



TRUTH IN A TIME OF CONTAGION: THE VIRAL FRONTLINE SRI LANKA COUNTRY REPORT

19TH ANNUAL SOUTH ASIA PRESS FREEDOM REPORT 2020-21

SRI LANKA SHORING UP SOLIDARITY, STOPPING THE SLIDE

The year 2020 was dominated by the Covid-19 pandemic and a discernible shift towards quasi-authoritarian executive rule in Sri Lanka.

There were no assassinations, abductions, or imprisonments of journalists in the period under review. Yet, freedom of expression remained restricted in multiple ways. Notably, the democratic gains of the 2015-2019 period continued to be reversed under the new Rajapaksa presidency.

For freedom of expression to thrive, or even to merely exist, an enabling environment is vital. Therefore, looking beyond the statistics is critical and Sri Lanka is a case in point.

President Gotabaya Rajapaksa's government has reintroduced absolute executive rule, militarisation and securitisation of the state, abolishing the separation of powers and vital institutional checks and balances necessary for a functioning democracy. The presidency bases itself on a majoritarian ethno-nationalistic ideology and discriminatory practices towards ethnic and religious minorities are becoming the norm.

Significantly, the 20th Amendment to the Constitution passed in October 2020, brought the independent commissions under the president's purview. It now gives the president sole and unfettered discretion to appoint all judges to the Superior Courts in the country. Ironically, one of the most progressive international instruments, the International Covenant on Civil and Political Rights (ICCPR), has been used to suppress dissent. Despite the Human Rights Commission of Sri Lanka issuing clear directives to the police, there is evidence that the ICCPR Act is now being widely misused.

The fear psychosis created by the pandemic in 2020 was used as a pretext to introduce rules, regulations and practises that infringe freedom of expression and other rights in the country. The police also introduced new regulations to curb criticism in the guise of monitoring and preventing misinformation during the pandemic.

The general election held on August 5 2020, resulted in the Rajapaksa-led Sri Lanka Podujana Peramuna (SLPP) party winning an absolute parliamentary majority. President Gotabaya Rajapaksa's elder brother and former president Mahinda Rajapaksa was appointed to the post of Prime Minister. Both the presidential election and the parliamentary election saw decisive majoritarian politics gaining ground. Once elected, the president declared he had been elected to office by the Sinhalese Buddhist majority.

In March 2020, the Sri Lankan government had withdrawn from all consensus resolutions adopted by the United Nations Human Rights Council on 'Human Rights, Reconciliation and Accountability in Sri Lanka'. While withdrawing from the resolutions, the Sri Lankan government stated that it "will also address other outstanding concerns and introduce institutional reforms where necessary, in a manner consistent with Sri Lanka's

commitments, including the 2030 Sustainable Development Goals (SDGs)". Peace, stability, human rights and effective governance, based on the rule of law are prerequisites for goal 16 of the SDGs, and Sri Lanka lags on this.

By March 2021, a new contested resolution on the same theme was adopted by the 46th session of the United Nations Human Rights Council. The resolution requests the High Commissioner for Human Rights to provide updates of the human rights situation in Sri Lanka every six months until September 2022. A high-level human rights officer will be appointed for monitoring of the human rights situation in Sri Lanka to facilitate the updates.

The government reiterated its intentions to implement state-controlled media regulations for print, electronic and social media. A new law to monitor the non-governmental sector is also being planned and the NGO secretariat was brought back into the purview of the Ministry of Defence.

Yet, all is not bleak. Social media has become the platform of choice for expression of views and news. Political satire has become a popular method of anonymous dissent. A slew of new websites, YouTube channels and Facebook pages keep the media landscape alive and vibrant.

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MUZZLED IN MARCH

A series of events in just one month in 2021 provide a snapshot of freedom of expression in Sri Lanka at this point.

On March 5 2021, the Sri Lankan government issued a directive to ban the import of Islamic books without permission. As a result, it will be the Ministry of Defence (under the President) and not an institution of scholars, that now decides what Islamic content is appropriate for dissemination in Sri Lanka.

