

Introduction

1. This submission focuses on the situation for Human Rights Defenders (HRDs) and Civil Society Organisations (CSOs) and restrictions, threats, challenges faced by HRDs since the country's 3rd UPR in May 2017.
2. During its 3rd cycle Sri Lanka accepted four recommendations (116.104-107) on protection of HRDs and one on 'proper investigation into alleged attacks and to prosecute those found responsible' (116.107). Sri Lanka has failed to implement or honor its commitments especially since November 2019.

Transitional Justice

3. The failure of Transitional Justice mechanismsⁱ set up under the previous government led by President Maithripala Sirisena (*Yahapalanaya* Government) and the disabling of any measures to address truth, justice and redress to victims and survivors under the current regime, has a direct impact on HRDs especially from survivor defender groups campaigning for justice.
4. In 2020, Sri Lanka withdrew from UNHRC resolution 30/1 and established a Presidential Commission of Inquiry to investigate "political victimization" of public officials, police, and armed forces members accused of human rights violations. The Commission intervened and undermined ongoing investigations into enforced disappearances, arbitrary killings, and other human rights violations. The commission and dismantling any measures of justice to victims, directly impacted the safety, and security of HRDs working on this issue and supporting victims who also face direct reprisals for their workⁱⁱ.
5. On September 18, 2021 Woman human rights defender (WHRD) Thambirasa Selvarani, interrogated, threatened with arrest and rehabilitation by Akkaraipattu police due to her participation in a peaceful protest seeking justice for enforced disappearances. The WHRD has been summoned and warned to stop her protests and campaigns before. In September 2019 she was interrogated by the Terrorism Investigation Department and warned against organizing any further protests. Other individual examples are withheld for security reasons (*Para 31-34*).
6. Lawyers appearing for victims have also been targeted. On November 9, 2019, Kumaravadivel Guruparan, human rights lawyer and Head of the Department of Law at the University of Jaffna, who appeared on behalf of victims in the Navatkuli habeas corpus case - related to the enforced disappearance of 24 Tamil youth from military custody in 1996 - was blocked from continuing his legal practice by university authorities. A Right to Information (RTI) application revealed that the action was instigated by intervention from the Sri Lanka militaryⁱⁱⁱ.
7. Muslim HRDs, who work on transitional justice issues have been targeted and the threats increased following the 2019 Easter attack. Nihal Ahmad, member of The People's Alliance for Right to Land (PARL) and activist working with families of the disappeared in Ampara (Eastern Province), has been called in for questioning by the Counter Terrorism Investigation

Department (CTID) on several occasions. He was summoned in October 2021, in the midst of Covid-19 related restrictions on movement; he also received several phone calls most recently in 2022. He is routinely asked to disclose personal details, organizational details, activities and whereabouts by intelligence officers (*Para 22*).

Militarization & Appointments

8. The Northern and Eastern Provinces - war affected areas, remain heavily militarized. Minority HRDs based in the North and East are forced to carry out their work in supporting victims, documenting violence in an extremely hostile context. Risks and intimidation drastically increased under Gotabhaya Rajapaksas presidency. Survivor-defenders and journalists speaking out against militarization and crimes committed during the civil war are particularly targeted.

9. Successive governments have failed to hold military and other authorities accountable for violations. President Gotabaya is himself accused of war crimes together with senior military officers like General (ret.) Kamal Gunaratne and General Shavendra Silva who have been reinstated and given even greater power.

10. Military and para-military leaders involved in gross human rights violations and hard-line monk Galagoda Aththe Gnanasara Thero were released from prison by President Rajapaksa. Gnanasara had been jailed for verbally abusing WHRD Sandya Ekneligoda in court (*Para 11*). In October 2021 Gnanasara was appointed as head of the Presidential Task Force on ‘One Country One Law’ which will have a direct impact on religious and ethnic minorities^{iv}.

Media rights – Freedom of Expression

11. Journalists especially those reporting in the North and East face direct intimidation. Sri Lanka ranks 146 in the World Press Freedom Index 2022. Press freedom remains fragile as journalists continue to face reprisals especially Tamil and Muslim journalists in the North and East (*Paras 23-24*). Journalists covering protests and reporting on state accountability in the South also suffer intimidation (*Para 25*)

12. The Press Council, designed to “regulate” freedom of expression, remains a major problem because the president appoints a majority of its members and currently the Press Council extends beyond print media to “new media”. This limits journalists and social media activists who express legitimate dissent^v.

