



## **SRI LANKA: SUBMISSION TO THE UN HUMAN RIGHTS COMMITTEE**

### **137th SESSION (27 FEBRUARY to 24 MARCH 2023)**

#### **Introduction**

CIVICUS: World Alliance for Citizen Participation provides the following information with respect to the human rights situation in Sri Lanka to the United Nations (UN) Human Rights Committee (the Committee) in advance of its sixth periodic review of Sri Lanka's obligations under the International Covenant on Civil and Political Rights (ICCPR) at the Committee's 137th session.

In this document, CIVICUS sets out its main concerns regarding the implementation of the ICCPR by Sri Lanka, focusing on civic space issues, and specifically, the rights to freedoms of expression (Article 19), peaceful assembly (Article 21) and association (Article 22).

#### **Freedom of expression (Article 19)**

Freedom of opinion and expression is guaranteed under Article 14(1)(a) of the Constitution, which states that 'every citizen is entitled to the freedom of speech and expression including publication.'<sup>1</sup> However, despite this guarantee, CIVICUS has documented attacks on press freedom and journalists, misuse of the ICCPR Act No. 56 of 2007 (ICCPR Act) to criminalise freedom of expression, the use of laws to criminalise 'fake news' and the blocking of social media.

#### **Attacks on press freedom**

CIVICUS has documented ongoing restrictions, criminalisation, harassment and threats of journalists.

In particular, following the November 2019 presidential elections leading to the appointment of the then president, Gotabaya Rajapaksa, the candidate of the Sri Lanka People's Front – the Sinhalese-Buddhist nationalist party – civil society groups reported raids, interrogations and acts of intimidation against journalists.

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<sup>1</sup> 'The Constitution of the Democratic Socialist Republic of Sri Lanka', <https://www.parliament.lk/files/pdf/constitution.pdf>.

According to Reporters Without Borders, on 26 November 2019, police raided Newshub.lk, a Colombo-based news website, searching the contents of its servers, desktops and laptops. The search warrant presented by the police had expired on 12 December 2018, but the police ignored this, blaming a typing error, and continued to use the warrant to search the office's computers to find and examine references to Gotabaya Rajapaksa.<sup>2</sup>

Sakthivelpillai Prakash, editor of the Tamil-language newspaper Thinnapuyal, was questioned by plainclothes police in the northern city of Vavuniya on 25 November 2019. After interrogating him on the newspaper's coverage of the former Liberation Tigers of Tamil Eelam (LTTE) rebellion, they asked him to provide contact details of all its reporters.

Sanjay Dhanushka, a journalist who managed the video channel at TheLeader.lk news website, was also summoned and questioned by the Criminal Investigation Department (CID) for several hours on 26 November 2019. Thushara Vitharana, editor of the Voicetube.lk website, was summoned for questioning by the CID two days later.<sup>3</sup>

In 2020, journalist and woman human rights defender (HRD) Dharisha Bastians and her family were targeted by the CID in its investigation for reporting what the Sri Lankan government maintains was a false claim of abduction by an employee of the Swiss Embassy.<sup>4</sup> After twice attempting to seize her personal laptop without a warrant, CID officers entered Bastians' home in Colombo on 9 June 2020 with a warrant, searched the premises and her personal belongings and seized her computer. Law enforcement officers also repeatedly harassed her colleagues, associates and family members in Sri Lanka.

Journalists covering the north and east regions have also been targeted. On 12 July 2021, Batticaloa-based Tamil journalist Selvakumar Nilanthan, who is also the secretary of the Batticaloa Tamil Journalists Association, was interrogated by the Terrorism Investigation Division (TID) for nearly three hours. He was asked if he supported the defunct LTTE and questioned extensively about his work. The TID also demanded Nilanthan disclose his personal and financial details.<sup>5</sup>

On 27 November 2021, freelance journalist Vishwalingam Vishwachandran was beaten by a group of soldiers while covering a commemoration of Sri Lanka's civil war dead in the

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<sup>2</sup> Sri Lanka: Harassment of journalists surges in first days of Rajapaksa presidency, Reporters Without Borders, 3 December 2019, <https://rsf.org/en/sri-lanka-harassment-journalists-surges-first-days-rajapaksa-presidency>.

<sup>3</sup> 'Journalists And Activists Targeted As Many Fear Regression Of Rights Following Sri Lankan Elections', CIVICUS Monitor, 15 December 2019, <https://monitor.civicus.org/updates/2019/12/15/journalists-and-activists-targeted-many-fear-regression-rights-following-sri-lankan-elections>.

<sup>4</sup> 'Ahead Of Sri Lanka Elections, Lawyers, Journalists And Activists Arrested, Threatened And Harassed', CIVICUS Monitor, 17 July 2020, <https://monitor.civicus.org/updates/2020/07/17/ahead-sri-lanka-elections-lawyers-journalists-and-activists-arrested-threatened-and-harassed>.

<sup>5</sup> 'Despite UN Concerns Sri Lanka Continues To Detain Critics, Arrest Protesters And Entrench Impunity', CIVICUS Monitor, 13 July 2021, <https://monitor.civicus.org/updates/2021/07/13/despite-un-concerns-sri-lanka-continues-detain-critics-arrest-protesters-and-entrench-impunity>.

northern Mullaitivu district. They also seized his phone and camera and damaged his motorcycle.