On March 9, the Prevention of Terrorism (De-radicalisation from Holding Violent Extremist Religious Ideology) Regulations were issued – expanding on the Prevention of Terrorism Act (PTA). The regulation allows the authorities to detain and 'rehabilitate' anyone who "by words either spoken or intended to be read or by signs or by visible representations" causes the commission of violence or "religious, racial or communal disharmony or feelings of ill will or hostility between different communities or racial or religious groups". The same day, lawyers appearing for detained poet Ahnaf Jazeem complained to the Bar Association of Sri Lanka (BASL) about the Terrorism Investigation Division (TID) officers listening to and recording conversations between lawyers and their clients. Their letter to BASL stated that the entire conversation was under police surveillance, proper legal access was denied

to their client, and that the TID has made the lawyers appearing for detainees the objects of their investigations.

On March 10, Sujeewa Gamage, a freelance journalist, was allegedly abducted and assaulted to extract information from his data storage device. He was hospitalised and upon his discharge was arrested by the police for 'fabricating' the incident. Journalist unions urged the government to expose the truth about his abduction and assault. In a further denial of rights, Gamage's lawyer, Namal Rajapaksa, was not allowed to provide legal assistance to the journalist.

On March 13, the Minister of Mass Media, Keheliya Rambukwella, ordered the chairman and the board of directors of the state-owned Sri Lanka Broadcasting Corporation (SLBC) to resign with immediate effect – without providing any reason or explanation. What seems clear is that influential state media is now being controlled by politicians in power. The same day, Public Security Minister, Sarath Weerasekara, told the media that he had signed a cabinet order banning the burqa and other face coverings in public, on grounds of national security. Rights activists expressed concern that such a move could violate the right to religious freedom.

On March 14, a young student, Bhagya Abeyratne, complained about the unchecked ecological destruction taking place in the Sinharaja rainforest during a TV program. Male police officers questioned her and recorded a statement a few days later. The minister in charge of forest conservation cautioned the student and she later told the media that her entire family was placed under police surveillance. A hate campaign was also unleashed against her, even calling for her to be stoned to death. Journalist groups condemned the harassment of Bhagya Abeyratne stating that instead of discouraging her, she should have been praised for speaking up. Defence Secretary General Kamal Gunaratne (Retd) stated: "As the authorised body of the country to protect national security, we don't hesitate to arrest and implement the law against anyone who attempts to break the law of the country by sowing seeds of hate politics and provoking public peace". In practice, this policy has so far only applied only to the minority communities in the country.

On March 16, the leader of the National Unity Front and former Western Province Governor, Asath Salley, was detained under the provisions of the Prevention of Terrorism Act and ICCPR Act in connection with a statement made on March 10.

On March 19, the president's office ordered the demolition of a large mural depicting the ecocide taking place in Sri Lanka. The 'Stop Ecocide' mural had been erected with approval from relevant authorities, put together by children in the youth wing of the Wildlife & Nature Protection Society. The same day, President Rajapaksa appointed a committee to present recommendations on how to deal with people who misinterpret and spread falsehoods about Buddhism, stating that

the "heretics have been systematically insulting the monks". One writer has already been warned by the police to refrain from writing about Buddhist history.

On March 20, while speaking at a meeting, President Rajapaksa warned media about publicising alleged deforestation. Issuing a joint statement, leading press freedom organisations in the country warned of "a dangerous signal of an ominous threat to the freedom of media in his speech and expressed their serious concerns regarding this development."

On March 23, the Election Commission decided not to register political parties whose official names portray affiliations to religions or ethnicities. It was also determined to amend the official names of the recognised political parties currently registered with such religious or ethnic names. A violation of freedom of expression, this decision will immediately affect leading minority political parties.

In effect, just two weeks in March 2021 portray an alarming picture of the emerging threat to freedom of expression, and the violation of human rights happening in Sri Lanka.

Despite this repressive environment many civil and political groups are courageously opposing these moves. Freedom of expression is becoming a rallying cry.

Not to be cowed down, the Federation of Media Employees Trade Unions (FMETU), Sri Lanka Working Journalists' Association (SLWJA) and the Free Media Movement (FMM) expressed concern against the President's accusation that media houses were trying to "run the country the way they want", terming some of them as "media mafia". They were protesting against the president's threat of using legal remedies against media houses.