13. Sri Lanka’s response to the COVID-19 pandemic further curtails freedom of expression^{vi}. In April 2020 and June 2021, police announced that those who spread false or derogatory statements about officials who are combating Covid-19 will be punished under law.

Legal Persecution - Arrests

14. Since Sri Lanka’s third UPR cycle, HRDs, especially Tamil and Muslim HRDs, have been increasingly labeled as criminals, anti-state, terrorists and have been arrested on baseless charges. In 2022, activists protesting linked to the ongoing economic crisis – have been arrested, persecuted without basis. Laws used by the authorities to target and persecute HRDs include the Penal Code (PC), the Prevention of Terrorism Act (PTA), the International Covenant on Civil and Political Rights Act (ICCPR), Public Properties Act, and Computer Crimes Act (CCA).

15. Police, military and the multiple and overlapping security/intelligence agencies including the CTID), play a key role in targeting and persecuting HRDs with insufficient legal checks. Investigations, interrogations and cases before court, are aimed at punishing HRDs for their work. The use of PTA and the threat of administrative detention, has a chilling effect, especially for Tamil and Muslim HRDs.

16. In April 2020, human rights lawyer and minority rights advocate Hejaaz Hisbullah^{vii}, was arrested and jailed for nearly two years under the PTA without basis. He was released on bail in February 2022 but the case against him continues. Hejaaz Hejaaz was one of the lawyers leading the legal challenge to the constitutional coup in October 2018. He has been a vocal advocate for on minority rights. No credible evidence against him was presented, and accusations against him have changed several times as the State struggles to justify his arbitrary detention.

17. In June 2020, WHRD and journalist Dharisha Bastians^{viii}'s home in Colombo was raided and her laptop was seized by the Criminal Investigation Department (CID). Since December 2019, the CID has attempted to link Dharisha to an inquiry into an allegation of abduction made by an employee of the Swiss embassy in Sri Lanka. Police claim this allegation is a conspiracy to discredit the government.

18. Education rights defenders – protesting against militarization of education have faced reprisals, including arrest. In August 2021, five education rights HRDs^{ix} were arrested due to their participation in peaceful protests against militarization of education - accused of offenses under “damaging public property”, “causing injuries to the fingers of a policeman” and “violating COVID-19 regulations” (*Para 27*).

19. In 2022, legal cases have been filed against a large number of protesters, peacefully campaigning for system change linked to the ongoing economic crisis. The law has been selectively used to target protesters while government supported mobs enjoy relative impunity. On 20 June, nine protesters^x were arrested for offenses including obstructing the duties of police, assault and under the Public Property Act. On 26 May, HRD and Buddhist monk Ven. Wekandawala Rahula Thero^{xi}, was arrested and falsely accused in seven separate incidents of violence linked to the protest. While those arrested have been released on bail there is no clear documentation of how many protesters and HRDs have been arrested/have cases pending (*Para 26*).

20. In February 2022, Shehan Malaka Gamage^{xii}, a young HRD seeking justice and accountability for the Easter Sunday bombings, was arrested by CID officers for “exciting or attempting to excite feelings of disaffection to the state” under Section 120 of the Penal Code of Sri Lanka. He was released on bail the following day but the case against him continues. The HRD has faced repeated threats due to his campaign for seeking justice for the Easter bombings.

Threats, Intimidation and Surveillance

21. State sponsored surveillance, threats including death threats, disruption of activities, and criminal investigations into funding and activities of HRDs have increased. In the aftermath of the 2019 Easter bombings Muslim defenders were placed under surveillance, offices raided, questioned about their work and funding. In the North and East similar restrictions and intimidation took place after Gotabhaya Rajapaksa assumed power. Names are withheld for security reasons. (*Paras 6, 8, 31-24, 23*) on transitional justice and restrictions on protests by families of the disappeared)

22. On June 7, 2022, HRD and journalist Kanapathipillai Kumanan^{xiii}, was intimidated by the Sri Lanka Police and Sri Lanka Navy while covering a protest against forcible acquisition of land by the Sri Lanka Navy in Mullivaikkal. The HRD was blocked from covering the protest, threatened with arrest and physically removed from the site. He was also threatened and assaulted in June 2019 while reporting on a dispute between two Hindu and Buddhist temples in Mullaitivu (*Para 12*).

23. On May 18, 2019, President of the Mullaitivu Press Club and journalist Shanmugam Thavaseelan was summoned for questioning by Mullaitivu police, after the Sri Lankan navy filed a complaint against him for reporting on a protest against enforced disappearances^{xiv} (*Para 12*).

