

Repression of Dissent

October 2022



Police accompanying the Human Rights lawyer Hejaaz Hizbullah to the court. Photo courtesy: Newswire.lk

INFORM

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Repression of Dissent in Sri Lanka in February 2022.

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INFORM was established in 1990 to monitor and document human rights situation in Sri Lanka, especially in the context of the ethnic conflict and war, and to report on the situation through written and oral interventions at the local, national and international level. INFORM also focused on working with other communities whose rights were frequently and systematically violated. Presently, INFORM is focusing on election monitoring, freedom expression and human rights defenders. INFORM is based in Colombo Sri Lanka, and works closely with local activists, groups and networks as well as regional (Asian) and international human rights networks.

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1. Executive Summary

Context: The UNHRC resolution on promoting reconciliation, accountability, and human rights in Sri Lanka was adopted at the 51st session of the United Nations Human Rights Council (UNHRC) in Geneva, early October. Issues of accountability on human rights abuses, and new challenges in the context of the current economic and political crisis, and Covid-19 were looked at in the resolution. Minister of Foreign Affairs Ali Sabry stated that Sri Lanka categorically rejects the new resolution on the human rights situation in the country, which was presented without Sri Lanka's consent or consultation. Sri Lanka Human Rights Commission issued a press statement requesting not to extend the detention of two student leaders arrested under Prevention of Terrorism Act. The Supreme court of Sri Lanka determined that the Bureau of Rehabilitation bill previously gazetted by the government is inconsistent with the fundamental rights ensured by the constitution.

Case updates: The Ministry of Defence issued a gazette revoking the previous order issued in September declaring high security Zones under the Official Secret Act. At the trial against human rights lawyer Hejaaz Hisbullah, the prosecutor was absent for the third occasion in the Puttalam High Court. The Court of Appeal issued a warrant to arrest State Minister Sanath Nishantha over contempt of court charges and produce him in court, after he failed to appear at the court based on the summons that were previously issued. He appeared at the court later on the same day and was released after stern warnings. Student Activist Hashan Gunathilake detained under a 90-day detention order under the Prevention of Terrorism Act was released by the magistrate Court in Tangalle after the Police informed that they do not have sufficient evidence to continue the case. The Supreme Court granted leave to proceed with the petition against a group of Sri Lankan top politicians and officials on accountability on Sri Lanka's economic crisis. The overseas travel ban issued against Former Central Bank Governor Ajith Nivard Cabraal was extended until 24th of November regarding a case on financial misappropriation. The Supreme Court of Sri Lanka issued an order to resend a notice to former President Gotabaya Rajapaksa to provide evidence pertaining to a case filed on the disappearance of activists Lalith Weeraj and Kugan Murugananthan in Jaffna in 2011. The former Chairman of the Akuressa Pradeshiya Sabha Saruwa Liyanage Sunil was acquitted and released over a sexual assault case for allegedly molesting a 14-year-old girl. Indictments were served on former minister Johnston Fernando, and two others over a bribery case pertaining to state-owned Lanka Sathosa.

Repression of Freedom of Assembly: 15 protesters were arrested in Nawalapitiya in Kandy District during a protest organized by the Opposition party Samagi Jana Balawegaya (SJB), while a Sri Lanka Podjuana Peramuna rally was being held in the same area, under the patronage of former President Mahinda Rajapaksa. Police disrupted a demonstration held at the Galleface, to commemorate whose lives were lost in Aragalaya protests. The Police claimed that the protesters had not obtained prior approval from authorities before entering the area where the demonstration was held. At least 8 student activists were arrested by police, including student union president of Kelaniya University, during a protest organized by Inter-University Student Federation (IUSF). Faizan Ahmed, a youth activist involved with the recent protest movement was arrested by the Police and released after 4 hours of interrogation. Colombo District Member of Parliament Mano Ganesan alleged that Police is collecting personal details and visiting houses of 'Aragalaya' activists' in Colombo.

