

2021 April

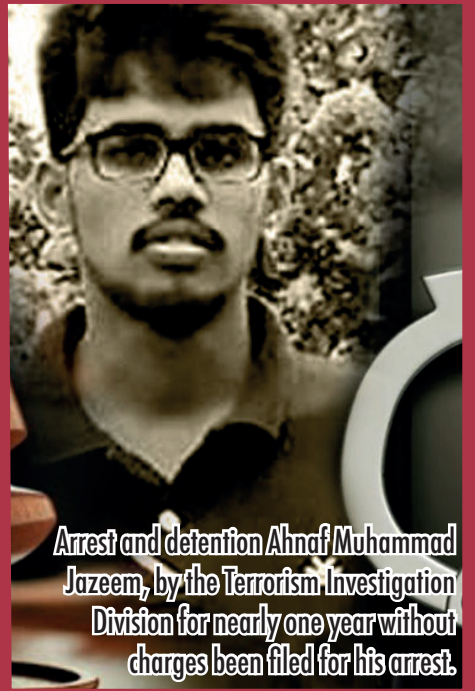
Issue No. 04



The arrest of freelance journalist Malika Abeykoon while covering a protest and assaulting him while in custody.



Cabinet approval for enacting laws against false and misleading statements made on the Internet.



Arrest and detention Ahnaf Muhammad Jazeem, by the Terrorism Investigation Division for nearly one year without charges been filed for his arrest.

This issue includes incidents reported during the month of April and summarised observations on developments/follow-up on previous incidents, pertaining to media freedom. The report has also considered challenges and violations related to the rights of journalists as well as the right of the public to express their opinion. Nine (09) new incidents related to the scope and components identified by the Free Media Movement, for monitoring have been observed during April 2021. The Free Media Movement released media statements regarding two violations while a joint statement for another incident was released as a media collective with several media organisations.

New Incidents reported in April

1. Circular issued denying journalists the right to cover activities of District and Regional Development Committee meetings.
2. The arrest of freelance journalist Malika Abeykoon while covering a protest and assaulting him while in custody.
3. Filing a Fundamental Rights Petition with the Supreme Court against the arrest and detention of a Tamil language teacher and poet, Muhammad Ahnaf Muhammad Jazeem, by the Terrorism Investigation Division for nearly one year without charges been filed for his arrest.
4. A motion to dismiss cases in which members of the public service and members of the security forces have been accused, including crimes against journalists included into the Order Book of Parliament.
5. Cabinet approval for the proposal made by the Ministers in charge of Justice and Mass Media to enact laws against false and misleading statements made on the Internet.

6. Disciplinary inquiries and transfers for two public servants on allegations that they criticized the President through Facebook posts.
7. The arrest of Asela Sampath, National Organizer of the Restaurant Owners' Association, in connection with an old litigation matter, after he criticized the quality of the content of the relief pack provided by the CWE during the New Year.
8. The request by the International Court of Justice (ICJ) from Sri Lanka to reject the motion to suspend proceedings against military and senior government officials accused of war crimes and corruption.
9. Police arrest a youth for requesting vehicles owners to toot their horns in protest for stalling traffic on a road in Borella to allow a convoy of VIP vehicles to pass.

Table Number 01: Overall Incidents Reported - April 2021

No.	Components covered	Number of Incidents reported
01	Safety and security	01
02	Legal conditions	08
	Total	09

The safety and protection of journalists

The environment for journalists to pursue their vocation freely with embodied physical and mental cohesion is an essential factor in guaranteeing media freedom. Similarly, in order to establish media freedom and the freedom of expression, there must be an environment in which citizens can freely express themselves through media platforms or in other manner without any risk of undue consequences or repercussions.

An incident that challenged this basic freedom was observed in April.

