

SRI LANKA: AND THE CRACKDOWN BEGINS

Joint Report with JDS Lanka
January 2020

INTERNATIONAL
TRUTH
AND JUSTICE
PROJECT



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CONTEXT

On 16 November 2019, Sri Lankans went to the polls resulting in the Sinhala majority electing Gotabaya Rajapaksa their President. As the former powerful war-time secretary of defence for a decade, Mr. Rajapaksa was a key figure in the war against the Liberation Tigers of Tamil Eelam (LTTE), in which the UN says war crimes and crimes against humanity were allegedly committed by state forces under his control. Mr Rajapaksa was far more than a civil servant, as a former military officer himself and brother of the then President, he issued direct orders to commanders on the battlefield and police officers.

In his election campaign, Gotabaya Rajapaksa promised to protect the Sri Lankan security forces from being held accountable for war crimes and crimes against humanity that occurred during and after the country's civil war¹. Mr. Rajapaksa's return to power was premised on the notion that Sri Lanka needed a strong man to take on terrorism and bring back security after the Easter Sunday bombings in Sri Lanka. Unfortunately, as President of Sri Lanka, he enjoys head of state immunity so long as he holds the post of President.

STRATEGY

The new President's strategy is to securitize and militarize Sri Lanka through appointing many of his former war time cronies in the military to key posts in state institutions and to take over functions normally handled by the police. The new Government's policy is to suppress any dissent and to crush any demands by the international community or domestically for justice and accountability for past crimes committed during the decade long conflict with the LTTE.

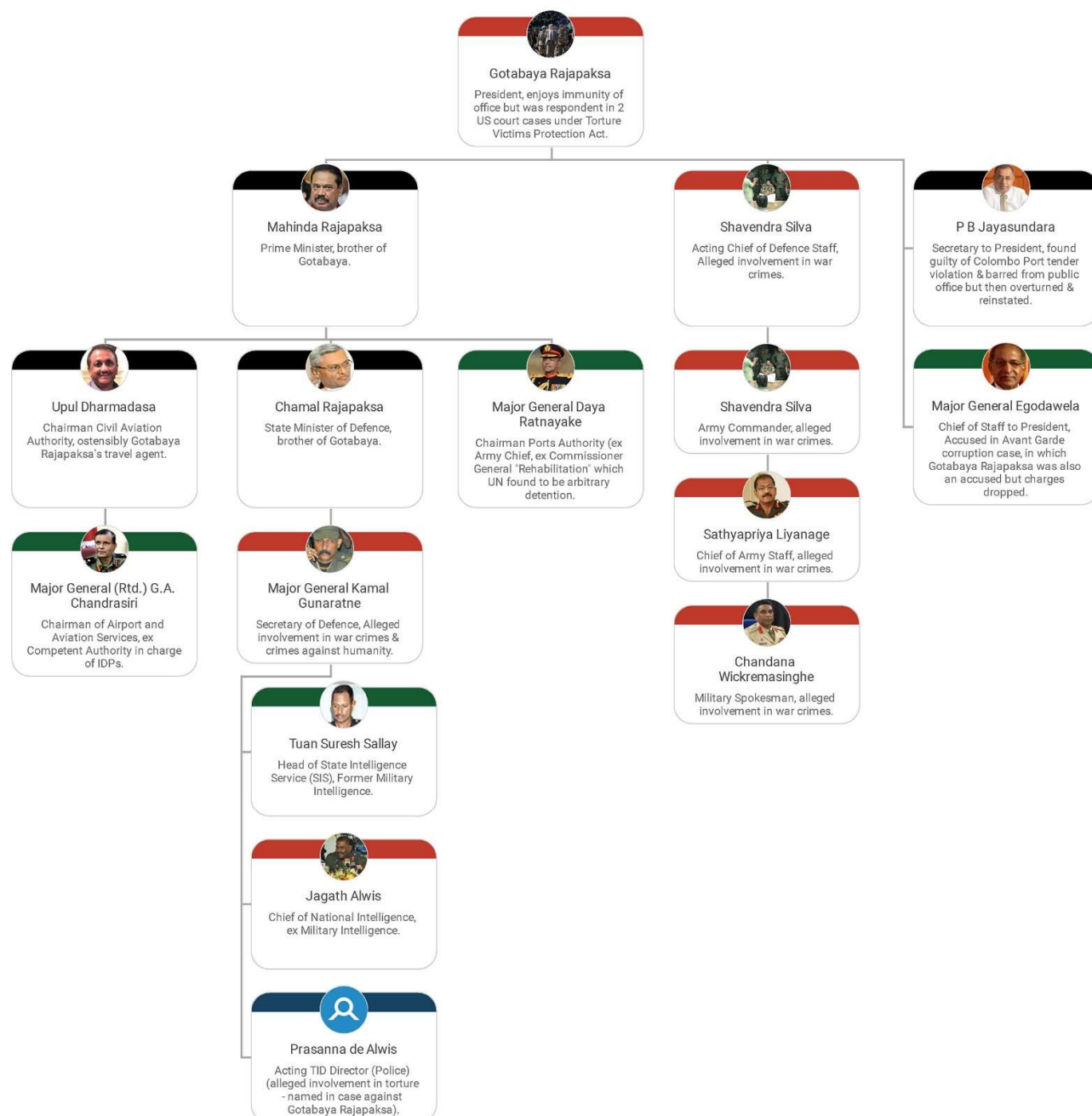
In this context he has also promised to rehabilitate alleged perpetrators close to him and has already appointed many individuals previously accused of corruption or alleged to have committed war crimes in his inner circle to key positions of power (see diagram). It is worth noting several appointments also come from Gotabaya Rajapaksa's former military regiment, the Gajaba Regiment.