Other incidents: President of Batticaloa District Civil Society Forum Sabaratnam Sivayoganathan was summoned by the Police both in September and October. Journalist Tharindu Jayawardhana accused the Officer-in-Charge (OIC) of the Fort Police Station of threatening him, while he attempted to file a complaint against the actions of two Police officers during a recent peaceful protest. On 3rd October, a gazette notification was issued by the President declaring all the services connected to the supply of electricity, the supply and distribution of fuel and petroleum and providing healthcare as essential services, On 22nd October, another gazette notification was issued calling out the Armed Forces under the powers granted under the Public Security Ordinance (Chapter 40). MP M. A. Sumanthiran representing Jaffna district, and MP Shanakiyan Rajaputhiran Rasamanickam representing Batticaloa district, two parliamentarians belonging to Tamil ethnic minorities have been followed by intelligence officers while they were attending a meeting in separate vehicles.

2. Context

UNHRC Resolution on Sri Lanka: The resolution on promoting reconciliation, accountability, and human rights in Sri Lanka was adopted at the 51st session of the United Nations Human Rights Council (UNHRC) in Geneva, early October.¹ Following up on Sri Lanka's human rights situation since the end of Sri Lankan civil war, issues of accountability in relation to human rights abuses by the state, the resolution also looked at new challenges Sri Lanka is facing in the context of current economic crisis, Covid-19, and recent political changes. Office of High Commissioner on Human Rights (OHCHR) made several recommendations including (a) taking measures to guarantee rights during economic crisis, (b) reducing military spending, tackling corruption, increasing investment in health, social security and education, (c) undertaking a broad-based consultative process for constitutional reforms that guarantee independence of key institutions including judiciary, (d) comprehensive strategy on transitional justice and accountability, (e) pursuing comprehensive strategy on transitional justice and accountability and establishing a follow-up independent and transparent investigation with international assistance and the full participation of victims and their representatives (f) reducing militarization, (g) releasing private land held by military, (h) replacing PTA with a new legislation that comply with international human rights standards, and release of PTA detainees, (i) reviewing emergency regulations in the light of human rights standards, and (j) Inviting OHCHR to strengthen its country presence and provide technical assistance to authorities and civil society in Sri Lanka. The resolution also reiterated previous recommendations that were made in the previous report made by the High Commissioner in 2021. Minister of Foreign Affairs Ali Sabry stated that Sri Lanka categorically rejects the new resolution on the human rights situation in the country, which was presented without Sri Lanka's consent or consultation.²

Detention of Student Activists: Sri Lanka Human Rights Commission issued a press statement saying that arrest and detention of Convener of Inter-University Student Federation (IUSF) Wasantha Mudalige and Convener of Inter-University Bhikku Federation (IUBF) Ven. Galwewa Siridhamma Thero under Prevention of Terrorism Act is unreasonable and without justification. They recommended not to extend the detention order against two activists who were being detained since 18th August for more than 90 days, at the time the statement was issued.³

Rehabilitation Bill: On 9th of September, Sri Lankan parliament gazetted a draft bill titled 'Bureau of Rehabilitation',⁴ which was heavily criticised by civil society activists, and anti-government protesters as a possible attempt of the government to arbitrarily arrest, detain and to send them through an arbitrary rehabilitation process without a court order.^{5 6} As civil society activists and organisations filed a fundamental rights petition against the bill, international and local human rights organisations issued statements asking the government to withdraw the bill.⁷ On 20th October, the Supreme court determined that the bill is inconsistent with the fundamental rights ensured by the constitution.^{8 9 10}

¹ <https://www.ohchr.org/en/documents/reports/ahrc515-situation-human-rights-sri-lanka-comprehensive-report-united-nations-high>

² <http://www.adaderana.lk/news/85388/sri-lanka-categorically-rejects-new-resolution-sabry-tells-unhrc>

³ <https://www.hrcsl.lk/wp-content/uploads/2022/10/HRCSL-Press-Notice-on-26-10-2022-ii.pdf>

⁴ http://documents.gov.lk/files/bill/2022/9/270-2022_E.pdf

⁵ <https://www.cpalanka.org/centre-for-policy-alternatives-guarantee-ltd-and-dr-paikiasothy-saravanamuttu-vs-the-attorney-general-in-re-the-bill-titled-bureau-of-rehabilitation-act/>

⁶ <https://www.sundaytimes.lk/221002/news/rehab-bureau-bill-aimed-at-harassing-aragalaya-protesters-says-fr-petition-497585.html>