On 4 February 2022, police visited the home of freelance Tamil journalist Punniyamoorthy Sasikaran in Batticaloa city and presented a court order banning a non-existent protest march. Police told his parents, who had opened the door, that he could be arrested in what Sasikaran believed to be an intimidation tactic.<sup>6</sup>

Journalists were harassed and attacked for their reporting on the mass protests in response to the economic crisis in 2022. On 28 June 2022, journalist Tharindu Uduwaragedara was hauled up by the CID in Colombo for an inquiry into his reporting on the protests. At least eight media workers were beaten and violently assaulted by security forces and police personnel during live coverage of an anti-government protest outside then-Prime Minister Ranil Wickremesinghe's residence in Colombo on 9 July 2022. Several of them suffered serious injuries and were taken to Colombo National Hospital for treatment.<sup>7</sup> During a coordinated joint operation by security forces at a protest site on 22 July 2022, three journalists from Xposure News and a journalist from the BBC suffered injuries.<sup>8</sup>

There has also been a lack of progress in holding the perpetrators of past human rights violations against journalists to account. No one has been convicted for the 2009 murder of journalist Lasantha Wickrematunge<sup>9</sup> or the disappearance of cartoonist and journalist Prageeth Eknaliagoda in 2019.<sup>10</sup>

### **Misuse of the ICCPR Act**

There are also concerns about the misuse of the ICCPR Act – a law meant to protect human rights – to stifle freedom of expression. The law, among other provisions, criminalises advocacy for 'national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence'.

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<sup>6</sup> 'Assault On Civic Freedoms Continue In Sri Lanka As An Economic Crisis Hits The Country', CIVICUS Monitor, 29 March 2022, <https://monitor.civicus.org/updates/2022/03/29/assault-civic-freedoms-continue-sri-lanka-economic-crisis-hits-country>.

<sup>7</sup> 'Sri Lanka: Journalists Attacked During Protest Coverage', International Federation of Journalists, 11 July 2022, <https://www.ifj.org/es/centro-de-medios/noticias/detalle/category/press-releases/article/sri-lanka-journalists-attacked-during-protest-coverage.html>.

<sup>8</sup> 'Sri Lanka: Heightened Crackdown On Dissent – End Arbitrary Arrests, Harassment Of Protesters, Activists', Journalists, Human Rights Watch, 2 August 2022, <https://www.hrw.org/news/2022/08/02/sri-lanka-heightened-crackdown-dissent>.

<sup>9</sup> 'New Details Raise Questions About Whether Sri Lankan President Was Complicit In The Killing of Journalist Lasantha Wickrematunge', Committee to Protect Journalists, 27 June 2022, <https://cpj.org/2022/06/new-details-raise-questions-about-whether-sri-lankan-president-was-complicit-in-the-killing-of-journalist-lasantha-wickrematunge>.

<sup>10</sup> 'Activists Concerned About Counter-Terror Laws While Impunity For Past Crimes Persists', CIVICUS Monitor, 13 March 2019, <https://monitor.civicus.org/updates/2019/03/13/activists-concerned-about-counter-terror-laws-while-impunity-past-crimes-persist>.

In February 2020, the UN Special Rapporteur on freedom of religion or belief, in his report to the UN Human Rights Council, stated that ‘certain actors have attempted to misuse the ICCPR Act to restrict freedom of expression and crush dissent. Although inciting discrimination, hostility and violence is criminalised under the ICCPR Act, many argued that the Act was not applied in a manner that would protect minorities against incitement; rather, it is invoked to protect religions or beliefs against criticism or perceived insult’. He added that the present ICCPR Act is not fully compatible with Article 19 of the ICCPR as it does not guarantee freedom of expression and its current provisions do not include the three-part test of legality, proportionality and necessity as well as the threshold for ‘incitement’ under Article 20 of the ICCPR.<sup>11</sup>

Poet and writer Shakthika Sathkumara was arrested on 1 April 2019 and charged under the ICCPR Act in response to a complaint filed by a group of monks, alleging that Sathkumara’s short story ‘Ardha’ (Half) was derogatory and defamatory of Buddhism. The story allegedly addresses homosexuality and child abuse in a Buddhist temple in Sri Lanka. After his arrest, Sathkumara was held in pretrial detention in an overcrowded prison until 8 August 2019, when he was released on bail.<sup>12</sup> On 5 May 2020, the UN Working Group on Arbitrary Detention issued an opinion, finding the government had wrongfully detained Sathkumara in violation of his fundamental rights.<sup>13</sup>

Senior journalist Kusal Perera was investigated under the ICCPR Act for a column he wrote on 17 May 2019 in the Daily Mirror newspaper over the anti-Muslim violence that followed the 21 April 2019 Easter Sunday terror attacks that targeted three churches and three hotels. It was reported that the police’s crime unit had filed a case against Perera for inciting racial hatred.<sup>14</sup>

### **Harassment and criminalisation of critics around COVID-19**

The Sri Lanka government used a number of legal provisions during the COVID-19 pandemic to silence criticism of their actions against individuals deemed to be spreading ‘fake news’. These include section 120 of the Penal Code, which penalises individuals who ‘excite or attempt to excite feelings of dissatisfaction to the state, or excite or attempts to excite hatred to or contempt of the administration of justice, or raises dissatisfaction amongst the People of Sri Lanka’, and which carries a maximum of two years’ imprisonment. Further, section 98 of the Police Ordinance of Sri Lanka criminalises ‘false reports to alarm people and create a

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<sup>11</sup> ‘Report Of The Special Rapporteur On Freedom Of Religion Or Belief - A\_HRC\_43\_48\_Add.2\_AdvanceUneditedVersion.docx’, Human Rights Council, 28 February 2020, <https://srilankabrief.org/wp-content/uploads/2020/02/Sri-Lanka-report-Religious-Freedom-by-UN-SR-28022020.pdf>.