24. Journalists and activists in the South protesting against state policies have also faced reprisals. On 28 June 2022, Sri Lankan journalist, HRD Tharindu Uduwaragedara^{xv} was interrogated at length by the CID on his work and reporting. The HRD has been a key figure in the ongoing protests seeking a system change in government. At the time of summons Uduwaragedara was not given a reason for the inquiry except that it relates to the content of his YouTube channel, and that a complaint had been made against him by the Intelligence Division of the Sri Lanka Air Force (*Para 12*).

25. Following the violence on May 9 2022 where unarmed protesters were attacked by pro-government mobs, thousands of protesters have been arrested (*Para xx*) and HRDs who have filed complaints seeking a credible inquiry into the violence have faced selective reprisals. On 26, May Fourteen protesters including HRD and Catholic priest Fr. Amila Jeevantha Pieris who are the witnesses to the violence of May 09 were ordered to surrender their passports to the CID until investigations are completed (*Para 20*)

26. In July 2021 following an education rights protest in Colombo, HRD and General Secretary of the Ceylon Teachers Union, Joseph Stalin^{xvi}, Ven. Gnanananda Thero and others were detained by police, and forcibly sent to military run quarantine despite being granted bail through court. In August and September, linked to peaceful student protests on education rights (*Para 19*), several HRDs including students, principals, union leaders, received intimidating phone calls, police visits to their homes and hostels and were forced into hiding due to security fears.

Online Intimidation

27. Smear campaigns, violence and threats online, deliberate misinformation targeting (W)HRDs has increased. Online threats carry a real risk of escalating physical threats to HRDs and their families. They have a direct impact on the feelings of insecurity and isolation faced by HRDs.

28. In 2020-2021 there have been serious online attacks including sexualized abuse, death threats and violence against Sandhya Ekneligoda^{xvii} - WHRD and wife of journalist Prageeth Ekneligoda. The abuse intensified around the imprisonment of Galagoda Aththe Gnanasara Thero (*Para 11*).

29. Achala Senevirathne a WHRD and lawyer appearing on behalf of families of the disappeared in what is commonly known as the 'Navy Abduction case' has been subjected to repeated harassment, threats and intimidation due to her work. The threats against her online carry direct risks of physical reprisals^{xviii}.

Restrictions on Freedom of Assembly

30. Since November 2019 freedom of assembly in the North and East has been increasingly restricted through court orders, violence, surveillance and citing Covid-19 regulations.

31. On March 20, 2022, a protests^{xix} by the Association for the Relatives of Enforced Disappearances against the Prime Minister Mahinda Rajapaksa's visit to Jaffna was disrupted violently by police. Two WHRDs were beaten and hospitalized due to their injuries. Since the families started their protests in 2017 across the North-East, many have been subjected to frequent questioning, home visits, and phone calls from intelligence officer. Even during the nationwide Covid-19 lock-downs, WHRDs linked to the protests were visited by intelligence officers at home and summoned for questioning (*Para 6*).

32. In February 2021, a protest march from Pottuvil, Eastern Province to Polikandi, Northern province (P2P)^{xx} was obstructed by police and security forces who threatened protesters, placed road blocks, and obtained court orders against the protest. Protesters who aimed to join the procession via vehicles were disrupted as nails were placed on the road at the military checkpoint in front of the Yan Oya bridge near Pulmoddai and Kinniya.

33. Memorialization of war victims by families and HRDs has a history of repression^{xxi}. On May 16 2021, the police issued an order issued by the Batticaloa Magistrate Court, to HRD and member of the Batticaloa district NGO consortium, Sabharatnam Sivayoganathan, restricting any public participation ahead of Mullivaikkal Remembrance day on 18 May. Similar court orders, and acts of intimidation take place around significant dates of memorialization, preventing persons from remembering and honoring their loved ones.

34. Obstructions on freedom of assembly in the South are increasingly visible due to the ongoing economic crisis linked protests. Peaceful protesters seeking a system change and accountable government have been met with disproportionate force including live ammunition, tear gas, water cannons, beatings and also surveillance, intimidation and court orders (*Paras 20, 26*)

Regulatory restrictions

35. Under the current regime CSOs and HRDs faced increased restrictions on funding, and their ability to work especially in the North and East. Routine inquiries, bank accounts being blocked, lack of approval and hurdles to work have increased. Names withheld for security reasons.

36. On May 30, 2019, The Mannar Social and Economic Development Organisation (MSEDO), a CSO that works on land rights campaigns in Mannar was raided involving dozens of armed army officers. They were questioned for hours regarding their funding, activities, registration, staff details, salary slips etc.