⁷ <https://www.newswire.lk/2022/10/17/human-rights-watch-calls-for-withdrawal-of-bureau-of-rehabilitation-bill/>

⁸ <https://srilankabrief.org/wp-content/uploads/2022/10/Bureau-of-Rehabilitation-Act-SD-determination.pdf>

⁹ <https://www.newswire.lk/2022/10/20/rehabilitation-bill-speaker-announces-sc-determination/>

¹⁰ <https://colombogazette.com/2022/10/20/bureau-of-rehabilitation-bill-inconsistent-with-constitution/>

3. Case Updates

Revoking High Security Zones: The Ministry of Defence issued a gazette revoking the previous order issued in September declaring high security Zones under the Official Secret Act, No. 32 of 1955.^{11 12} The declaration of a number of high security zones around a number of key government building premises in the city of Colombo seemingly attempted to restrict protests conducted in front of key government buildings. The action was heavily criticised by international and local human rights activists for suppressing freedom of assembly, and association, and also civil society organisations pointed out declaration is out of the scope of the said Act.¹³

Trial against Hejaaz Hisbullah: On 4th October, the prosecutor was absent for the third occasion at the trial against human rights lawyer Hejaaz Hisbullah in the Puttalam High Court.^{14 15} On 9th February, he was released on bail, and had been detained for 22 months under draconian Prevention of Terrorism Act (PTA).¹⁶



Police accompanying the Human Rights lawyer Hejaaz Hizbullah to the court. Photo courtesy: Newswire.lk

Contempt of court petition against MP Nishantha: On 13th October, the Court of Appeal issued a warrant to arrest State Minister Sanath Nishantha over contempt of court charges and produce him in court, after he failed to appear at the court based on the summons that were previously issued.¹⁷ He appeared at the court later on the same day and was released after stern warnings.¹⁸ This was in relation to the fundamental Rights petitions that have been filed, seeking punishment against the

¹¹ http://documents.gov.lk/files/egz/2022/10/2299-71_E.pdf

¹² http://documents.gov.lk/files/egz/2022/9/2298-53_E.pdf

¹³ <https://www.cpalanka.org/wp-content/uploads/2022/09/Qand-A-HSZ-order-1-of-2022-.pdf>

¹⁴ <https://twitter.com/hejaazh/status/1577315330535428096>

¹⁵ <https://www.newswire.lk/2022/10/04/hejaaz-hizbullah-trial-ag-mising-for-the-second-day/>

¹⁶ <https://www.frontlinedefenders.org/en/case/human-rights-defender-and-lawyer-hejaaz-hizbullah-released-bail-after-22-months-imprisonment>

¹⁷ <https://www.newswire.lk/2022/10/13/contempt-of-court-igp-ordered-to-arrest-sanath-nishantha/>

¹⁸ <http://www.adaderana.lk/news/85511/sanath-nishantha-surrenders-to-court>

state minister for contempt of court over a statement he made during a media conference held at the Sri Lanka Podujana Peramuna (SLPP) party headquarters on 23rd August. Nishantha has said that “some officers in the Attorney General’s department and some judges should be responsible for granting bail to those criminals the next day after arrest (in an irresponsible manner). So, they won’t have any fear. country’s law would not operate. One can assault, kill, destroy state property...”¹⁹ He made this statement, while speaking about the violence that took place on 9th May after protesters in Galle face were attacked.

Student Activist released: Student Activist Hashan Gunathilake detained under a 90-day detention order under the Prevention of Terrorism Act was released by the magistrate Court in Tangalle on 7th October, after the Terrorist Investigation Division of the Police informed that they do not have sufficient evidence to continue the case against him. Gunathilake is a member of the Inter-University Student's Federation and he was arrested on the 18th of August 2022 following a protest in Colombo.²⁰

