

# **Sri Lanka: MPs' letters - the revival of a very dangerous practice**

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**There have been many reports in the media that Government MPs have sent the Police lists of persons to be arrested, and this habit appears to have been revived after the events of 9 May and the days that followed. Now, the media reports that thousands of arrests have been made and hundreds have been detained.**

First of all, this is a completely illegal practice; only the victims of grievances or witnesses to a crime should have the right to complain to the Police and have their statements recorded.

Parliamentarians, or anyone else who is not a witness in terms of the prevailing law, have no right to send some list to the Police and expect them to act on it. That amounts to interference with justice, which in itself is a criminal offense.

When such a list is submitted, the expectation of the person who submits it is that those named persons will be arrested, detained, and prosecuted. If the information contained in any such complaints, including a list submitted to the Police, is untrue, then it is an attempt to misuse the process of the law in order to achieve an illegal objective. It also amounts to misleading officers who will be involved in the arrest as well as the inquiries. This, too, is a crime punishable in Sri Lanka.

When the Police accept a list of this nature, they too are violating the law. There is no legal right recognised under the Code of Criminal Procedure or any other law in Sri Lanka that gives power to anyone who submits such a list. At the same time, Police officers who act on such a list are also violating the law, and if they arrest persons without detailed information of a crime, then that is a serious violation of not only criminal law, but also constitutional law. Sri Lanka's Constitution guarantees the right against illegal arrest and illegal detention.

While all these things are of importance, there is something much more sinister in this practice of submitting lists and also the Police accepting such lists. On several occasions in recent history, we have seen the disastrous effects of such a practice.

Immediate occasions that come to mind easily are the arrests of many innocent persons after the 1971 Janatha Vimukthi Peramuna (JVP)-led attacks on Police stations. Panicking due to the situation, authority was given to the Police and the military to arrest persons indiscriminately. What happened as a result demonstrated how such a license to arrest is misused in Sri Lanka. Many people who had grievances against each other sent lists of persons as being involved in the insurgency, and these persons were arrested immediately, without any inquiries. Arrests in such circumstances often led to torture for the eliciting of more information and killings and the disposal of persons. Thus, Sri Lanka's first experience of large-scale, enforced disappearances happened during this time, which was to recur over and over again in the decades to come.

In the second conflict with the JVP, this habit was carried out on a much larger scale. The commissions of involuntary disappearances that were appointed by President Chandrika

Bandaranaike Kumaratunga's Government listed tens of thousands of such cases. Most of these people who were arrested, and thereafter subjected to torture and killed and their bodies disposed of, were not involved in the conflicts in any way. Even if some were, there was no legal authority for the Police or the military to arrest, detain, torture, and kill them, and dispose of their bodies. Once again, the habit of utilising an unstable situation in order to settle private grudges or to eliminate political opponents was the major reason for these arrests and what followed, rather than the suppression of what were called "terrorist activities". The Police officers who were assigned to each of the Government MPs to guard their houses were used in order to arrest, detain, and dispose of these persons. It was during this time that the submissions of lists of political opponents by Government MPs with the view of having them assassinated were used on a very large scale.

The collection of lists also took place during the suppression of the Liberation Tigers of Tamil Eelam (LTTE) for several decades. The excuse of there being a war was used in order to justify such a practice.

This practice of arresting persons for political reasons, as reported in the media, is a revival of this dangerous and horrible practice.

This should be stopped as soon as possible.

### **Measures to put an end to this practice**

Firstly, the Government should issue orders and instructions to all Police stations ordering that this habit of accepting lists of persons from MPs or those who act on their behalf, directly or indirectly, should be stopped. It should be instructed that all arrests and detentions should take place only in terms of the provisions of the Criminal Procedure Code, that is after proper complaints have been recorded about a commission of any crime and evidence as to the individual suspected of having being involved in the commission of any of these crimes, by way of independent evidence.

Secondly, the submitting of such reports with the view to harm another person and also to get an officer to misuse their function in order to carry out an illegal act, which is a crime recognised in Sri Lanka, should be used against any MP or anyone else acting on their behalf.

Thirdly, if anyone is arrested as a result of such a list, the Police should report to the Magistrate in their first report that the reason for the arrest is a list that has been submitted by a particular MP or their agency. The Police are bound to make truthful reports to Magistrates, as otherwise it would amount to the misleading of the Magistrate in order to get a court order, which would amount to an offense. The misuse of the courts in this manner is itself a serious offense.

Fourthly, the national Human Rights Commission of Sri Lanka (HRCSL) should take this matter of MPs submitting reports for arrests with the Inspector General of Police (IGP) and other persons of the higher ranks of the Police into consideration, and devise ways to ensure that the revival of this practice, which has in the past led to extremely serious consequences, be stopped forcefully. The HRCSL should also supervise as to how far this practice is spreading and take other measures in order to hold both the persons who submit lists and the officers who act on these lists to be prosecuted.

Fifthly, the members of the Opposition political parties should immediately develop a strategy to counteract this measure and ensure the protection of the people.

Finally, those who are engaged in public protests, in particular, should take the revival of this dangerous habit as a threat not only to those directly affected by such, but also as one that has a potential to be used against all those who engage in peaceful protests about the grave wrongs that

are taking place in the country. Thus, the agenda of those who are engaged in a struggle to enhance democracy, the rule of law, and human rights should demonstrate their determination to have the revival of this practice suppressed as soon as possible.

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**Basil Fernando** is the Policy and Programmes Director of the Asian Human Rights Commission

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**P.S.**

The Sunday Morning

<https://www.themorning.lk/mps-letters-the-revival-of-a-very-dangerous-practice/>