EMERGING THREATS

Other than the general political situation of autocratic rule that restricts freedom of expression rights, below are the specific emerging threats in Sri Lanka:

Diluting the Right to Information

Since its inception, Sri Lanka's Right to Information Commission has received praise locally and internationally. It was included as a promising case study in the 2020 Global Report on the Status of Right to Information Regimes Worldwide by UNESCO.

During 2017-2019, the commission ruled for disclosure of information in full or in part in 85 per cent of appeals. "This is in line with the Commission's determined stand of protecting the principle of maximum disclosure which underlines the RTI Act", noted the Commission.

The president has become the sole appointing authority of the RTI Commission under the 20th Amendment to the Constitution. The term of the present RTI Commission ends in six months, making way for the president to make new appointments. "It is our expectation and hope that hard won gains of RTI during the past several years are

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preserved as well as enhanced as Sri Lanka proceeds on her Right to Information journey", stated the Commission in a statement in February, as if sensing a lurking danger.

The potential loss of autonomy of the RTI Commission would be unfortunate.

Press Council Law: Tightening Control

The government announced that the Sri Lanka Press Council Law would be amended to enable it to regulate all media, including print, electronic and digital media.

The state-controlled Sri Lanka Press Council published an advertisement on September 10, 2020, requesting the registration of unregistered newspapers. The advertisement also mentioned that legal action would be taken against unregistered newspapers and magazines in the future.

In November 2020, the country's media minister made a statement claiming that "a mechanism for the regulation of websites is to be implemented within the next two weeks". A week later he made another statement claiming that the "government has been considering registering foreign digital operators and not social media and digital platform users".

In January 2021, the Cabinet of Ministers decided to amend the Press Council Law to include electronic and new media and approved a proposal to 'structurally reform and reorganise' the Press Council to cover electronic and new media.

While acknowledging that there should be regulatory process for media in Sri Lanka as in other democracies, the Professional Web Journalists' Association stated that they "should be not controlled, but self-regulated by the media itself. To this end, we have developed and published a code of ethics for web journalism."

The Free Media Movement opposed the reform and reorganisation of the 50-year-old Press Council Law, which contains legal provisions that are severely detrimental to media freedom and called for its repeal. Sixteen media organisations came together to oppose the government's plans to transform the Press Council into a state-controlled media regulatory body.

Skewed hate speech laws

Sri Lankan police made dozens of arrests on the grounds of hate speech in the period. Most of those arrested were from Tamil and Muslim communities.

In this context, the newly introduced Prevention of Terrorism (De-radicalisation from holding violent extremist religious ideology) Regulations which empowers the Attorney-General to 'rehabilitate' suspects without proper judicial process, can become yet another tool to suppress freedom of expression.

Under the regulation, arrest or surrender can be carried out by "any police officer, or any member of the armed forces, or to any public officer or any other person or body of persons authorized by the President by Order." Amnesty International warned; "the definition of an 'offence' under the regulations are imprecise and ambiguous, and they run the risk of being used against civic dissent and legitimate criticism of government and its treatment of ethnic and religious minority communities".

Advertising drought

The pandemic and repeated lockdowns created a dire

reduction in the sales of print media, with some of the weekly newspapers facing difficult choices. Longstanding weekly alternative newspaper Ravaya was one of them.

Amid pandemic-related economic difficulties, the government decided to limit the enormous state sector advertising revenue to state-controlled media. This advertising is historically used as a propaganda tool by the ruling political party. The decision will have the dual effect of damaging private sector media and strengthening government political propaganda at the expense of taxpayers. No transparent policy currently exists relating to the distribution of advertisements of the vast state sector to the media.

The new government issued guidelines for expenditure on advertising and marketing, instructing state institutions' top officials to give preference to state media. The circular issued in December 2020 by the President Secretariat states; "All State-Owned Enterprises (SOEs) are required to negotiate with state-owned media agencies as the first preference and may enter into exclusive arrangements with mutual benefits".