FR Petition seeking accountability on Sri Lanka’s Economic crisis: In June, Transparency International Sri Lanka (TISL) and others filed several fundamental rights petitions seeking accountability for the economic crisis in Sri Lanka against 13 respondents including former President Gotabaya Rajapaksa, and former ministers Mahinda Rajapaksa and Basil Rajapaksa and other top officials, and politicians who handled the country’s economy.²¹ On 7th of October, the Supreme Court granted leave to proceed with the petition, also ordered (1) the Auditor General to conduct an audit report regarding several key decisions relating to the economic crisis, (2) former governor of the Central bank to produce copies of all communications, and recommendations made to the President, cabinet ministers, and other top officials, (3) and to produce copies of reports made by the Monetary Board. The Supreme Court has fixed the case for hearing on the 9th of January 2023.²²

Travel ban extended for former Central Bank Governor: The overseas travel ban issued against Former Central Bank Governor Ajith Nivad Cabraal was extended until 24th of November, by the Colombo Magistrate Court. He has been accused of financial misappropriation while serving as the Central Bank Governor, for making payment of a sum of USD 6.5 million to Pakistani American political donor Imaad Zuberi without the Cabinet’s approval, and causing a loss of US \$ 500 million to the Government of Sri Lanka through sovereign bonds.²³

Court re-issued notice to former president on disappearance case: On 19th October 2022, the Supreme Court of Sri Lanka issued an order to resend a notice to former President Gotabaya Rajapaksa to provide evidence pertaining to a case filed on the disappearance of activists Lalith Weeraraj and Kugan Muruganathan in Jaffna in 2011.²⁴ The summons were previously issued by Jaffna magistrate court in September 2019, two months before the Presidential election in which Gotabaya Rajapaksha

¹⁹ <https://youtu.be/wjdDIbsb5ZU>

²⁰ <https://www.newsfirst.lk/2022/10/07/lack-of-evidence-iusf-activist-released-after-50-days-in-detention/>

²¹ <https://www.tisrilanka.org/tisl-files-petition-in-the-sc-demanding-accountability-for-the-economic-crisis/>

²² <https://www.newswire.lk/2022/10/07/persons-responsible-for-current-economic-crisis-in-sl-3-key-orders-from-supreme-court/>

²³ http://www.colombopage.com/archive_22B/Oct26_1666803010CH.php

²⁴ <https://www.newswire.lk/2022/10/19/jaffna-disappearance-case-sc-orders-to-re-issue-notice-to-gotabaya/>

became the President. In September 2019, the Court of Appeal issued an interim order staying the magistrate's order.²⁵ In November 2020, the Court of Appeal issued an order quashing the summons.²⁶

Local politician acquitted from a sexual assault case: The former Chairman of the Akuressa Pradeshiya Sabha Saruwa Liyanage Sunil has been acquitted and released over a sexual assault case for allegedly molesting a 14-year-old girl. He was sentenced to 15 years of rigorous imprisonment following his conviction in January 2020.²⁷

Indictments were served on former Minister over Bribery Case: On 10th of October, indictments were served on former minister Johnston Fernando, former Cooperative Wholesale Establishment (CWE) Chairman Eraj Fernando, and former Minister's Private Secretary Raj Mohideen Mohammad Sakee by the Colombo High Court over a bribery case pertaining to state-owned Lanka Sathosa. They have been accused of allegedly causing an unlawful loss of nearly Rs. 40 million to the government by employing 153 employees of Lanka Sathosa for election work from 2010 -2014.²⁸

Young activist granted bail: Nimesh Ovinda Amarasinghe, a young activist who took part in recent anti-government protests, was granted bail. Thousands of individuals have been arrested and questioned by Police for taking part in anti-government protests that led to Sri Lanka's recent political changes.²⁹



Nimesh Amarasinghe with his lawyer after being released on bail. Photo courtesy: JDS Lanka

²⁵ <https://www.dailymirror.lk/Front-Page/Jaffna-MCs-summons-on-Gotabaya-CA-issues-stay-order-until-Dec-3/238-175071>

²⁶ <https://www.newsfirst.lk/2020/11/24/ca-quashes-summons-on-gotabaya-rajapaksa-over-lalith-kugan-cases/>

²⁷ <https://www.newswire.lk/2022/10/11/former-akuressa-ps-chairman-saruwa-sunil-acquitted/>

²⁸ <https://www.newswire.lk/2022/10/10/indictments-served-on-johnston-over-lanka-sathosa-case/>