¹ "A large number of war heroes are languishing in prisons over false charges and cases. I would like to declare at this moment that they will all be released by November 17th morning," Rajapaksa said. 'Gotabaya pledges to release imprisoned war heroes by Nov. 17, Adaderana, 9 Oct 2019. <http://www.adaderana.lk/news/58267/gotabaya-pledges-to-release-imprisoned-war-heroes-by-nov-17>

Pivotal to his strategy for rehabilitating his allies is an extraordinary presidential gazette notification (2157/44) of 9 January 2020, signed by Presidential Secretary P. B. Jayasundera, in which Gotabaya Rajapaksa establishes a Commission of Inquiry to look into political victimization “instigated through a special unit dealing with Anti-Corruption “between 8th January 2015 and 16th November 2019. This paves the way for those previously accused of corruption, including the President’s Chief of Staff, to be exonerated.

Appointments

[Red indicates Gajaba Regime]



Furthermore, Gotabaya Rajapaksa's current strategy is to target those organisations and individuals who document, report and litigate on behalf of victims, especially Tamils in the former conflict areas and to crush any opposition and suppress dissent. Gotabaya Rajapaksa's militarization and securitization policy has been calculated and well-orchestrated. The pre-election incidents set out in this report, were a precursor to the systematic, ruthless campaign of repression waged since his election.

Human Rights Defenders, journalists, and trade union activists have expressed concern at the intelligence collected insidiously through the "Occupation Information Sheets"² they are being required to fill in, detailing home and office ownership and leases, staff and inhabitants and their National Identity Cards, vehicle details. The state already has data from the last census and the electoral register.

The information collected for this report reveals a systematic clampdown by the police, army and intelligence services in Sri Lanka intended to terrorize and deter human rights activists and the media from documenting and reporting on issues of justice and accountability. The crackdown also targets Sinhala journalists in a post-election spate of retaliation against those perceived to have supported the opposition.

INTERNATIONAL ASSISTANCE

The context to this crackdown, which intensified in the run up to elections because significant figures in the security forces supported Gotabaya Rajapaksa, is the increased securitisation after the Easter Sunday bombings. In the wake of the bombings, which targeted three churches and three hotels and killed 253 people, questions have been raised about grave local intelligence failures. The response of the international community has been to offer increased support to the police in Sri Lanka while at the same time reminding the Sri Lankan authorities of their need to be human rights compliant. This approach does not factor in the routine use of torture in police interrogations which the UN as well as the US State Department and the UK Foreign and Commonwealth annual human rights reports have detailed for decades and may be perceived to condone torture.