Disinformation and unethical practices

In the period, Sinhala nationalist media were noted for blaming the minority Muslim community for spreading Covid-19 and branding people who tested positive for Covid-19 as a social menace. At the same time, the same media were seen promoting untested and unhealthy syrups as a remedy for the coronavirus, as well as black magic as a cure. At the height of the pandemic, not only ethnic minorities but also socially marginalised sections too were named and accused of spreading Covid-19. Propaganda against the Muslim community was rife, strengthening the number of false narratives.

ADDRESSING IMPUNITY

UN Human Rights High Commissioner Michelle Bachelet submitted a new UN report on Sri Lanka to the 46th session of the UNHRC. The report warns that the failure of Sri Lanka to address past violations has significantly heightened the risk of human rights violations being repeated. It highlighted worrying trends over the past year, such as deepening impunity, increasing militarisation of governmental functions, ethno-nationalist rhetoric, and intimidation of civil society.

In previous reports to the Human Rights Council, OHCHR has tracked the investigation and prosecution of emblematic cases as a key measure of Sri Lanka's commitment to ending impunity. These include the assassination of journalist Lasantha Wickrematunge in 2009, the disappearance of journalist Prageeth Ekmaligoda in 2010, and the killing of protestors by army personnel during a demonstration at Weligama in August 2013, among other incidents. Despite investigations over the years by domestic Commissions of Inquiry and the police, as well as the arrest of some suspects and trials at the bar, not a single emblematic case has been successfully brought to justice.

Issuing a statement for the attention of the 46th session of the UNHRC, 18 UN human rights experts (special rapporteurs) urged the Sri Lankan authorities to stop rolling back hard-fought progress made in recent years on rebuilding democratic institutions, and to press for

accountability for past crimes and deliver justice for victims and promote reconciliation between communities.

"During the Covid-19 pandemic, restrictions have been unevenly imposed on the rights to freedom of expression, association and peaceful assembly, resulting in the arrest and detention of social media commentators and others.... Since 2019, increased surveillance, harassment, questioning and threats from security agencies against human rights activists, journalists, lawyers and families of victims have been regularly documented", the report stated.

The Sri Lankan government rejected both reports. Denial of serious human rights violation has been the hallmark of Rajapaksa-led governments to date. Concerningly, such denial invariably means no proper investigation or accountability, and a perpetuation of impunity.

FIGHTING IMPUNITY: STORIES OF STRUGGLE

"My father saw the disturbing ugliness and he showed it to the people. For that they took him without even giving the body to us . . . Thatththa [dad] we haven't stopped fighting for justice for you. Pretty sure that we won't stop until we get it . . . Amma [mom], Aiya [elder brother] and many people all over the world love you."

These were the words of Harithge Ekneligoda, youngest son of abducted and killed journalist Prageeth Ekneligoda on the 11th anniversary of his abduction. Prageeth Ekneligoda, a journalist, cartoonist and political activist, disappeared on January 24, 2010. His wife, Sandya Ekneligoda, has since dedicated her life to pursue truth and justice for the disappearance of her husband and has launched a new initiative in his name.

The Ekneligoda Forum states that it "is a collective that strives to ensure justice to Prageeth Ekneligoda and for every Sri Lankan who have been victimized by the heinous crime of enforced disappearance." It is dedicated to archive Prageeth's work and make it accessible to the general public, as well as archive the struggle for truth and justice for Prageeth and similar struggles of the victims of enforced disappearance in Sri Lanka.

Ahimsa Wickrematunge, the daughter of acclaimed Sri Lankan journalist Lasantha Wickrematunge, has also been at the forefront of fighting impunity in Sri Lanka. Lasantha Wickrematunge was killed in broad daylight on January 8 2009. Twelve years to the day from her father's killing in January 2021, Ahimsa filed a complaint against the government of Sri Lanka at the United Nations Human Rights Committee for Sri Lanka's role in her father's assassination.

Ahimsa's complaint alleges that the government both orchestrated Lasantha's assassination and subsequently failed to adequately investigate his killing. In doing so, the country violated core international human rights law, including the right to life, the universal prohibition against torture, and freedom of expression. Ahimsa requested that the Human Rights Committee ensures that Sri Lanka conducts an exhaustive, independent and effective investigation into the attack against Lasantha; prosecutes those responsible; apologizes to and compensates the Wickrematunge family for the violations they have suffered and guarantees an end to these human rights violations.