<sup>12</sup> ‘Misuse Of ICCPR Act And Judicial System To Stifle Freedom of Expression In Sri Lanka’, CIVICUS Monitor, 5 July 2019, <https://monitor.civicus.org/updates/2019/07/05/iccpr-act-and-judicial-system-being-misused-stifle-freedom-expression-sri-lanka>.

<sup>13</sup> CIVICUS Monitor, 17 July 2020, op. cit.

<sup>14</sup> CIVICUS Monitor, 5 July 2019, op. cit.

panic'. Also, Section 6 of the Computer Crimes Act No. 24/2007 criminalises use of a computer in a manner that results in danger or imminent danger to 'public order'.<sup>15</sup>

Ramzy Razeek, a retired government official and social media commentator who has consistently advocated for inter-faith harmony, equality, justice and anti-racism, was detained under the ICCPR Act and Computer Crimes Act on 9 April 2020. On 2 April, he had criticised on Facebook a new government policy that requires cremation of all victims of COVID-19, contrary to Islamic tradition.<sup>16</sup> He was detained in overcrowded and unhygienic prison facilities.

In June 2021 the police announced that a specialised team within the CID had been established to reinforce the regulations related to 'fake news' to combat misinformation regarding COVID-19.<sup>17</sup> In a statement issued on 8 June 2021, the police stated that 'anyone creating, publishing, sharing, forwarding, or aiding and abetting the spread of 'fake news' on social media will be considered to have committed an offence' and 'will be arrested without warrant'.<sup>18</sup>

In June 2021, Asela Sampath, Co-coordinator for People Human Rights Protection, was arbitrarily arrested by a group of 20 plainclothes police. Police entered Sampath's house forcibly, tied his mouth with a cloth, allegedly physically assaulted him and took him away. Later, the police reported that Sampath had been arrested in connection with a false statement made on social media regarding the AstraZeneca vaccine.<sup>19</sup> He was subsequently released on bail.

In August 2021, Dr Jayaruwan Bandara, former Spokesperson of the Health Ministry, was summoned by the CID regarding comments he made in a television interview on the high prices of COVID-19 tests and the general handling of the pandemic. In the same month, Dr Najith Indika was questioned by the CID for posting critical remarks on Facebook about a crisis at the Avisawella Hospital due to the increasing number of COVID-19 patients.<sup>20</sup>

### **Blocking of social media and communication platforms**

Following the Easter Sunday 2019 attacks, the government decided to block social media sites and several messaging apps for at least nine days. According to the digital rights group

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<sup>15</sup> 'Sri Lanka Joint Submission To The UN Universal Periodic Review 42<sup>nd</sup> Session Of The UPR Working Group', CIVICUS, 4 July 2022, [https://www.civicus.org/documents/UPR42\\_JointCIVICUS\\_SriLanka.pdf](https://www.civicus.org/documents/UPR42_JointCIVICUS_SriLanka.pdf).

<sup>16</sup> CIVICUS Monitor, 17 July 2020, op. cit.

<sup>17</sup> 'Sri Lanka To Curb Fake News On Social Media', Daily News, 7 June 2021, <http://www.dailynews.lk/2021/06/07/local/251037/sri-lanka-curb-fake-news-social-media>.

<sup>18</sup> 'Sri Lankan Posting Information Deemed 'False' On Social Media Face Arrest Without Warrant', Economy Next, 8 June 2021, <https://economynext.com/sri-lankans-posting-information-deemed-false-on-social-media-facearrest-without-warrant-82783>.

<sup>19</sup> CIVICUS Monitor, 13 July 2021, op. cit.

<sup>20</sup> 'Sri Lanka Authorities Crack Down On Protests, Stifle Critics And Accused Of Torturing Detainees', CIVICUS Monitor, 5 October 2021, <https://monitor.civicus.org/updates/2021/10/05/sri-lanka-authorities-crack-down-protests-stifle-critics-and-accused-torturing-detainees>.

NetBlocks, the authorities blocked Facebook, Facebook Messenger, Instagram, Snapchat, Viber, WhatsApp and YouTube. The TunnelBear virtual private network (VPN) was also blocked. The social media ban was announced by the Ministry of Defence and a government news portal on grounds that 'false news reports were spreading through social media'. Civil society groups criticised the actions, point out that credible media and journalists are instrumental in fighting disinformation and misinformation, and having reliable access to social media and VPNs helps them to provide timely reports to the public.<sup>21</sup>

More recently, following the declaration of a state of emergency on 1 April 2022 in an effort to quell protests in response to the economic crisis, the authorities shut down social media networks for 15 hours the following day, under the pretext of maintaining public and social order. Facebook, Instagram, Twitter, WhatsApp and YouTube were blocked.<sup>22</sup>

**The Human Rights Committee should recommend that the Sri Lankan government:**

- Ensure that journalists and writers can work freely and without fear of retribution for expressing critical opinions or covering topics that the government may deem sensitive.
- Take steps to adopt a legal or policy framework for the protection of journalists from persecution, intimidation and harassment.
- Ensure that the implementation of International Covenant on Civil and Political Rights Act No. 56 of 2007 (ICCPR Act) is consistent with international law and standards and ensure the law is not misused to stifle freedom of expression or criminalise critics.
- Review and amend all legislation, including Section 120 of the Penal Code, Section 98 of the Police Ordinance of Sri Lanka and Section 6 of the Computer Crimes Act No. 24/2007, to ensure that is consistent with international law and standards and not used to criminalise dissent.
- Refrain from using laws or emergency measures to curb freedom of expression and access to information, including the arbitrarily blocking of social media and communication apps.