Furthermore, governments who are assisting Sri Lanka with its counter terrorism measures after the bombings should be extremely cautious in their support to the Sri Lankan regime, lest they be perceived as facilitating a crackdown on human rights activists whose work has nothing to do with the bombings and terrorism and whose activities they have encouraged and supported up until now. The increased securitization has resulted in suppression of freedom of information and movement for local human rights defenders and an erosion of democracy.

THE LEGAL COVER FOR SECURITIZATION

In the wake of the Easter Sunday bombings a State of Emergency was declared³ and thousands of troops deployed for civilian policing duties, many of the units now led by officers implicated in serious international crimes and violations⁴. This emergency arrangement lapsed on 21 August 2019 and

² See sample at <https://twitter.com/gajenmahen/status/1215479993377214464>

³ **Sri Lanka declares state of emergency, grants army new powers after Easter attacks, 22 April 2019, France 24,** <https://www.france24.com/en/20190422-sri-lanka-attacks-nationwide-emergency-terrorism-security>

⁴ See ITJP and JDS Lanka, *The Men Now Patrolling Sri Lanka*, May 2019, http://itjpsl.webfactional.com/assets/press/2019_may_the_men_-_now_patrolling_sri_lanka_itjp_jds.pdf

was replaced by a series of extraordinary gazette notifications⁵ issued by the President calling out the army, navy and air force to maintain public order. The most recent gazette issued on 21 December 2019, intentionally legalises the role of the military in the securitization and militarisation of the state including through arrogating to themselves policing duties even though an extensive police and intelligence network already exists in the former conflict areas with sophisticated intrusive and extensive surveillance capabilities.

It also comes in a context where the President, the Secretary of Defence, the Chief of National Intelligence (CNI) and the head of the Special Intelligence Service (SIS) come from the military, either as serving or retired military officers. This is significant because the SIS and CNI jobs have previously been held by policemen, not soldiers. This against the backdrop of the police in 2013 having been placed under the authority of a new Ministry of Law and Order following international pressure to normalise the security establishment. Following the November 2019 elections the police have reverted back to the control of the Ministry of Defence because although 54 ministers⁶ have been appointed nobody was appointed as Minister of Law and Order. This appears to be part of the re-militarisation of the state, including the policing function in Sri Lanka. A number of police officials have privately expressed their deep concerns to journalists astonished that they themselves are the subject of surveillance by the military that now has more power than the police in day to day security affairs.

The control and oversight of the security forces involved in the incidents listed in this report rests squarely with the President who controls the defence portfolio which includes police, intelligence and military⁷. The current State Minister of Defence is Chamal Rajapaksa (brother of the President)⁸, the Prime Minister, another sibling is Mahinda Rajapaksa⁹, the President (and Minister of Defence) is Gotabaya Rajapaksa and the Secretary of Defence is a long-time ally of the President who fought in the same regiment in the eighties and directly under his command in 2009 when alleged war crimes were committed¹⁰.

RISKS IN DATA COLLECTION

The incidents in this report have been compiled by Sri Lankan activists who cannot be named because of the serious risks they face to their personal safety, and the 69 incidents are most likely only a fraction of the total number of incidents reported on. The information was collected up until the end of December 2019.

Key details of the institutions and individuals who have been targeted have been redacted for their safety, except where that information is already in the public domain. Though a detailed spreadsheet documents the incidents that have taken place, it is not being shared given sensitivity and witness protection concerns.

⁵ 22 November 2019, by Gotabaya Rajapaksa. The previous ones by President Maithripala Sirisena.

21 December 2019, by Gotabaya Rajapaksa, http://documents.gov.lk/files/egz/2019/12/2154-54_E.pdf

⁶ 38 of them state ministers – see next footnote. 28 Ministers at http://documents.gov.lk/files/egz/2019/11/2151-38_E.pdf NB. Some individuals hold multiple portfolios.