Table 2: April 2021: Safety and protection of journalists - Incidents 01

No.	Incidents	Number of reported incidents
01	Physical abuse	01
	Total	01

New Incidents during the month:

1. Freelance journalist Malika Abeykoon arrested while covering a protest and assaulted while in custody

Malika Abeykoon, a freelance journalist and photographer was arrested by the Maradana Police on 07-04-2021 while capturing photographs of

a protest conducted by health workers near the Colombo National Hospital. He is also an activist of the Frontline Socialist Party and a former student leader of the Open University of Sri Lanka.

He was arrested and assaulted while being taken in a police jeep and inside the police station. The Police

initially obstructed a lawyer and his friends who had visited him while in police custody. The Police have also rejected a request for the victim to be produced before a doctor for a medical examination.

He was produced before the Maligakanda Magistrate's Court on April 08 with a medical report stating that he had not been assaulted and or injured. However, when confronted with objections raised by representatives of the victim, the Magistrate ordered the Prisons Medical officer to file a separate medical report. The Magistrate also ordered Malika Abeykoon to be remanded until the 12th of this month. He was released on bail the 12th after he was produced in courts.

The Free Media Movement, strongly condemned the incident and demanded the immediate release of Malika Abeykoon while urging the authorities to conduct a formal and impartial inquiry, in a strongly worded statement released to the media. (Statement: <https://bit.ly/2SmdBXb>)

Meanwhile, activists of the Frontline Socialist Party (FSP) staged two separate protests in front of the National Hospital and in front of the Maradana Police against the arbitrary arrest and assault of Malika Abeykoon.

Legal conditions

Seven incidents within the scope of legal conditions related to media freedom were observed in April. These incidents are subdivided into separate subcategories namely, litigation, restrictive legislation on media freedoms, legal reform, and impunity against cases involving journalists.

Table 3: April 2021: Legal Conditions – Incidents 07

No.	Incident	Number of Incidents reported
01	Initiating legal action (litigation)	04
02	Restrictive legislation on Media Freedom	01
03	Proposals for legal reform	01
04	Impunity against cases involving journalists	02
	Total	08

New Incidents during the Month

1. Circular issued denying the existing rights of journalists to cover the activities of District and Regional Development Committee meetings.

A new circular containing guidelines for conducting District and Regional Coordinating Committee meetings was issued under the signature of the Secretary to the State Ministry of Defense, Home Affairs and Disaster Management, General Kamal Gunaratne (Retd.). The circular No. 2/2021 has taken away the existing opportunity for the media to cover relevant meetings.

The circular states that journalists who wish to cover

the proceedings of these meetings, could conduct separate discussions after the committee meeting with the Chairman and the people's representatives of the relevant District or Regional Coordinating Committees.

However, circular No. 6/2017 dated 22-05-2017, issued by the Ministry of Home Affairs which was valid until the new circular was issued, pertaining to the conduct of District and Regional Coordinating Committees states otherwise.

In this circular No. 6/2017 dated 22-05-2017, paragraphs 25 and 26 clearly state that the relevant

meetings are freely open to the media and that it further identifies it as a responsibility of the relevant Divisional Secretariat / District Secretariats to provide the necessary facilities to the journalists.

District and regional development committee meetings are a major source of information for the media on development activities in the respective areas and concerning government decisions. Therefore, the coverage of those meetings was an important responsibility in the duties of local journalists. This circular denies access to that information. This circular is a regressive step in a context where the right to information has been enacted as a law in the country.

When the Lankadeepa website inquired about this from the Minister of Mass Media on April 4, 2021, he had stated that he was not aware of this development. Source: <https://bit.ly/3x5WFnH>

The Matala Print Media Journalists' Association has sent a letter to the Minister of Mass Media and Information dated 20-01-04-07 protesting against the restrictions imposed on the media by the above circular.

2. Submission of a Fundamental Rights Petition to the Supreme Court against the arrest and detention of a Tamil language teacher and poet Muhammad Ahnaf Muhammad Jazeem by the Terrorism Investigation Division for nearly a year without filing any charges.