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<sup>21</sup> CIVICUS Monitor, 5 July 2019, op. cit.

<sup>22</sup> 'Sri Lanka Restricts Access To Social Media Amid Protests', DW, 3 April 2022, <https://www.dw.com/en/sri-lanka-restricts-access-to-social-media-platforms-amid-protests/a-61343824>.

## **Freedom of peaceful assembly (Article 21)**

The right to peaceful assembly is guaranteed under Article 14(1)(b) of the Constitution. Despite this guarantee, the authorities continue to subvert freedom of peaceful assembly through a combination of legislative restrictions and the use of excessive and lethal force. Security forces have cracked down on numerous protests, including during the COVID-19 pandemic and more recently during the mass protests in response to the economic crisis.

### **Legal barriers against holding protests**

Article 77(1) of Police Ordinance No. 16 of 1865 stipulates a requirement for protesters to notify the local police before holding a protest. Under the ordinance, protesters must submit written notification of their intentions to the police officer in charge of the police station closest to the location of the assembly six hours in advance of the proposed gathering. Failure to notify may result in all organisers, promoters and individuals taking part in a protest being guilty of an offence of unauthorised assembly. Spontaneous and urgent assemblies are prohibited. This is inconsistent with international human rights standards that failure to notify authorities of an assembly does not render an assembly unlawful.

Article 77 of the Police Ordinance specifies that an assistant superintendent or officer of a higher grade may prohibit or place 'necessary' restrictions on a protest in the interests of the preservation of public order. Under Article 78, police officers may also direct the conduct of assemblies and processions in any public place, prescribe the routes by which and the times at which such processions may pass, and direct all crowds of 12 or more people to disperse when they have reason to apprehend any breach of the peace. The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association has stated that protest organisers should not be required to negotiate the time, place or manner of an assembly with authorities, as such requirements would be tantamount to restricting the planned assembly.<sup>23</sup>

### **Protest restrictions and arrests during COVID-19**

The authorities imposed restrictions on numerous protests during the COVID-19 pandemic and arrested and detained protesters. In some instances, excessive force was used.

On 9 June 2020, a crowd of protesters gathered outside the US Embassy in Colombo in solidarity with the Black Lives Matter protests occurring globally. The protesters, who were members of the Front-Line Socialist Party, held placards bearing slogans such as 'Racism is a deadly virus', and donned face masks in accordance with the health guidelines issued by the government. According to reports, the police began to arrest protesters even before the protest started, saying they had a court order against the protest being held in that place. When the protesters moved to a different location, near the Lipton Circle, police and riot

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<sup>23</sup> 'Report Of The Special Rapporteur On The Rights To Freedom Of Peaceful Assembly and Of Association – A/HRC/44/50/Add.1', Human Rights Council, 5 May 2020, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/109/54/PDF/G2010954.pdf?OpenElement>.

squad personnel disrupted the protesters using excessive force. Some female activists and Buddhist monks were allegedly attacked and thrown into police vehicles by police. Approximately 53 people were arrested and charged on 10 counts including violating quarantine regulations, violating a court order, obstructing police officers, damaging public property and being a member of an illegal assembly.<sup>24</sup>

Under the pretext of the pandemic, the Sri Lankan government imposed a ban on all protests and gatherings in July 2021, claiming this measure was necessary to 'prevent the spread of COVID-19'.<sup>25</sup> According to the Centre for Policy Alternatives, the authorities failed to establish the legal basis for the ban on protests and demonstrations, raising concerns about the legality of this measure.<sup>26</sup>

Following this, the police cracked down on several protests, including those held by activists, workers, students and farmers. On 7 July 2021, police broke up a demonstration by members of the Joint Employees Association of Engineering Corporation outside the corporation's head office in Colombo. Five people were arrested for breaching quarantine regulations.<sup>27</sup>

On 8 July 2021, police arrested 31 people, including Joseph Stalin, General Secretary of the Ceylon Teachers' Union, and several leaders of the Inter University Students Federation (IUSF), shortly after they began a protest against the Kotelawala National Defence University Act, which they say seeks to 'militarise' higher education in Sri Lanka. The law seeks to change the governance structure of the University and could pave way for a greater military role in education policy and administration. Those arrested were presented before Colombo Magistrates' Court. When the protesters were released on bail, police prevented them leaving the court premises and they were forcibly taken to quarantine facilities.<sup>28</sup>

Five activists were detained due to their participation in a peaceful protest for education rights near parliament on 3 August 2021. They were denied bail until 11 November 2021, despite lawyers arguing exceptional circumstances due to the pandemic, upcoming university examinations and underlying health conditions.<sup>29</sup>

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<sup>24</sup> CIVICUS Monitor, 17 July 2020, op. cit.

<sup>25</sup> 'COVID-19: Sri Lanka Bans Public Meetings, Protests Over Threat To Rapid Transmission', The New Indian Express, 6 July 2021, <https://www.newindianexpress.com/world/2021/jul/06/covid-19-sri-lanka-bans-public-meetings-protests-over-threat-to-rapid-transmission-2326404.html>.

<sup>26</sup> Comment: Legality of the State Response to the Right to Protest in the light of the Covid-19 Pandemic, Centre for Policy Alternatives, November 2021, <https://www.cpalanka.org/wp-content/uploads/2021/11/CPA-comment-on-right-to-protest-2.pdf>.