²⁹ <https://twitter.com/JDSLanka/status/1581931885982195712>

4. Repression of Freedom of Assembly

4.1. Police arrest protesters in Nawalapitiya in Kandy District

15 protesters were arrested in Nawalapitiya in Kandy District during a protest organized by the Opposition party Samagi Jana Balawegaya (SJB), while a Sri Lanka Podjuana Peramuna rally was being held in the same area, under the patronage of former President Mahinda Rajapaksa on 15th October. Samagi Jana Balawegaya's (SJB) Nawalapitiya organizer Sasanka Sampath was among those who were arrested. Before arresting the protesters, Police read out a notice claiming that the protest was illegal, and asked the protesters to disperse. Later, the Police Media Division claimed that the demonstration was illegal since they had not obtained proper permission and it was a disturbance to the public as they were blocking the main road. Arrested protesters were granted bail on 17th October.^{30 31}



Police interrupting the protest. Photo courtesy: mawaratanews.lk

4.2. Six arrested during commemoration in Galleface

On 9th October, Police disrupted a demonstration held at the Galleface, to commemorate whose lives were lost in Aragalaya, the anti-government protests. Using loudspeakers, Police first asked the protesters to be dispersed. As the protesters did not comply, the Police anti-riot units physically assaulted people there, forcefully disrupting the demonstration, and arresting six individuals.^{32 33 34} Arrested individuals were released on bail on the following day, after being produced before a magistrate. At the court hearing, while the Police claimed that the protesters have not obtained required prior approval from authorities before entering the Galleface area, the defence counsels pointed out Galleface is a dedicated public place for centuries, and such approval is therefore unnecessary.³⁵ Issuing a statement, the Human Rights Commission of Sri Lanka demanded an explanation from the IGP for the police violence displayed at the event.³⁶

³⁰ <https://www.newswire.lk/2022/10/16/several-arrested-in-nawalapitiya-after-protests-during-slpp-rally/>

³¹ http://www.colombopage.com/archive_22B/Oct17_1665982523CH.php

³² <https://twitter.com/JDSLanka/status/1579125808618438658>

³³ https://youtu.be/LtiPtTI_Iso

³⁴ http://www.colombopage.com/archive_22B/Oct09_1665340039CH.php

³⁵ <https://www.newsfirst.lk/2022/10/10/colonial-era-inscription-declared-galle-face-for-women-and-children-lawyers/>

³⁶ <https://www.newsfirst.lk/2022/10/10/human-rights-commission-launches-probe-in-to-galle-face-protest/>

4.3. Student Activists arrested by Police during protest

On 18th October, at least 8 student activists were arrested by police, including student union president of Kelaniya University, during a protest organized by Inter-University Student Federation (IUSF).³⁷ The students demanded the release of all activists being held in detention including two student leaders detained under the prevention of Terrorism Act (PTA) and to stop the ongoing state repression on anti-government protesters. The Police claimed that the protest cannot be allowed as they have not obtained prior-approval 6 hours before.³⁸ Reportedly, more than 500 police officers had been deployed around the area where the protest started with the participation of a large number of university students and activists of the “aragalaya”.³⁹

4.4. Youth Activist Arrested

Faizan Ahmed, a youth activist involved with the recent protest movement was arrested and questioned by the Police. A group of 14 police officers who arrived at his residence in Dehiwala in Colombo district have arrested him. He has been released after 4 hours of questioning. He is a former student activist involved with the Inter-University Student Federation (IUSF).^{40 41}



Arrested youth activist. Photo Courtesy: JDS Lanka

4.5. Police visit the houses of Aragalaya activists

Colombo District Member of Parliament Mano Ganesan alleged that Police is collecting personal details and visiting houses of ‘Aragalaya’ activists’ in Colombo. However, the Minister of Public Security overseeing the Police refuted the claims made by Ganesan.⁴²

³⁷ <https://twitter.com/JDSLanka/status/1582436781680533504>

³⁸ <https://www.newsfirst.lk/2022/10/18/tense-situation-due-to-iusf-police-standoff-at-protest/>

³⁹ <https://srilankabrief.org/sri-lanka-police-blocks-protest-march-of-uni-students/>