Mohammed Ahnaf Muhammad Jazeem was arrested by the Terrorism Investigation Division on May 16, 2020, and a fundamental rights petition was filed in the Supreme Court on April 10 against his prolonged detention.

Secretary to the Ministry of Defense Kamal Gunaratne, Inspector General of Police, CTID Director Prasanna de Alwis, Director of the CID and the Inspector of Police of the Vavuniya Unit of the Terrorism Investigation Division K.K.J. Anura Shantha and the Attorney General have been named as respondents in this Fundamental Rights Petition.

The petition has challenged the order issued on May 19, 2020, for the detention of Ahnaf, including his torture while in custody and for forcing him to admit the fabricated charges against him, according to Attorney-at-Law Sanjaya Wilson Jayasekara quoted by the JDS website.

(Sources <https://bit.ly/3voScen>)

3. Incorporation into the Order Book of Parliament a motion to dismiss cases in which members of the public service and members of the security forces have been accused, including crimes against journalists.

A proposal by the Prime Minister to implement the recommendations of the Presidential Commission on Political Victimization (Upali Abeyratne Commission) was included in the order book of Parliament on 21st April.

According to statements made by Anura Kumara Dissanayake of the National People's and Eran Wickramaratne of the Samagi Jana Balawegaya at two separate media conferences, the commission had recommended the withdrawal of 70 cases filed against military and other government officials. The cases pertaining to the murder of Lasantha Wickrematunge, abduction and assault of Keith Noyar, assault on Upali Tennakoon and abduction and disappearance of Prageeth Eknaligoda during the period of President Mahinda Rajapaksa are among them. (Source <https://youtu.be/Hlokzwt3Y>) The Commission has recommended that these cases be withdrawn on the basis that members of the security forces are defendants in those cases.

Meanwhile, the final report of the commission was taken up for debate in the House on April 22 and 23, as an adjournment motion and the recommendations came under severe criticism of the opposition members.

4. Approval of the Cabinet to the proposal made by the Ministers in charge of Justice and Mass Media to enact necessary laws to protect against false and misleading statements made on the Internet.

The Cabinet approved the proposal made by the Ministers in charge of Justice and Mass Media to enact the legislation against false and misleading statements made over the internet. A press release on Cabinet decisions issued by the Government Information Department on April 19 states the objectives of the relevant legislation. as follows;

“The spread of false information on the Internet poses a serious threat and is seen as being used to divide society, to spread hatred and to weaken democratic institutions. Various countries have already taken steps to legislate in order to address this problem. Steps should be taken to provide access to accurate information to citizens and civil society by introducing a new law to protect society from the

harm caused by false propaganda on the Internet. Accordingly, the Cabinet of Ministers approved a resolution tabled by the Minister of Justice and the Minister of Mass Media to advise the Legal Draftsman to draft a bill for the relevant issue.” (Source, <https://sinhala.dgi.gov.lk/cabinet-decisions-sri-lanka>)

The Minister of Mass Media and Information and the Minister of Justice have commented to the media from time to time regarding the need to introduce new laws and it is clear that this proposal is an implementation of those ideas. On April 19, the Daily Mirror reported that the Minister of Justice in a media conference held concerning the proposed Port City Bill has stated that the purpose of the proposed new laws was aimed at 'ensuring national security, communal harmony, protecting the privacy of the public and to discourage the spread of misinformation about development programs.' (Source, <https://bit.ly/3tzbq05>)

The Free Media Movement issued a statement indicating their strong disapproval and warning that the relevant cabinet decision could be extremely detrimental to the right to freedom of expression and media freedom.

The statement further identified that government intervention instead of a holistic regulation would pave the way for the introduction of repressive legal provisions providing the authorities the opportunity to violate the right to freedom of expression and to suppress the media by defining 'false and misleading' news to suit their own requirements of control and power.