<sup>27</sup> 'Police Tough On Protests; Arrests of Activists Condemned', News 1<sup>st</sup>, 7 July 2021, <https://www.newsfirst.lk/2021/07/07/police-tough-on-protests-arrests-of-activists-condemned>.

<sup>28</sup> 'Sri Lanka: Immediately Release Peaceful Protesters Detained Under Covid-19 Quarantine', International Commission of Jurists, 10 July 2021, <https://www.ici.org/sri-lanka-immediately-release-peaceful-protesters-detained-under-covid-19-quarantine>.

<sup>29</sup> 'Sri Lanka: Two Years On, Escalating Assault On Freedoms By The Rajapaksa Administration', CIVICUS, <https://www.civicus.org/index.php/fr/medias-ressources/112-news/5444-sri-lanka-two-years-on-escalating-assault-on-freedoms-by-the-rajapaksa-administration>.

## **Harassment and intimidation of groups protesting against disappearances**

Hundreds of families of disappeared persons in the north and northeast districts have faced harassment for holding marches and protests seeking justice for the thousands of ethnic minority Tamils who went missing during the latter part of the civil war in Sri Lanka between the government and the LTTE, which ended in May 2009.

Military intelligence personnel have often interrogated the mothers of missing people involved in the protests, followed them secretly and monitored their daily activities. Officials have also visited their homes at unpredictable times to carry out interrogations. Their leaders have also faced attacks, with no action taken by the police despite complaints.

Families of the disappeared, mainly women family members, experienced surveillance and intimidation from Sri Lankan security and intelligence forces during a mass rally in Mullaitivu on 10 December 2019, International Human Rights Day. Security officials were seen taking photographs of people at the rally.<sup>30</sup>

On 30 August 2020, International Day of the Victims of Enforced Disappearances, hundreds carried out protest rallies in north and northeast districts. Protesters in Batticaloa and Jaffna held placards and banners rejecting Sri Lanka's Office for Missing Persons and calling for an international impartial inquiry to find those who have disappeared. According to INFORM – Human Rights Documentation Centre, a human rights group, a court order restricting a protest was issued against a protest leader in Batticaloa. Police also tried to lock protesters inside a church. Thambirasa Selvarani, leader of the group in the Ampara district, reported that a police officer had grabbed her photo of her missing husband, the only one she had. The police had also referred to the event as illegal.<sup>31</sup>

In February 2021, Sri Lankan magistrates across northeast districts issued bans and injunctions against all forms of protest ahead of a 'walk for justice' organised by Tamil war victims' families and civil society organisations (CSOs). This walk was planned around the country's independence day celebrations and was due to begin on 3 February 2021 at Pothuvil in the Eastern Province and to end in Polihandy in the Northern Province.<sup>32</sup>

On 6 July 2021, families of the disappeared marked 1,580 days of continuous protest in Mullaitivu demanding to know the status of their missing family members. The families have been protesting in Mullaitivu since March 2017. The demonstration was monitored by the

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<sup>30</sup> CIVICUS Monitor, 15 December 2019, op. cit.

<sup>31</sup> 'Civic Freedom Violations Persist In Sri Lanka As The President Expands His Powers', CIVICUS Monitor, 31 October 2020, <https://monitor.civicus.org/updates/2020/10/31/civic-freedom-violations-persist-sri-lanka-president-expands-his-powers>.

<sup>32</sup> 'Ahead Of New Sri Lanka Resolution, Civil Society And UN Highlight Ongoing Rights Concerns', CIVICUS Monitor, 16 March 2021, <https://monitor.civicus.org/updates/2021/03/16/ahead-new-sri-lanka-resolution-civil-society-and-un-highlight-ongoing-rights-concerns>.

local police and Sri Lankan state investigator officers. Some police officers attempted to intimidate the families by photographing and videoing the protesters.<sup>33</sup>

### **Crackdown on protests following the economic crisis**

Since March 2022, amid its worst economic crisis in decades, anti-government protests have been held around the country. Protesters demanded the resignation of President Gotabaya Rajapaksa. The authorities responded to the protests with rubber bullets, teargas and water cannon. Hundreds were arbitrarily arrested and there have also been allegations of torture and ill-treatment in detention, including denial of access to medical care and lawyers.<sup>34</sup>

On 31 March 2022, hundreds of protesters marched outside President Rajapaksa's private residence in Mirihana, Nugegoda. Police used excessive and unprovoked force against peaceful protesters, bystanders and journalists. Security forces deployed rubber bullets, teargas and water cannon, leaving at least 50 people injured. Dozens of protesters were arrested and some were ill-treated.<sup>35</sup>

In an effort to quell the protests, state of emergency regulations were issued on 1 April and again on 6 May, allowing the authorities to arrest and detain suspects without warrants and restrict fundamental rights such as freedoms of assembly, expression and movement. The emergency regulations lacked due process safeguards and gave unfettered powers to the president to shut down public processions and restrict access to public spaces. Further, the regulations provided powers to use armed force against anyone who did not comply with orders.<sup>36</sup>

Thisara Anuruddha Bandara, a youth activist who actively promoted the #GoHomeGota social media campaign to call for the president's resignation, which was used widely during the protests, was picked up at his home on 1 April 2022 in an abduction-style arrest by a group of men claiming to be from the police. The next day he was found at Modara police station, around 130 km from his home. He was then charged with allegedly 'exciting disaffection' against the president under Section 120 of the Penal Code and was granted bail.<sup>37</sup>

On 19 April 2022, police opened fire on a large group of protesters in Rambukkana. Protesters had gathered to protest against fuel shortages and rising fuel prices. One person

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<sup>33</sup> CIVICUS Monitor, 13 July 2021, op. cit.

