

SRI LANKA

RESILIENCE AMIDST TURMOIL

With growing crises in the political, economic, social, and cultural spheres, Sri Lanka is at a critical juncture. From April 2018 to March 2019, Sri Lanka has witnessed several developments with far-reaching consequences with regard to the state of press freedom.

With ownership of at least 30 media outlets, the State remains the largest player across print, television, radio, and online media in Sri Lanka. In the media space, the State's dual role as both owner and regulator results in a serious conflict of interest. Though the general objective of State-owned media is to communicate with and inform the public, to a great extent this is limited to conveying information about the actions of the government and its elected representatives. Through employing a narrative which always reflects the government's position on particular issues, State-owned media is used to amplify its own message and to suppress critics.

A COUP AND AFTER

The political developments in late 2018 were the harbinger of the political misfortune that awaits 2019, an election year. On October 26, 2018, in violation of the Constitution, President Maithripala Sirisena removed from office Prime Minister Wickremesinghe, who continued to enjoy the support of the majority of the Parliament. In his place, he appointed as prime minister, the former president Mahinda Rajapaksa. In the seven weeks following the constitutional coup, Sri Lanka witnessed its worst uncertainty and instability since the end of the civil war almost a decade earlier.

Immediately after the appointment of Rajapaksa as the Prime Minister, State-controlled media institutions were forcibly taken over. Either the editors were asked to step down or gangs invaded editorial offices. A new set of editors and managers was soon installed. With no delay, they started rolling out engineered stories supporting the coup, which they proceeded to portray as a patriotic act of the parties involved. The unfortunate irony was that some of the newly-installed editors were press freedom champions of yore.

Sri Lanka Podujana Peramuna or the Sri Lanka People's Front (SLPP) loyalists took control of most State media institutions after the swearing in of Mahinda Rajapaksa as Prime Minister. Sri Lanka Rupavahini Corporation (SLRC), Independent Television Network (ITN) and the Sri Lanka Broadcasting Corporation (SLBC), issued directives even as previously appointed staff members in senior positions kept away from work.

In the days that followed, the unconstitutionally appointed PM swiftly filled all media-related government institutions with his political appointees. The live broadcast of parliamentary proceedings was taken off air when the new PM could not show majority in the Parliament and the Speaker was violently obstructed from addressing the Parliament. The President prorogued the Parliament for three weeks when it became clear that his new PM did not have parliamentary majority.

During the coup, the majority of the 225-member Parliament voted against Rajapaksa four times; two no-confidence motions were passed. On November 23, the 122 MPs filed a Writ Quo Warranto in the Court of Appeal challenging the continuation of the new government in office. An interim order was issued



Supporters of ousted Prime Minister Ranil Wickremesinghe shout slogans during a protest against his removal near his official residence in Colombo on October 30, 2018. Tens of thousands of supporters of the sacked prime minister blocked roads in Sri Lanka's capital on October 30, stepping up a showdown with the country's newly appointed leader, a former strongman accused of grave rights abuses. CREDIT: ISHARA S. KODIKARA / AFP

by the Court of Appeal restraining Rajapaksa and his ministers from functioning in their respective offices. This decision was reaffirmed by the Supreme Court on December 14, in an outstanding show of independence of the judiciary. A day later, Rajapaksa 'resigned' from the office of the PM.

The coup was short lived, but it did not mean political stability for Sri Lanka. On the contrary, many of the factors that have destabilized Sri Lankan politics in recent years remain unresolved. Primary being the personal animosity as well as ideological disagreements between President Sirisena and PM Wickremesinghe which were central to the coup. Despite pre-election pledges ensuring transitional justice, the President has adopted a Sinhalese nationalist stance in recent years, declaring that he would "not allow war heroes to be hauled before courts".

MEDIA VERSUS CIVIL SOCIETY

During the political crisis, the revival of civil society activism was remarkable. Daily protests were held in Colombo, organized by independent civil society groups. However, their activism was not reflected by the largely pliant and problematic role of the mainstream media.

While State media was 'taken over' as part of the coup, the



IN THE SEVEN WEEKS FOLLOWING THE CONSTITUTIONAL COUP, SRI LANKA WITNESSED ITS WORST UNCERTAINTY AND INSTABILITY SINCE THE END OF THE CIVIL WAR ALMOST A DECADE EARLIER.

role the mainstream private media played was also questionable. Some mainstream Sinhala news channels welcomed Rajapaksa as a patriotic leader and glorified the coup. These media groups also launched personalized attacks against civil society activists as they protested against the coup and rejected the biased point of view of these channels. The absence of independent media emerged as a key cause for concern around freedom of expression in Sri Lanka.