⁷ "31 institutions including the Department of Immigration and Emigration, the Identity Card office, NGO Secretariat, Telecom Regulatory Commission, National Media Centre, National Building Research Institute and even the Weather Department have been placed under the Defence Ministry. Prime Minister Mahinda Rajapaksa has been gifted 88 institutions while Minister Chamal Rajapaksa has been granted 26 institutions. Since Chamal Rajapaksa is also the State Minister of Defence (no Cabinet minister has been appointed), the Rajapaksa brothers are in control of 145 institutions." (<http://www.ft.lk/columns/The-Unravelling/4-691664>)

Specified in gazette: http://www.documents.gov.lk/files/egz/2019/12/2153-12_E.pdf

⁸ Official Gazette notification of appointments at http://documents.gov.lk/files/egz/2019/12/2154-55_E.pdf

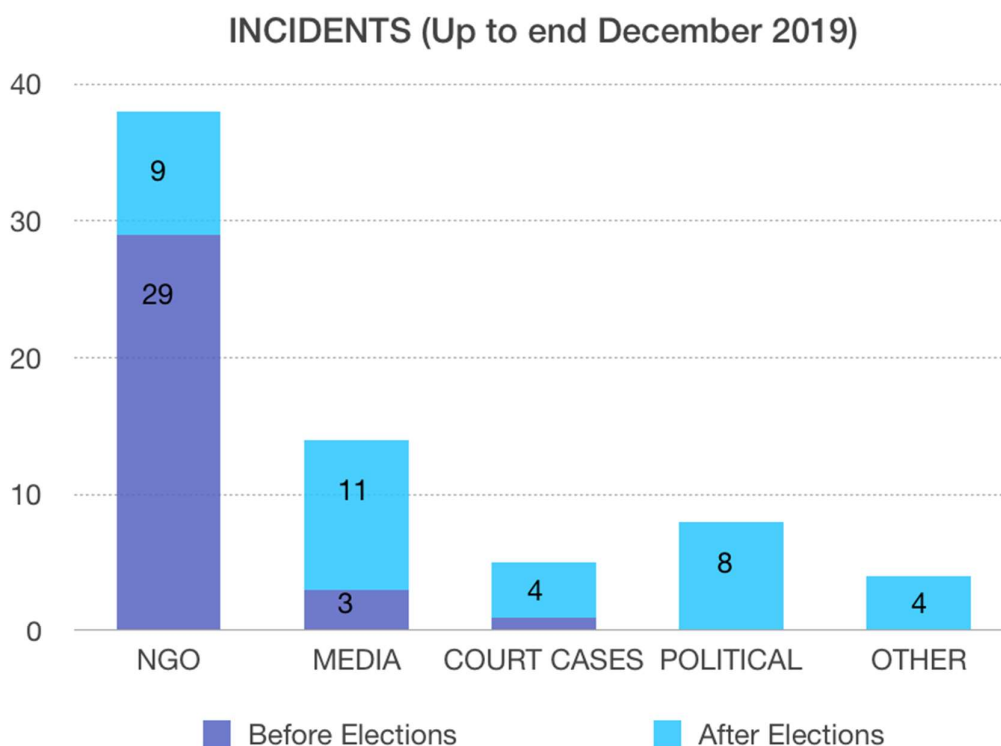
⁹ http://documents.gov.lk/files/egz/2019/11/2151-18_E.pdf

¹⁰ See Dossier on the Secretary of Defence: <http://www.itjpsl.com/reports/kamal-gunaratne>

PRE ELECTION INCIDENTS

NGOs in Colombo and the north and east of the island who work on issues like enforced disappearance, Prevention of Terrorism Act (PTA) detention and land rights are once again under intense scrutiny and have started receiving threatening visits from security officials in the months leading up to elections. Of the 33 pre-election incidents collected, which are by no means comprehensive, the visits intensified sharply in October 2019.

In 9 cases the officers who harassed or intimidated NGO staff introduced themselves (showing CID identity cards) or were known to be from the Criminal Investigation Department (CID) of the police; in 2 cases from the Terrorism Investigation Division (TID); in 5 cases they were believed to be from intelligence and in another 6 cases the policeman's identity or station was known to the NGO. Some NGOs even have the names and phone numbers of those who harassed and threatened them.