COMMISSION REPORT UNDER FIRE

The Presidential Commission of Inquiry (PCoI) into Political Victimisation, appointed by President Rajapaksa, submitted its 200-page report on December 8 2020.

Following the submission of the report, a Special Presidential Commission of Inquiry was appointed to recommend, inter alia, whether civic disability should be imposed on opposition politicians, senior lawyers, senior administrators and senior police officers named by the PCoI. In its report the commission 'pronounced' that accused persons who are now being tried in courts are innocent and should be acquitted and discharged, and that further criminal proceedings should not be continued against persons awaiting trial before trial at the High Court and Magistrates' Court. Some include individuals accused of abduction, torture and killing of journalists.

The report has been challenged in the Supreme Court by human rights lawyers while 40 opposition lawmakers have written to the Supreme Court requesting a thorough inquiry into the report and its findings. If implemented, the recommendations of the commission could change Sri Lanka's legal landscape drastically.

ATTACKS AND THREATS AGAINST JOURNALISTS

Attacks against and intimidation of journalists in Sri Lanka continued in the period and took many forms.

The Free Media Movement continued systematically documenting media rights violations in the country and from 2021 has announced it will publish a 'Media Freedom Rights Monitor Report' every month.

The threats to journalists during the period under review were varied. Publishing certain news could attract a threat over the phone by the police, or even a case under the Prevention of Terrorism Act, such as that filed against the Jaffna-based Uthayan newspaper, for publishing images and quotes of Velupillai Prabhakaran, leader of the Liberation Tigers of Tamil Eelam (LTTE), on his birthday in November 2020. Social media surveillance meant that a Facebook post could lead to an arrest or a knock on the door followed by interrogation by the police.

Attacks also came from members of political parties, unidentified persons, gangs of smugglers and sand miners, and journalists suffered physical injuries and damage to equipment like cameras and phones. Death threats issued over the phone are another regular tactic by those unhappy about coverage of news.

An unofficial diktat about 'acceptable' topics for coverage seemed to be enforced by the Organized Crimes Prevention Division who, in response to a complaint lodged by the Buddhist Information Center (BIC), warned social activist Indika Rathnayake not to write on religion, especially on Buddhism.

Restrictions on the use of public space to register dissent were rampant, with court orders being invoked to ban protests, especially around foreign embassies.

Sri Lanka's draconian Prevention of Terrorism Act was slapped on Ahnaf Jazeem, a 25-year-old Sri Lankan poet, who was arrested by the Criminal Investigation Department for allegedly promoting Muslim extremism.

DURING THE PANDEMIC, DOZENS WERE ARRESTED FOR SOCIAL MEDIA POSTS. THE FMM EXPRESSED ITS GRAVE CONCERN OVER THE TENDENCY TO INDISCRIMINATELY BLOCK AND IMPEDE THE RIGHT TO FREEDOM OF EXPRESSION ON SOCIAL MEDIA.

PROS AND CONS OF SOCIAL MEDIA

There were 10.1 million internet users in Sri Lanka in January 2020, an increase of 399 thousand (+4.1%) over the past year. Internet penetration stood at 47 per cent, and there were 6.4 million social media users in the country in January 2020. The number of social media users in Sri Lanka increased by 491,000 (+8.3%) between 2019 and 2020 while social media penetration in Sri Lanka stood at 30 per cent. There were 31.8 million mobile connections in January 2020, almost three times the total population.

The most popular social media platform in Sri Lanka is Facebook, with 6.48 million by January 2020, which accounted for 30.5 percent of the entire population. The majority of them were men – 66.9 percent. People aged 25 to 34 were the largest user group (2.31 million). Twitter comes second and YouTube third, in terms of overall penetration.

At the other end of the spectrum, Sri Lanka was found to have the poorest internet quality in the ranking, behind the Philippines. According to the Asia Foundation, "island nations have to shoulder more costs for internet infrastructure, leading to poorer connections in some places."