⁴⁰ <https://twitter.com/JDSLanka/status/1579000951129931776>

⁴¹ <https://theleader.lk/news/13696-faizan-ahmad-2022-10-09-09-18-59>

⁴² <https://www.newswire.lk/2022/10/08/police-visiting-houses-in-colombo-mano-objects/>

5. Other incidents

5.1. Civil Society activist in Batticaloa summoned to CTID:

President of Batticaloa District Civil Society Forum Sabaratnam Sivayoganathan was summoned by Sri Lanka's Counter-Terrorism and Terrorism Investigation Department (CTID) both in September and October. He has been also interrogated in 2021, for his human rights work including organising protests, and about his social media activities.⁴³ He is an active committee member of the Batticaloa district NGO Consortium, a committee member of Transparency International Sri Lanka and the President of Batticaloa district civil society forum. In September 2021, the Batticaloa Magistrate's court also issued a court order preventing him from attending a memorial event.⁴⁴



Civil society Activist Sabaratnam Sivayoganatha. Photo Courtesy: JDSLanka

5.2. Police Officer threatens and manhandles the Journalist:

Journalist Tharindu Jayawardhana accused the Officer-in-Charge (OIC) of the Fort Police Station of threatening him, while he attempted to file a complaint against the actions of two Police officers during a recent peaceful protest. Speaking to media, the journalist said when he went to file a complaint against two senior Police officers for their conduct during a peaceful demonstration held in Colombo on 10th October, the OIC had refused to accept the complaint on the basis that one Police officer named in the matter is attached to the Fort Police Station and had thereafter proceeded to confiscate his mobile phone.⁴⁵

⁴³ <https://www.tamilguardian.com/content/tamil-activist-summoned-sri-lankas-counter-terrorism-unit>

⁴⁴ <https://www.frontlinedefenders.org/en/case/human-rights-defender-sabharatnam-sivayoganathan-summoned-questioning-counter-terrorism>

⁴⁵ <https://www.newswire.lk/2022/10/12/fort-oic-accused-of-threatening-journalist-attempting-to-file-a-complaint/>

5.3. Gazette issued declaring several services as essential services:

On 3rd October, a gazette notification was issued by the President declaring all the services connected to the supply of electricity, the supply and distribution of fuel and petroleum and providing healthcare as essential services,⁴⁶ in terms of Section 2 of the Essential Public Services Act, No. 61 of 1979.⁴⁷ Declaration of Essential Services has been historically used by governments to prevent labour strikes and trade union actions and to take action against employees involved with such labour actions.⁴⁸ The essential public services act is a draconian law that includes powers that grossly violate human rights standards, including imprisonment and forfeiting property.

5.4. Gazette calling out armed forces

On 22nd October, a gazette notification was issued calling out the Armed Forces under the powers granted under the Public Security Ordinance (Chapter 40). The gazette notification provides powers for armed forces to intervene in civilian affairs. The Sri Lankan government has been issuing similar monthly gazettes for several years now, indicating the increasing militarization and shrinking civil space.⁴⁹

5.5. Two Opposition MPs are followed by state intelligence

MP M. A. Sumanthiran representing Jaffna district, and MP Shanakiyan Rajaputhiran Rasamanickam representing Batticaloa district, two parliamentarians belonging to Tamil ethnic minorities coming from former civil war areas of Sri Lanka have been followed by intelligence officers while they were attending a meeting in separate vehicles. After the security officer assigned to M.A. Sumanthiran has noticed a motorbike following them, he has taken a photograph of the motorbike and inquired from the Police about the details. Then the Police have confirmed that the motorbike belongs to an intelligence officer who has been assigned to follow them. On 6th of October, raising a question about parliamentary privileges, Sumanthiran revealed the incident.⁵⁰

⁴⁶ http://documents.gov.lk/files/egz/2022/10/2300-08_E.pdf

⁴⁷ <https://www.lawnet.gov.lk/essential-public-services-4/>

⁴⁸ <https://www.ft.lk/article/555660/How-the-1980-general-strike-was-smashed>

⁴⁹ http://documents.gov.lk/files/egz/2022/10/2302-29_E.pdf

⁵⁰ <https://colombogazette.com/2022/10/06/intelligence-officer-follows-sumanthiran-and-shanakiyan/>