37. In August 2020, the government re-introduced proposed amendments to the Voluntary Social Service Organizations (Registration and Supervision) Act No. 31 of 1980, which if passed would further restrict the work of CSOs and their ability to access funds. In February 2020, the Sectoral Oversight Committee on National Security also recommended Empowering and legalizing of the NGO Secretariat and bringing it under the scope of the Ministry of Social Services or the Ministry of Defense as a state policy.

38. On 6 July 2022, former Prime Minister Mahinda Rajapaksa made a comment on his official Facebook account - that "NGOs are spreading slander against the government with regard to

foreign currency. Therefore, we will begin investigations into these NGOs and how these institutions are financed”.

Recommendations

Front Line Defenders calls upon the member states of the UN Human Rights Council to urge the Sri Lankan government to prioritize the protection of HRDs and in doing so to:

- a) Immediately and unconditionally stop the intimidation, threats, surveillance and violence against HRDs and hold any officer or state authority responsible, accountable.
- b) Immediately end all acts of legal harassment HRDs and civil society organisations, and ensure that legal provisions are not selectively used to target HRDs
- c) Repeal the Prevention of Terrorism Act and ensure that anti-terror laws are not abused as punishment for legitimate and peaceful human rights work;
- d) Ensure that HRDs supporting victims of violence, working on transitional justice, seeking accountability for war crimes, and especially family members and victims seeking truth, justice and redress are protected from all forms of violence, reprisal and intimidation;
- e) Guarantee the rights to freedom of expression and dissent, association and peaceful assembly and ensure that HRDs and journalists are not targeted for merely voicing their criticism against government policies and/or human rights violations;
- f) Extend a standing invitation to the United Nations Special Rapporteur on the situation of human rights defenders with a view to accepting their recommendations for the protection and independent functioning of HRDs and civil society in Sri Lanka;

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- i <https://www.hrw.org/news/2018/09/20/transitional-justice-efforts-sri-lanka-fall-short>
- ii <https://groundviews.org/2020/09/02/sinhalese-tamils-and-muslims-their-quest-is-the-same/>
- iii <https://www.frontlinedefenders.org/en/profile/kumaravadiivel-guruparan>
- iv <https://www.crisisgroup.org/asia/south-asia/sri-lanka/%E2%80%9Cone-country-one-law%E2%80%9D-sri-lankan-states-hostility-toward-muslims-grows-deeper>
- v <https://www.fmmsrilanka.lk/sri-lanka-press-council-law-no-5-of-1973-should-be-abolished/>
- vi <https://www.icj.org/sri-lanka-covid-19-restrictions-should-not-undermine-freedom-of-expression/>
- vii <https://www.frontlinedefenders.org/en/profile/hejaaz-hizbullah>
- viii <https://www.frontlinedefenders.org/en/profile/dharisha-bastians>
- ix <https://www.frontlinedefenders.org/en/statement-report/sri-lanka-government-must-consent-bail-detained-education-rights-defenders>
- x <https://protectdefenders.eu/sri-lanka-arrests-and-criminalisation-of-human-rights-defenders-in-the-midst-of-nationwide-protests/>
- xi <https://www.frontlinedefenders.org/en/profile/ven-wekandawala-rahula-thero>
- xii <https://www.frontlinedefenders.org/en/profile/shehan-malaka>
- xiii <https://www.frontlinedefenders.org/en/profile/kanapathipillai-kumanan>
- xiv <https://www.tamilguardian.com/content/tamil-guardian-correspondent-summoned-sri-lankan-police>
- xv <https://www.frontlinedefenders.org/en/profile/tharindu-uduwaragedara>
- xvi <https://www.icj.org/sri-lanka-immediately-release-peaceful-protesters-detained-under-covid-19-quarantine/>
- xvii <https://www.timesonline.lk/opinion/unchecked-threats-in-lanka/158-1046875>
- xviii <http://www.jdslanka.org/index.php/news-features/human-rights/950-sri-lanka-female-human-rights-lawyer-facing-continuous-death-threats>
- xix <https://srilankabrief.org/families-of-disappeared-tamils-were-blocked-by-police-on-their-way-to-protest-visiting-pm-rajapaksa-in-jaffna-photos/>
- xx <http://www.jdslanka.org/index.php/news-features/politics-a-current-affairs/1007-submit-or-suffer-p2p-and-muzzling-peaceful-protest>
- xxi <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25592> cited in https://www.ohchr.org/en/press-releases/2021/02/sri-lanka-experts-dismayed-regressive-steps-call-renewed-un-scrutiny-and#_ftn19