<sup>34</sup> 'Protest Movement Pushes Sri Lankan President To Resign Despite Harassment, Arrests And Attacks', CIVICUS Monitor, 13 July 2022, <https://monitor.civicus.org/updates/2022/07/13/protest-movement-pushes-sri-lankan-president-resign-despite-harassment-arrests-and-attacks>.

<sup>35</sup> 'Sri Lanka CIVICUS Monitor Watchlist Overview Of Recent Restrictions To Civic Freedoms', CIVICUS, June 2022, <https://civicus.contentfiles.net/media/assets/file/SriLanka.CIVICUSMonitor.June2022.pdf>.

<sup>36</sup> 'Sri Lanka Added To Human Rights Watch List As Authorities Violently Crackdown On Protests With Impunity', CIVICUS, 21 June 2022, <https://monitor.civicus.org/SriLankaWatchlistJune2022>.

<sup>37</sup> CIVICUS, June 2022, op. cit.

died from gunshot wounds and 12 others were injured. On 5 May 2022, police fired teargas at students allegedly attempting to storm parliament and arrested 12 people.<sup>38</sup>

In the early hours of 22 July 2022, a coordinated joint operation by the Sri Lankan military, police and special forces forcibly removed parts of the three-month-long 'Gotagogama' rolling peaceful protest site in front of the Presidential Secretariat in Colombo. Security forces severely beat protesters and lawyers and removed many tents from the pavement along Galle Road outside the Presidential Secretariat where dozens of people, including children, slept during the protests. Witness accounts and footage from the protest site revealed the extensive use of violence by security forces against the protesters, with some of them being beaten and dragged away, while others pleaded for mercy.<sup>39</sup>

CIVICUS has also documented efforts to restrict travel for protesters and arrests of protesters. On 25 July 2022, Colombo Magistrates' Court issued a travel ban on Father Jeevantha Peiris, a Catholic priest who had been prominent in the protests, along with several others.<sup>40</sup> Leading protester Dhaniz Ali was arrested by the police while trying to leave for Dubai on a flight on 26 July 2022.<sup>41</sup>

On 27 July 2022, unidentified men in civilian clothes abducted Veranga Pushpika, a former student activist and journalist who had also been active in the protests, from a bus in Colombo. Police did not disclose his whereabouts for several hours before acknowledging his arrest.<sup>42</sup> On 3 August 2022, Joseph Stalin was arrested. He was taken to Fort police station and remanded despite suffering from poor health. He was granted bail by a Colombo Fort Magistrate on 8th August 2022.<sup>43</sup>

On 18 August 2022, police intervened to disrupt a protest by members of the IUSF in central Colombo by firing a water cannon and teargas at them. The crackdown was followed by the arrest of IUSF members. According to reports, 20 people were arrested, with 16 released on personal bail after being charged with unlawful assembly and obstructing the duties of police officers by blocking the road.<sup>44</sup> One of those detained was Chinthaka Rajapakse, an HRD and

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<sup>38</sup> CIVICUS, 21 June 2022, op. cit.

<sup>39</sup> 'Sri Lanka CIVICUS Monitor Watchlist Overview Of Recent Restrictions To Civic Freedoms', CIVICUS, September 2022, [https://civicus.contentfiles.net/media/assets/file/Sri\\_Lanka.Watchlist.pdf](https://civicus.contentfiles.net/media/assets/file/Sri_Lanka.Watchlist.pdf).

<sup>40</sup> 'Potential Arrest of Rev. Jeevantha Peiris: 1640 Catholic Priests Issue Statement', NewsWire, 31 July 2022, <https://www.newswire.lk/2022/07/31/potential-arrest-of-rev-jeevantha-peiris-1640-catholic-priests-issue-statement>.

<sup>41</sup> 'Leading GotaGoGama Activist Dhaniz Ali Arrested', Daily Mirror Online News, 26 July 2022, [https://www.dailymirror.lk/breaking\\_news/Leading-GotaGoGama-activist-Dhaniz-Ali-arrested/108-241827](https://www.dailymirror.lk/breaking_news/Leading-GotaGoGama-activist-Dhaniz-Ali-arrested/108-241827).

<sup>42</sup> Human Rights Watch, 2 August 2022, op. cit.

<sup>43</sup> 'Human Rights Defender Joseph Stalin Released On Bail', Front Line Defenders, 9 August 2022, <https://www.frontlinedefenders.org/en/case/human-rights-defender-joseph-stalin-released-bail>.

<sup>44</sup> 'Sri Lanka Police Arrests Student Convenor, four Activists For Initiating Anti-Government Protests', Indian Express, 18 August 2022, <https://indianexpress.com/article/world/sri-lanka-police-arrests-student-convenor-8098279>.

moderator of the Movement for Land and Agricultural Reform, a human rights organisation focused on land rights, protection of natural resources and the environment.<sup>45</sup>

Three of those arrested over the student protests were then detained under the draconian 1979 Prevention of Terrorism Act (PTA): Wasantha Mudalige, the IUSF convener, Hashantha Jeewantha Gunathilake, member of the Kelaniya University Students' Union, and Galwewa Siridhamma Thero, convener of the Inter University Bhikku Federation. On 22 August 2022, President Ranil Wickremesinghe, in his capacity as Minister of Defence, approved 90-day detention orders against the students. While Jeewantha was released without charge by Tangalle Magistrates' Court after 50 days, Siridhamma Thero was released on bail<sup>46</sup> on 23 November 2022 but immediately remanded by Kaduwela Magistrates' Court until 6 December 2022 over his involvement in a protest near the Education Ministry in July 2022.<sup>47</sup> Mudalige remains in detention at the time of writing.