The chart summarises the incidents reported – those targeting NGOs and journalists as well as some focused-on lawyers and plaintiffs in ongoing court cases, and a number of opposition politicians and allied figures.

The questions asked by different security officials during these interrogations and interactions were consistent across different areas of the country, suggesting that an order had been given from high up to gather specific information. NGO staff were asked for the registration documents of the organisation, details of donors and funding sources, international links, details of employees (including broken down by gender and organisational structure) and activities, especially work on disappearances or connected to litigation. In some instances, NGO staff reported being followed by

plain clothes officers when conducting their field work. Others noted receiving sudden visits from security officials or being harassed by anonymous calls on their mobile phones.

"I got to know from their inquiries they have been told by the Defence Ministry to report on our work on disappearance to other units like the TID, Military Intelligence and State Intelligence Service who will also investigate us".

One NGO staff member was even advised by the police to leave their job and seek employment in another sector if the government changed. These ominous visits, menacing threats and intimidation as well as the interrogation of NGO staff suggests a systemic plan.

POST ELECTION INCIDENTS

NGOs

The intimidation and threats to NGOs have continued well after the 16 November elections. Organisations continued to be visited by police officers who interrogated staff members on whether they had sent information abroad to international organisations and demanding to know who their funders were. Questions were asked of several organisations about events being planned for international Human Rights Day (10 December).

Increasingly the questions are focused on individual NGO staff and their whereabouts; some have been summoned for questioning or in a few instances, hunted down so extensively that they were forced to flee the country.

JOURNALISTS AND MEDIA FREEDOM

Reporters Without Borders (RSF) described the last Rajapaksa government from 2005-15 as the "dark era" for media freedom in Sri Lanka.

A range of incidents targeting mostly pro-UNP activists and web journalists have been reported in the first weeks of the new government. Some media offices faced raids in which their computers and phones were unlawfully seized. One reporter described being called by a known official in the government and warned not to publish stories about the war and about accountability. Journalists for Democracy in Sri Lanka quoted the Internet Media Action (IMA) alleging the raids on the media offices were unlawful and conducted without a valid court order¹¹.

- On 22 November 2019, Tamil journalist Sakthivelpikkai Prakash, editor of Thinappuyal newspaper, was interrogated over his coverage of the war and asked, to provide the contact details of all his reporters, which he refused to do¹².
- On 26 November 2019, the office of *Newshub.lk* was raided¹³ and police searched their computers for the word "Gota".

¹¹ <http://www.jdslanka.org/index.php/news-features/media/919-fear-grips-journalists-after-new-sri-lanka-president-targets-opposition-media>

JDS further reports: 'The Free Media Movement (FMM), Sri Lanka Working Journalists Association (SLWJA) and the Professional Web Journalist Association (PWJA) denouncing the police action have highlighted that they are not challenging the authority of CID to question citizens for a valid reason. "Nevertheless, we believe that questioning journalists for hours, raiding premises and offices that house websites, without a valid reason or even a legally valid court order, is a formidable pressure on media freedom," said IMA convener Sampath Samarakoon.'

¹² <https://www.tamilguardian.com/content/sri-lankan-police-question-tamil-newspaper-and-demand-staff-details>

¹³ Reportedly with an expired warrant from the previous year.