Social media presented both ethical challenges and opportunities in expanding freedom of expression rights. It has given a fillip to people's ability to communicate through an unprecedented level of political satire. It has made politicians accountable. However, some unethical and targeted attacks have done irreparable damage to individuals as well as to society at large. During the pandemic unethical practices that targeted people who tested positive for Covid-19 became a hotly debated issue.

During the pandemic, dozens of people were arrested for social media posts. Noting the numbers arrested for expressing various views on social media regarding the pandemic, the FMM expressed its grave concern over the tendency to indiscriminately block and impede the right to freedom of expression on social media.

The Human Rights Commission of Sri Lanka noted a spate of arrests by police based on statements made over social media particularly in the context of the pandemic. An increasing number of arrests took place following a letter issued and dated April 1 2020, by the Media Division of the Police Department, to heads of media institutions warning that strict legal action would be taken against those who publish false and malicious statements over the internet, "against public authorities who are engaged in containing the spread of the virus".

In a move to bring the emerging body of digital journalists on par with other journalists, on April 11, 2021, the FMETU submitted its recommendation to change 'Wage Board of the newspaper industry' to 'wage board of the media industry' to bring the electronic media under the wage board policy. The recommendation followed consultation with stakeholders, journalists and government officials regarding the issue.

NEED FOR SOLIDARITY

"Sri Lanka's current trajectory sets the scene for the recurrence of the policies and practices that gave rise to grave human rights violations" warned the UN Report on Sri Lanka in January 2021. Among the early warning signals highlighted in the report were the accelerating militarisation of civilian governmental functions, the reversal of important constitutional safeguards, political obstruction of accountability, exclusionary rhetoric, intimidation of civil society, and the use of anti-terrorism laws.

These early signs are becoming a ground reality. There has however been a robust response as well.

As part of such solidarity building, FMETU, SLWJA and FMM commemorated the annual "Black January" in 2021 to remember killed colleagues and condemn impunity for crimes against journalists. Between 2005 and 2015, scores of journalists were reported killed, abducted and tortured and at least 60 journalists fled the country as a result of the ongoing civil conflict from 1983 to 2009.

Training on social media, including internet safety and safe communications, will guarantee space for journalists to progressively carry out their duties. In line with this goal, union activists in Sri Lanka joined their colleagues in the Philippines and Indonesia to participate in a series of online trainings in October and November 2020 to build skills in digital organising for media unions in the Asia Pacific.

Reaching out to the international community may provide media freedom organisations and trade unions opportunities for advocacy and enhanced safety.

With support from the IFJ's Union to Union project, the FMETU conducted online workshops to discuss the challenges journalists faced and to devise responses. A 'Handbook for Professional Journalists' was launched in January 2021, providing insights on the history of the Sri Lankan media industry, media organisational structures, public service media and trade union issues in Sri Lanka.

To protect freedom of expression and rights in this developing situation, rights and press freedom organisations, trade unions and democratic civil society should continue working together. Unity and solidarity among the democratic forces, including the media and journalists, is paramount.

Cover: A protester takes part in a demonstration against the government policy of forced cremations of Muslims who die of the Covid-19 coronavirus outside a cemetery in Colombo December 23, 2020. CREDIT: LAKRUWAN WANNIARACHCHI / AFP

This document has been produced by the International Federation of Journalists (IFJ) on behalf of the South Asia Media Solidarity Network (SAMSAN).

Afghan Independent Journalists' Association
 Bangladesh Manobadhikar Sangbadik Forum
 Federation of Nepali Journalists
 Federation of Media Employees' Trade Unions, Sri Lanka
 Free Media Movement, Sri Lanka
 Indian Journalists' Union
 Journalists Association of Bhutan
 Maldives Journalists' Association
 National Union of Journalists, India
 National Union of Journalists, Nepal
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The SAMSAN Digital Hub – <https://samsn.ifj.org> includes the full 2020-2021 South Asia Press Freedom Report and a full list of all known cases of media rights violations from the 2014 to 2021.

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New Delhi Office
 Cluster Office for Bangladesh,
 Bhutan, India, Maldives,
 Nepal and Sri Lanka

