they refused to accept their involvement in the assassination attempt, the case went on. The case came to an end in Dec. 2015 and the first and the second accused were given sentences of 300 and 290 years respectively. The third accused Mrs. Vasanthy Ragupathy Sharma the wife of the Hindu Priest, Mrs. Ragupathy Sharma was declared innocent after spending 15 years in jail.

6. Anomaly in meting out justice to 7 detainees

In a case 7 people were affected due to an anomalous procedure in the court proceedings. In their case their confession which was the only evidence against them was rejected after three years of hearing by one High Court on the basis that their confession was extracted under duress. When they were freed they were rearrested under the same confession and a case was taken in Colombo High Court. These 7 persons are the following:

Santhathevan Ganesharatnam.

Murugaiah Komahan.

Tharmalingam Muralitharan

Chelliah Jeyakumar

Vimalasingam Thanayugam

Kulas Nanthakumar

Kanagaratnam Ajanthan

Now these people are produced in the Special Covert and they have already completed 8 years in prison.

7. Four prisoners in solitary confinement in Boosa

For the last 8 years there are 4 prisoners detained in Boosa in solitary confinement. Each one is put in separate rooms measuring 6' x 8'. Their relatives have to travel long distances from the North to meet them. They are under special military surveillance for 24 hrs. There are several cases against each one of them in as many Courts in different parts of the Country. These people are mentally and physically broken down.

8. Dehiwala Bomb-blast case

The 5 accused in this case are:

- 1 Robert Maxilan
- 2 Thirumahan
- 3 Ananthan
- 4 Sinnappu Selvarasa
- 5 Suppiah Sritharan

They were arrested in 1996. This case has been dragging on for 18 years, every time by giving a fresh date for the next hearing. Unable to bear this procedure 3 of them decided to accept their guilt and they were given sentence.

Robert Maxilan got 10 years

Ananthan got 10 years

Thirumanhan got 5 years

These people accepted the guilt that at least by accepting the guilt they would be able to go home some day or other. The case against the other two continues to be taken up for hearing, every time giving a new date.

9. Dalada Maligava bomb-blast

In this case Mr. Chandran was arrested in 1994 and produced in the Courts in Kandy. There was no evidence against him. In 1997 he was given a death sentence and 650 years of rigorous imprisonment. He has appealed against this sentence. For the last 19 years his case is taken, given a new date and the case continues. He is now 60 years old. His only involvement was that the vehicle used for the bomb-blast was registered in his name.

Rearresting people who have earlier been arrested, investigated, rehabilitated and released

1 Nadesan Tharmarajah (48 years)

He is the father of 5 school going children from Atchuvvely in the Jaffna peninsula. He was arrested on 25.11.2009 and after two years of investigation, was sent for rehabilitation and was freed on 31.12.2011. After one year of rehabilitation he was freed on 30.12.2012. Again he was arrested on 25.09.2013 and detained in Boosa for 18 months. At the end he was tortured to give his confession in a statement written in Sinhala and he was forced to sign. He didn't agree with that. Then he was sent to Magazene prison on 20.02.2015 where he still is.

2 Nades Kuganatham (45 Years) (Married and with 2 Children)

At the end of the war he surrendered to the army on 17.05.2009. The TID (Terrorist Investigation Division) sent him to Boosa on 24.08.2009. After investigation he was sent to Colombo on 12.05.2011 and then sent for rehabilitation on 25.02.2012. After one year of rehabilitation he was freed on 24.02.2013. He then reunited with his family and was occupied with farming. Again the TID arrested him on 11.07.2013 and took him to Boosa detention center. From there he has been transferred to Magazene prison on 2.01.2015 and he is there since then, uncertain of his future.

3 Thevasagayam Uthayakumar

He surrendered to the army at the end of the war on 18.05.2009. While undergoing rehabilitation he was arrested by the Crime Branch in October 2009. After 3 months of inquiry a case was filed against him. During the proceedings of the case he was given bail in 2011. While at home during this time he was rearrested this time by TID on 10.07.2013 and was inquired for 18 months in Boosa and now he is transferred to Magazene prison. While at home he was married and is the father of a child.

Observations

- The controversial PTA (Prevention of Terrorism Act) which was in effect throughout the long ethnic war in spite of protests from Human Rights Groups is still in effect even 6 years after the war. The prolonged and indefinite detention of most of the prisoners is due to this.
- With regard to most of the cases the confession extracted after torture was the only evidence against them. In some cases when such confession was rejected as unacceptable in some Courts, the cases have been transferred to other Courts with the same evidence.
- Most of the prisoners are detained in jails far away from their homes and hence their near and dear ones have to make long journeys spending a lot of money and thus adding more strain to their burdens.
- The dependants of these prisoners - their wives, children, parents etc. are undergoing a lot of pain and anxiety with regard to their prolonged imprisonments leaving alone economic difficulties.
- Except for some of these prisoners others do not have the means to hire lawyers to appear for them and prove their innocence. Some Human Rights lawyers are appearing for some cases only.
- In the past there had been occasions of these prisoners being attacked by fellow prisoners and jail guards when they tried to manifest their protest in some form or other. There had been incidents where some prisoners even lost their lives. Eg. The cases of Nimalaruban from Passayoor and Dilrukson from Vavuniya who were killed 3 years ago. Such dangers are not entirely overruled even now.
- There are some prisoners, out of desperation of prolonged detention are even opting to admit the charges lodged against them even when they had not committed the crimes. This they do with the hope that the sentence they receive would be shorter than their unending detention. There are also occasions when the State lawyers pressurized the suspects to admit the guilt even when they had not committed it, giving the hope that they would be given a lighter sentence.
- The present Government which came to power with the promise of good governance has not so far delivered the goods especially with regard to these political prisoners. A number of repeated assurances and promises for speedy trials have not materialized substantially.

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25.02.2016