5. Commencement of disciplinary inquiries and transferring two public servants for allegedly criticizing the President through Facebook posts.

Disciplinary action has been initiated against two employees attached to the district offices of the National Transport Medical Institute charging that they have criticized the president through posts published on Facebook. They have been temporarily transferred to other workstations.

The transfers were made on the orders of Dr. Savindra Gamage, Chairman of the National Transport Medical Institute, by a letter dated 202.03.29 signed by the Additional Secretary to the State Ministry of Vehicle Regulation, Bus Transport Services, and Train Compartments and Motor Car Industry.

Tamil National Alliance MP Shanakkiyan

Rasamanikyam questioned Minister Gamini Lokuge in Parliament and the Minister responded by stating that although it came under the purview of the State Ministry, he had also called a report on this incident. Source, <https://bit.ly/3v2byWo>

Incidents of legal action against individuals have been widely reported in recent times based on various publications on social media, but this is the first time that disciplinary action has been reported at an institutional level in connection with 'criticizing the President'.

6. Arrest of Asela Sampath, National Organizer of the Restaurant Owners' Association, in connection with an old case, after criticizing the quality of the content of the relief pack provided by the CWE during the New Year.

Sathosa, with the intervention of the Minister of Trade, provided a relief pack to the value of One Thousand rupees. Asela Sampath, National Organizer of the Restaurant Owners' Association, criticized the quality of the contents of the relief pack at a press conference. (Source, <https://bit.ly/3dXya4P>)

He was arrested by Slave Island police on April 13 following the news conference on April 12 and remanded until April 19 after being produced in court. He was released on bail on April 19 by the Fort Magistrate.

The government has said that there was no connection between the arrest of Asela Sampath and his criticism and that he was arrested on a warrant issued for failing to appear in another court case against him. However, the 'Jana Bala Pavura', which Asela Sampath represents, insisted that the arrest was made due to the criticism levelled against the relief pack. Senaka Perera, Asela Sampath's lawyer, said that in addition to enforcing the old warrant, the government had filed separate charges against him stating that he had obstructed the work of the government and the sales of Sathosa had dwindled due to his criticism.

Trade Minister Bandula Gunawardena made a statement in Parliament on April 23 denying the allegations made by Asela Sampath regarding the relief pack. The Minister further stated that the CWE Chairman, the Dasa Group and the relevant tea supplier have lodged complaints with the police against Asela Sampath regarding the allegations made by him and that they have informed their lawyers to take legal action against him for defamation. Source,

<https://bit.ly/3u0SIyG>

The background to this incident is controversial, but it shows the tendency to take strong action against those who criticize the current government.

7. Request by the International Court of Justice (ICJ) from Sri Lanka to reject the proposal to suspend proceedings against military and senior government officials accused of war crimes and corruption.

The International Court of Justice (ICJ) has called on Sri Lanka to reject a motion to suspend trials of military and top government officials accused of war crimes and corruption, in line with the recommendations of the commission appointed by the President to look into political victimization.

In a statement issued on 23-04-2021, the organization stated that the report of the relevant commission has been widely discredited as an "insult to the independence of the judiciary and the rule of law" and is not accessible by the public.

The commission has also proposed the withdrawal of cases related to crimes such as the murder of Sunday Leader editor Lasantha Wickrematunge, the enforced disappearance of journalist Prageeth Eknaligoda and the abduction of journalist Keith Noyar. The statement also points out that the commission had recommended legal action against those who filed charges namely officers, lawyers and prosecutors on charges of "fabricating" evidence and engaging in corruption.

It added that "this is a complete attack on a free and independent judiciary for legal professionals and prosecutors to take action on their professional and statutory duties and this recommendation should be rejected outright."

The statement added that this would hamper the independent functioning of the judiciary and violate the principle of the segregation of powers as judicial decisions and judicial matters are re-evaluated outside the judicial structure.