- On 26 November 2019, the leader.lk YouTube channel newsreader Sanjaya Dhanushka was subjected to an eight-hour interrogation by CID Cyber Crime Division.
- On 29 November 2019, *voicetube.lk* journalist Thushara Sewwandi Vitharana was summoned and interrogated by CID for 6 hours reportedly after a complaint made by a Sinhala Buddhist organisation that backed Gotabaya Rajapaksa's election campaign¹⁴.
- On 4 December 2019, Convenor of Sri Lanka Social Media Association, Nuwan Nirodha Alwis, was visited by police in his home¹⁵.
- On 6 December 2019, Daily Mirror and Lankadeepa correspondent in Aluthgama Thusitha Kumara de Silva and his wife Anusha Kumari were assaulted, their home stormed by armed men, money and a mobile phone seized; a former UNP minister alleged on social media that a current minister was responsible¹⁶. District journalists stood in solidarity with the couple to demand justice. Five alleged assailants have been arrested¹⁷.
- On 10 December 2019, Maduka Thaksala Fernando of the New Media Department of the state-run Associated Newspapers of Ceylon Ltd. was assaulted even though he'd offered his resignation after the elections to make way for a new political appointee¹⁸.
- On 15 December 2019, Lasantha Wijayarathne who wrote a pro-UNP book on corruption under the Rajapaksa period, was reportedly beaten and had a gun put to his head by two persons wearing motorcycle helmets obscuring their faces who asked him "don't you see any good in any of the Rajapaksa projects?"¹⁹.
- On 19 December 2019, journalist Prasad Purnamal was assaulted²⁰. In a separate incident on the same day, state run media journalist Gayan Pushpitha was assaulted while covering the arrest of former Minister, Patali Champika Ranawaka²¹. The alleged assailant was seen in a video in a local government vehicle; the local government is under the control of the SLPP.

Sri Lankan journalists fear new gov't silencing dissent. 11 Dec 2019,

<https://www.aa.com.tr/en/asia-pacific/sri-lankan-journalists-fear-new-gov-t-silencing-dissent/1670591>

Presser by Dhanushka Ramanayake & <http://www.jdslanka.org/index.php/news-features/media/919-fear-grips-journalists-after-new-sri-lanka-president-targets-opposition-media>

¹⁴ <http://www.jdslanka.org/index.php/news-features/media/919-fear-grips-journalists-after-new-sri-lanka-president-targets-opposition-media>

¹⁵ Letter to President published in fb <https://www.polcade.lk/%E0%B7%83%E0%B6%B8%E0%B7%8F%E0%B6%A2-%E0%B6%A2%E0%B7%8F%E0%B6%BD-%E0%B6%B8%E0%B7%8F%E0%B6%B0%E0%B7%8A%E2%80%8D%E0%B6%BA%E0%B7%80%E0%B7%9A%E0%B6%AF%E0%B7%93-%E0%B7%83%E0%B6%82%E0%B6%9C%E0%B6%B8/>

"Two uniformed police officers and three in civvies who identified themselves as police officers who said they are from police headquarters questioned me about my media activities during the past period and questioned about websites that they themselves have decided were owned by me."

¹⁶ http://www.dailymirror.lk/breaking_news/Daily-Mirror-Lankadeepa-journo-family-attacked-by-armed-qang/108-179247

http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=215107

¹⁷ <http://www.ft.lk/news/Five-suspects-arrested-for-attack-on-Aluthgama-journalist-remanded-until-20-Dec/56-691454>

¹⁸ <https://www.wsws.org/sinhala/2019/2019nov/lswj-21n.html>

¹⁹ <https://www.wsws.org/sinhala/2019/2019nov/lswj-21n.html>

²⁰ SLWJA press release and local journalists and protesters <https://twitter.com/vikalpavoices/status/1207935567037632513>

²¹ SLWJA press release <https://twitter.com/vikalpavoices/status/1207935567037632513>

Although it is not reflected in the 2019 data, the Tamil Guardian reporter in Batticaloa, S. Nilanthan, was threatened and summoned to court in January 2020 in connection with his reporting on corruption²².

Predictably, the UNP has failed to defend the media even those journalists that had supported them; defeated presidential candidate and opposition leader, Sajith Premadasa was reported as expressing support for the new President's policies²³.

Social Media

Two key twitter accounts – one Tamil and one Sinhala²⁴ – closed down or ceased activity in the first week of the new government out of fear. They were both important news sources.



கரிகாலன் garikaalan
@garikaalan

Decided to leave this platform for awhile due to security concerns coupled with systematic racist-hatred-threatening campaign leveled against me soon after alleged war criminal @GotabayaR took office; deeply grateful for those who supported me in past. #Journalism_Is_Not_A_Crime

3:54 PM · Nov 21, 2019 · Twitter for iPad

Several activists reported being suddenly trolled in a systematic fashion on twitter in the first week – some said the trolls had pictures of Gotabaya Rajapaksa on their mastheads and most abuse was from accounts created in November or December 2019.