On 9 September 2022, Lahiru Weerasekara, National Organiser of Youth for Change, was arrested by Maradana police as he was returning on his bike from a peaceful protest at Galle Face.<sup>48</sup>

### **The Human Rights Committee should recommend that the Sri Lankan government:**

- Amend the Police Ordinance regarding notification procedures in order to allow for the occurrence of spontaneous or urgent assemblies without risk of criminality or the requirement to negotiate the time, place or manner of an assembly with the authorities.
- Halt the use of emergency laws to impose unlawful restrictions on the right to peaceful assembly, which enable the security forces to arbitrary arrest and detain protesters without due process.
- Conduct immediate and impartial investigations into all instances of extrajudicial killing and excessive force committed by security forces and bring the perpetrators to justice, including those with command responsibility.

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<sup>45</sup> 'Reprisals Against Peaceful Protesters Including HRD Chintaka Rajapakse And Education Rights Defender Wasantha Mudalige', Front Line Defenders, 22 August 2022, <https://www.frontlinedefenders.org/en/case/reprisals-against-peaceful-protesters-including-hrd-chintaka-rajapakse-and-education-rights>.

<sup>46</sup> 'Ven. Galwewa Siridhamma Thero Released From Detention', NewsWire, 23 November 2022, <https://www.newswire.lk/2022/11/23/ven-galwewa-siridhamma-thero-released-from-detention>.

<sup>47</sup> 'Ven. Galwewa Siridhamma Thero Remanded Again', NewsWire, 23 November 2022, <https://www.newswire.lk/2022/11/23/ven-galwewa-siridhamma-thero-remanded-again>.

<sup>48</sup> 'Sri Lanka Remains On The Human Rights Watchlist as Authorities Continue Crackdown Under New President Wickremesinghe', CIVICUS Monitor, 22 September 2022, <https://monitor.civicus.org/SriLankaWatchlist2022>.

- Immediately and unconditionally drop all charges against HRDs and protesters who have been charged or detained for exercising their right to freedom of peaceful assembly and review their cases to prevent further harassment.
- Review and if necessary update existing human rights training for police and security forces, with the assistance of independent CSOs, to foster the more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms

### **Freedom of association (Article 21)**

The right to the freedom of association is guaranteed in articles 14 (1) (c) of the Constitution. CSOs may obtain legal registration in several ways. Organisations can register as Non-Governmental Organisations (NGOs) under the Voluntary Social Service Organisations (VSSO) Act No. 31/1980, with a limited statutory definition that covers only associations engaged primarily in social service activities. Organisations can also register as a society or non-profit company under the Companies Act No. 7 of 2007. Despite registration being voluntary, unregistered CSOs face undue restrictions on exercising their right to association.

### **Challenges for CSOs to operate including surveillance and intimidation**

The report published by the Office of the UN High Commissioner for Human Rights (OHCHR) in January 2021 noted a pattern of intensified surveillance and harassment of CSOs. As of December 2020, over 40 CSOs had approached OHCHR with reports of harassment, surveillance and repeated scrutiny by a range of security services, including the CID, TID and State Intelligence officials, who questioned them about administrative details and activities of the organisation and demanded lists of staff, including personal contact details, donors and funding sources. Some were questioned about the locations of their relatives abroad.

The OHCHR also noted that the government moved the NGO Secretariat, which supervises and monitors the registration and operations of NGOs, from a civilian ministry to oversight by the Ministry of Defence and its intelligence arms. There are also worrying reports that the VSSO Act will be reviewed to control access by CSOs to foreign funds.<sup>49</sup>

During his visit to Sri Lanka in 2020, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association shed light on the discriminatory practices that disproportionately impact on CSOs, particularly in north and east Sri Lanka. Practices include informal refusals of registration, conducted in verbal form without proper documentation, of CSOs working on politically sensitive issues such as, disappearances, land rights, LGBTQI+ rights and transitional justice. The Special Rapporteur was also alarmed by the trend of surveillance and intimidation of CSOs. These take the form of frequent visits to CSOs by security officers from the CID, trailing of CSO representatives by police to their

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<sup>49</sup> CIVICUS Monitor, 16 March 2021, op. cit.

private residences and heavy surveillance conducted by plainclothes security forces on CSO premises.<sup>50</sup>

### **Harassment and vilification of human rights defenders and lawyers**

CIVICUS has documented the harassment and vilification of HRDs and lawyers for their work.

In November 2019, lawyer Kumaravdivel Guruparan was targeted by the authorities. He was a senior lecturer at the Faculty of Law of the University of Jaffna and had appeared as counsel on behalf of victims in the case of 24 young Tamils who were subjected to enforced disappearance while in military custody in 1996. In November 2019, Guruparan was banned by the University Grants Commission from teaching law while also practising in court.<sup>51</sup>

Social activist Shehan Malaka Gamage was summoned before the CID on 23 August 2021 in relation to comments made to the media about the 2019 Easter Sunday attacks. Gamage had been outspoken over the investigations into the attacks and claimed on Facebook that there was a political motivation behind the attacks and the government should therefore conduct an inquiry into the matter. He was questioned by the CID for five days.<sup>52</sup>

In February 2022, human rights groups expressed concern about a statement issued by the Sri Lankan Foreign Ministry which amounted to harassment and intimidation against Ambika Satkunanathan, a leading human rights lawyer. It is believed she was targeted for providing testimony to the European Parliament on 27 January 2022. According to human rights groups, the Foreign Ministry's statement contains numerous false claims in an attempt to 'disparage and delegitimize a distinguished human rights advocate, placing her at risk of physical danger in retribution for her brave work'.<sup>53</sup>

### **Misuse of anti-terror law to target human rights defenders and activists**

The authorities have used the PTA to target political opponents and members of the minority Muslim and Tamil communities.