Source, <https://bit.ly/3esqmac>

8. Police arrest a youth for calling vehicles to toot their horns in protest for stopping traffic on a road in Borella to allow a convoy of VIP vehicles

On the night of April 27, Borella police arrested a young man who requested other drivers to protest by tooting their vehicle horns in protest of the closure

of Sir Marcus Fernando Mawatha in Borella to accommodate for the convoy of the Chinese Foreign Minister. The arrested protestor Naveen Madhava, is a 31-year-old resident of Battaramulla.

According to Police Media Spokesperson IGP Ajith Rohana, he was arrested on charges of obstructing police duties and organizing an unlawful assembly. (Source, <https://bit.ly/2PJgwZf>)

He was produced before the Fort Magistrate's Court on the 30th, and released on bail and the case was adjourned to the 12th of May. Speaking to the media after being released on bail, Naveen Madhava said he had done something wrong and apologized to the Sri Lankan government and police. He declined to comment when asked by a journalist if anyone had forced him to apologize. (Source, <https://bit.ly/33bQ25z>)

The incident was videotaped by the same young man on his mobile phone and posted on social media which was widely circulated. The video showed the young man asking police officers as to why the road was closed, and after he was informed that it was for a precautionary measure, he addressed motorists parked on the road and asked them to toot their vehicle horns in protest. (Source, <https://bit.ly/2ShqUrT>)

Following the arrest of the youth, the issue was widely debated in the media and a statement was issued by a media organizations collective, including the Free Media Movement, emphasizing that 'denying the right to peaceful protest is a denial of the right to speech and expression'.

The verdict of the popular Jana Gosha case (264 SLR (1993) 1) states that honking in protest is a component of the right of speech and expression, the media collective statement emphasized that the Supreme Court has previously upheld the right of any citizen to protest against any action.

Table 4: media Freedom:
Number of Incidents reported to the Free Media Movement from January to April 2021

Covered component	January – March 2021	April 2021
Safety and Protection	13	01
Legal Conditions	14	08
Media Independence	01	
Total	28	09

[Media Freedom Rights Monitoring Reports- 2021 January -March](#)

Footnote: The Free Media Movement recognizes that media freedom is a human right, in line with civil society aspirations, national and international judgments, and international conventions.

Everyone has the fundamental right to the freedom of thought, conscience and religion and the basic right to know the views of others without a hindrance. On this basis, the Free Media Movement considers media freedom to be a collection of the following ten components. (1) Freedom of thought (2) Freedom of opinion (3) Freedom of speech (4) Freedom of expression, including peaceful assembly (5) Freedom of information (6) Freedom of maintaining audio, video recording and record keeping (7) Freedom of publication (8) Freedom of the press (9) Freedom of the electronic media (10) Freedom of the Internet.

There is a symbiotic relationship between these components and the Free Media Movement recognizes that the limitations imposed on one component invariably restrict the freedom enjoyed through the other components of media freedom. The Free Media Movement also emphasizes that using these freedoms irresponsibly and in hatred is not a beneficial use in practice.

These monthly reports are prepared by analyzing media reports and further information available to the free media movement. In this analysis, the Free Media Movement uses selected criteria through seven internationally recognized components that cover the aforementioned tenfold media freedom components.

Media Freedom Rights Monitoring Desk Supported by Program on Independent Journalism



Free Media Movement

Convener | Seetha Ranjanees +94 77 731 2460 | Secretary | Lasantha De Silva +94 71 166 7938
 Treasurer | Thaha Muzammil +94 77 374 1026
 No 96, Bernard Soysa Mw, Colombo 05. Tel: +94 112368895 Fax: +94 112368895;
 Web: www.fmmsrilanka.lk, www.mediareform.lk
 Email: fmmsrilanka@gmail.com | Facebook: <https://www.facebook.com/fmm.srilanka>
 Twitter: <https://twitter.com/FMMsrilanka> | #FMM25