²² <https://www.tamilguardian.com/content/sri-lankan-police-charge-tamil-guardian-correspondent-over-reporting-local-government>

²³ UNP ready to support implementation of GR's policies, 18 Dec 2019, <http://colombogazette.com/2019/12/18/unp-ready-to-support-implementation-of-grs-policies/>

²⁴ <https://twitter.com/maratnasiri/media> and <https://twitter.com/garikaalan/status/1197543839046615042>

The abuse included physical threats and misogyny directed against women and started literally overnight:

This kind a bitches are everywhere. These bitches are doing anything for the money. More than suck a dick. Why can't someone kill this bitch ? This bitch is a disease. Like a cancer to our world .

You fucking pathetic bitch just because you've posted something on the net doesn't mean it's true. You weren't in Sri Lanka when LTTE fuckers bombers bomb everywhere and killing thousands of people. Including Tamils.

This bitch was groped from her friends in 2010 and raped her brother 2011. May be you guys didn't know. That's why this bitch hates countries so much.

Just because you've got a big dick in your ass, doesn't mean everyone must fuck you. For a instance, you can't tell anything about living homeless if you do not experienced it. Just like that bitch, you have no idea how terrified to live in

Many activists resorted to locking their accounts or to self-censorship. As the Canadian High Commissioner to Colombo tweeted, there was a definite silencing on twitter:



SWISS EMBASSY

The abduction of a female Tamil visa officer working in the Swiss Embassy has been extensively reported on. Switzerland is the only country in Sri Lanka to offer in-country humanitarian protection visas to Sri Lankans. This incident has resulted in victims being fearful to approach the Swiss Embassy, given well founded concerns about how secure their sensitive personal data is now that one of the key visa personnel has been in custody. The said official is reported to have said that she was forced to hand over the pin to her phone, which had applicant details on it, and the contents were reportedly downloaded. This suggests that the surveillance by the security forces using information technology is systematic, well planned and coordinated. Many activists have asked whether the equipment and software being used now against them, NGOs and journalists was been provided by foreign governments for counter terrorism.

The Government of Sri Lanka has subsequently demanded that Switzerland extradite the CID officer Nishantha de Silva who is reported to have sought asylum in Switzerland. At one point bizarrely, the Special Task Force of the police are reported to have raided the offices of their colleagues in CID, seeking the case files prepared by Inspector de Silva. Other key CID officers who worked with Inspector de Silva on the emblematic cases under the Sirisena government have been transferred or are being investigated²⁵ and are unable to leave the country. A great deal of fake news is circulating about the policemen and their links to groups abroad.

²⁵ SSP Shani Abeysekera interdicted, Daily Mirror, 7 Jan 2020, http://www.dailymirror.lk/top_story/SSP-Shani-Abeysekera-interdicted/155-180873

IMPACT

Human rights activists allege that individuals and groups who have actively advocated for war time accountability including truth recovery on the enforced disappearances are the ones being targeted. The government's strategy is to sow terror and intimidation and suppress dissent which many fear will prompt human rights defenders and critics of the Rajapaksa family to leave their jobs or even the country, if they can. Self-censorship is already setting in. Lawyers have postponed court hearings, while victim support groups say they are struggling to find people to accompany victims to police stations or hearings as everyone is scared.

Human Rights Defenders have expressed their fears that this is actually the honeymoon period and that following the parliamentary elections – expected in the coming months – there could be a more serious crackdown in which anyone expressing dissent or advocating for justice and accountability will be silenced. The lack of commitment and failure by the Sirisena regime to implement the transitional justice programme they committed to including security sector reform has resulted in military officials complicit in war crimes being returned to power and consequently the erosion on a daily basis of the rule of law.

Transfer: <https://colombogazette.com/2019/11/23/shanis-transfer-seen-as-politically-motivated/>

ASP B.S. Tissera transferred out of the CID, 1 Dec 2019, Colombo Gaette, <https://colombogazette.com/2019/12/01/asp-b-s-tissera-transferred-out-of-the-cid/>