The PTA part I, section 3 contains an overly broad scope of conduct categorised as terrorism. In February 2022, the Rajapaksa administration proposed an amended version of the PTA, which was approved by the majority of parliament the following month. The amended version did not address the fundamental flaws of the law that have enabled human rights violations to persist.

UN experts criticised the amended PTA in a statement in March 2022. While acknowledging the proposed reduction of the period of pretrial detention, an increase in magistrates' powers to visit places of detention and the speeding up of trials, they noted that the revisions

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<sup>50</sup> Human Rights Council, 5 May 2020, op. cit.

<sup>51</sup> CIVICUS Monitor, 15 December 2019, op. cit.

<sup>52</sup> CIVICUS Monitor, 5 October 2021, op. cit.

<sup>53</sup> 'Sri Lanka: Intimidation Against Prominent Human Rights Lawyer Ambika Satkunanathan', World Organisation Against Torture, 14 February 2022, <https://www.omct.org/en/resources/statements/sri-lanka-intimidation-against-prominent-human-rights-lawyer-ambika-satkunanathan>.

fell short of their recommendations to ensure the law was in line with international best practices to ensure safeguards against arbitrary arrest and torture or cruel, inhumane or degrading treatment.<sup>54</sup>

On 4th May 2019, Dilshan Mohamed, a researcher and activist campaigning against violent Islamic militancy, was arrested and accused of supporting the group known as Islamic State on Facebook.<sup>55</sup> Dilshan Mohamed was charged under the PTA and spent 34 days at Negombo remand prison.

In May 2021, 10 Tamil men and women were arrested under the PTA in the eastern coastal village of Kalkudah for holding a vigil to mark the thousands of Tamil civilians who were killed in the final months of fighting in 2009.<sup>56</sup>

Hejaaz Hizbullah, a lawyer and a minority rights advocate who has represented victims of human rights violations, was arrested under the PTA on 14 April 2020. He was held without charge and did not appear before the magistrate for over 90 days. While in detention the allegations against him changed several times. On 9 February 2022, he was released on bail by Puttalam High Court.<sup>57</sup>

Ahnaf Jazeem, a poet and teacher, was detained under the PTA on 16 May 2020. Jazeem was arrested in connection with a Tamil-language poetry anthology, Navarasam, which he wrote and published in July 2017, as well as other unsubstantiated claims of exposing his students to 'extremist' content with the intention of turning them into followers of 'extremist ideology'. Despite the fact that the book was listed in Sri Lanka's national library and has never been banned, the authorities decided to detain Jazeem, allegedly for its content, among other reasons.

A letter from his lawyer to the Human Rights Commission of Sri Lanka on 16 March 2021 and a Fundamental Rights petition filed before the Supreme Court in April 2021 stated that Jazeem had been subjected to torture and cruel, inhumane and degrading treatment by being handcuffed to a chair, handcuffed while sleeping and detained in unhygienic and suffocating conditions. He was also exposed to the dangers of contracting COVID-19 and his ability to meet his family in prison or make phone calls to them was limited.<sup>58</sup> Jazeem was released on bail in December 2021 after 578 days in detention.<sup>59</sup>

**The Human Rights Committee should recommend that the Sri Lankan government:**

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<sup>54</sup> 'Sri Lanka: UN Experts Call For Swift Suspension Of Prevention Of Terrorism Act And Reform Of Counter-Terrorism Law', OHCHR, 2 March 2022, <https://www.ohchr.org/en/press-releases/2022/03/sri-lanka-un-experts-call-swift-suspension-prevention-terrorism-act-and>.

<sup>55</sup> CIVICUS Monitor, 5 July 2019, op. cit.

<sup>56</sup> CIVICUS Monitor, 5 October 2021, op. cit.

<sup>57</sup> CIVICUS Monitor, 29 March 2022, op. cit.

<sup>58</sup> CIVICUS Monitor, 13 July 2021, op. cit.

<sup>59</sup> 'Detained Poet Ahnaf Jazeem Granted Bail After 578 Days', Sunday Times Online, 15 December 2021, <https://sundaytimes.lk/online/news-online/Detained-poet-Ahnaf-Jazeem-granted-bail-after-578-days/2-1136260>.

- Take measures to foster a safe, respectful and enabling environment for civil society, including by removing legal and policy measures and practices that unwarrantedly limit freedom of association.
- Review and refrain from introducing legislation that restricts freedom of association.
- Provide civil society members, activists, HRDs and journalists with a safe and secure environment in which to carry out their work
- Conduct impartial, thorough and effective investigations into all cases of attacks, surveillance, harassment and intimidation against HRDs, activists and civil society members and bring the perpetrators of offences to justice.
- Immediately revise the Prevention of Terrorism Act in consultation with civil society groups and ensure that it aligns with international law and standards.
- Take steps to adopt a specific law on the protection of HRDs in accordance with Human Rights Council resolution 27.31.