

05 September 2022

Joint Statement on Sri Lanka: Human rights violations and the rule of law

The Bar Human Rights Committee of England and Wales (‘BHRC’) and the International Bar Association’s Human Rights Institute (‘IBAHRI’) have previously expressed grave concerns at the deteriorating human rights situation in [Sri Lanka](#), and now wish to add to the chorus of respected global human rights voices drawing attention to the heightened environment of human rights violations, currently taking place in Sri Lanka under President Wickremasinghe which require urgent and immediate solution.

What has happened?

Since at least March 2022, Sri Lanka has been in the midst of a political and economic upheaval. An intense cost of living crisis and shortages of essential goods including food and fuel have created a desperate situation leading to a popular uprising calling for wholesale changes in the government. On 23 April 2022 the Bar Association of Sri Lanka (BASL) called for immediate constitutional amendment and referred to the “lack of meaningful Parliamentary oversight over the Executive especially after the enactment of the 20th amendment to the Constitution, allegations of lack of accountability and transparency and the perception of the existence of rampant corruption [that] have led to the present political unrest”¹.

President Gotabaya Rajapakse fled the country on 15 July 2022 to be replaced by Ranil Wickremasinghe, an appointment that was ratified by Parliament on 21 July 2022. This in itself has created controversy, has not produced a road map to recovery, nor has it secured the confidence of the popular uprising. Indeed, the following has occurred:

- President Wickremasinghe declared a State of Emergency on 15 July 2022.

¹ See accompanying Proposals of the Bar Association of Sri Lanka (BASL) to restore political and economic stability in the country, 23 April 2022

- On 20 July 2022 the United Nations [independent experts](#) expressed alarm at the record inflation, crippling fuel shortages, economic collapse leading to a ‘serious impact on the human rights of the entire population...Any response towards mitigating the economic crisis should have human rights at its core, including in the context of negotiation with the IMF.’ Food inflation was noted to be at 81%. The World Food Programme has launched an emergency response warning that nearly 62,000 Sri Lankans are in need of urgent assistance. Earlier in the year the [UN experts](#) urged the SL government to guarantee the fundamental rights of peaceful assembly and expression during peaceful protests by thousands of people.
- On 22 July 2022, his first day in office, President Wickremasinghe authorised the military and police to tear down the protest camp at Galle Face in repeated pre-dawn raids conducted without warning and described as a ‘massive operation’ resulting in the arrest of human rights defenders, lawyers and journalists. [BASL](#) has issued a statement that violence and force was used in the raids. BASL reports that at least two lawyers acting in their professional capacity were assaulted by security forces. The [UN](#) Human Rights office and the International Commission of Jurists has condemned these actions taken only hours before protesters had indicated the camps were due to be dismantled, and the reports of beatings of journalists and lawyers.
- President Wickremasinghe’s extension of the State of Emergency for a further month, imposition of a curfew, and granting of broad, discretionary powers to the security forces and the military on 27 July 2022, has been denounced by the UN Human Rights office as permitting the detention of protesters and the search of private property without due process or judicial oversight. New emergency regulations impose severe penalties include life imprisonment for offences such as causing ‘mischief’.
- BASL has published allegations it has received about arrests being carried out without adherence to due process and that police in civilian clothes without identification are carrying out arrests. The allegations are that arrested people are taken away in unidentifiable cars to undisclosed locations where they are kept for hours and prevented from consulting with their lawyers or the Human Rights Commission. On other occasions lawyers have been given misinformation about their clients who are left without representation.
- It is now being widely and credibly reported that Sri Lankan authorities are using the controversial and discredited Prevention of Terrorism Act (PTA) to detain protesters. In violation of international law, the PTA permits detention without charge for up to one year. Human rights defenders Wasantha Mudalige, Hasham Jeevantha and Galwewa Siridamma Himi were arrested under the PTA on 18 August 2022 and are being investigated for anti-state activities. Mary Lawlor, UN Special Rapporteur on Human Rights Defenders, has called on the President not to sign their detention orders. It is clear that charges of terrorism do not reflect any offences that protesters are alleged to have committed, such as, unlawful entry or damage to public property. Charges of terrorism in this context are excessive, disproportionate and unlawful.
- Most recently, the President has sought to introduce a 22nd amendment Bill which has been described by the [ICJ](#) as not making any substantive changes to curtail the executive powers of the President. An updated version of the Bill has also been criticised for falling short of the President’s undertaking when taking office to re-introduce the 19th amendment which contains significant checks on Presidential powers. The Presidency has been described as an ‘imperial presidency’ which has proved a ‘disaster for the economy and rule of law in Sri Lanka’.

- A coalition of international human rights organisations has already [condemned](#) the Sri Lankan government for the violent response to peaceful assembly and protest and the quelling of dissent through arbitrary arrest and detention and other unlawful means, including the criminalisation of peaceful protesters, lawyers and journalists.

As a party to the ICCPR Sri Lanka has an obligation not only to respect and protect the rights to freedom of assembly and expression but also to actively promote and facilitate their exercise. Under international law, to be lawful, any restrictions on these rights must satisfy the principles of legality, legitimate aim, necessity and proportionality. The imposition of criminal sanctions against peaceful protesters in this context is also unlawful under international law. General comment 37 of the UNHRC confirms the requirement to ensure laws and their interpretation do not result in arbitrariness or discrimination in the enjoyment of this right. Journalists and those involved in recording and reporting are entitled to protection.

Arbitrary arrests and detention violate the right to liberty and security of person, and the right to a fair trial as protected by the ICCPR. Detainees are being placed outside the protection of the law and at risk of ill-treatment, torture and being ‘disappeared’. The current economic crisis additionally aggravates widespread violations of economic, social and cultural rights protected by the ICESCR, such as the right to an adequate standard of living, including to food and to the highest attainable standard of physical and mental health. There are credible and alarming reports of serious and continuing violations of the ICCPR and ICESCR by Sri Lanka.

The BHRC and IBAHRI share the position of the coalition of human rights organisations condemning the actions of the Sri Lankan government and of President Wickremasinghe. We call on the international community to condemn the violations of human rights in Sri Lanka. We urge the Sri Lankan President to:

- Repeal the 19th amendment of the Constitution and to end the unchecked powers of the presidency as promised.
- End the use of the draconian PTA against peaceful protesters, and to repeal the same.
- Release all protesters who are held under the PTA.
- End the use of emergency regulations to arrest and detain protesters without lawful cause and to revoke the same.
- Protect and promote peaceful protest and free expression.
- Release all protesters held on charges of unlawful assembly, and:
 - Ensure that any acts of civil disobedience or criminal damage are investigated and prosecuted under domestic legislation in line with international standards.
 - Stop the targeting of journalists, lawyers and human rights defenders and ensure they have safe access to protest sites and are able to carry out their professional duties without fear of reprisal.
 - Refrain from using the military and security forces against peaceful protest.

- Reinforce the importance of the rule of law in all its actions; and
- Comply with the obligations of Sri Lanka under international law.

We urge the IMF to:

- Ensure that fundamental human rights protection and the rule of law lies at the core of funding agreements struck with Sri Lanka.
- Make adherence to fundamental human rights and the restoration of the 19th amendment of the Constitution a condition of any funding agreement.

Furthermore, we urge the IMF to require and the government to ensure that parliamentary elections are held and arranged and / or monitored by international bodies to restore confidence in parliamentary democracy.