Civil society groups demonstrated unprecedented creativity in protesting the political crisis and amplified the continued resistance against the coup. Calls to transform State-controlled media to genuine public service media became stronger and more pervasive. While social media became the sphere of resistance that provided many a space to voice their opinions as well as mobilize, an invigorated conversation on the role of media came to life.

When the coup ended, the democratically elected government was reinstated. They labelled the privately-owned media which became willing partners of unconstitutional coup 'Black Media'. In January 2019, a campaign against biased reporting by the majority of the mainstream media during the coup emerged as a citizens' response. Protesters clad in black, with their faces masked, handed over a statement to media institutions:

It has fallen upon us to remind you of media integrity and values once again, due to the non-constitutional and undemocratic conspiracy that happened on 26th October last year in which you actively played a part. We consider that incident clearly as a deterioration of media values, which were disregarded when reporting on the coup's events.

Some media institutions refused to accept this statement and launched a virulent attack on the peaceful campaigners that lasted for days. A number of politicians across the political spectrum

condemned the citizen's campaign, demonstrating the level of influence TV channels have over politicians.

Civil society groups held a number of discussions on the role of the media, some of which focused on transforming State-owned media into public service media. On this particular matter, there was a considerable interest among the concerned groups. Unfortunately, the discussions were not systematically organized in a way that could lead to a collective articulation and expression of the shared sentiment, and the conversation slowly died down.

PARTISAN APPOINTMENTS

Out of the blue on January 31, 2019, the then-Minister for Media and Information, Mangala Samaraweera, appointed a seven-member committee to come up with a report on how State media is to be transformed into public service media. No consultations were held with media rights organizations who have campaigned on the same issue for years. Although there are a number of comprehensive reports that have been produced by local rights groups in collaboration with international media rights organizations, there was no mention of these reports. The appointments were made ad hoc, the mandate of the committee was unclear, and the committee was expected to produce a report within six weeks. The majority of members of the said committee soon resigned with no reasons given. So far, there has been no report.

In another peculiar development, in a cabinet reshuffle MP Ruwan Wijewardena was appointed the State Minister for media. It cannot be a coincidence that MP Wijewardena comes from the



Sri Lankan activists from the Free Media Movement (FMM) hold candles and placards during the annual 'Black January' vigil organized to pay tribute to slain colleagues, in Colombo on January 29, 2019. CREDIT: LAKRUWAN WANNIARACHCHI / AFP

Wijewardena family, who owns the largest private print media institution, The Times Group. This presents a clear case of conflict of interest.

IMPUNITY AND ACCOUNTABILITY

Since the end of the war in 2009, Sri Lanka has been carrying deficit of accountability for crimes against humanity and serious violations of human rights that took place in the last phase of the war. Since 2012, the United Nations Human Rights Council based in Geneva, has adopted a number of Resolutions with the view of enhancing the status of human rights, reconciliation, and accountability in Sri Lanka. These Resolutions and the related interactive dialogues within the Council have emphasized that ending impunity is crucial for truth and justice to prevail. Dozens of journalists were killed during the war in Sri Lanka but not a single perpetrator has been brought to justice.

Since the change of government in January 2015, Sri Lanka has considerably improved its engagement with the UNHRC. The State has invited eight UN special procedures (which are made up of Special Rapporteurs, independent experts or Working Groups) to the country during the last four years and this has resulted in the production of significant reports on human rights issues. However, the UN Special Rapporteur on Freedom of Expression Rights is yet to visit Sri Lanka.

On March 21, 2019, at the 40th session of the UNHRC, the Council adopted another Resolution unanimously extending the time period granted to the government to deliver on its undertakings under Resolution 30/1 on Promoting Human Rights, Reconciliation and Accountability in Sri Lanka, which was co-sponsored by the Sri Lankan government in 2015. The extension was needed by the government due to the failure on its part to implement the commitments outlined in the Resolution. Launching investigations into the attacks against media and killings of journalists was part of these commitments.

United Nations Human Rights High Commissioner, Michelle Bachelet, submitted her report on Sri Lanka on March 20, 2019, during the 40th session of the Council. Her report provides an assessment of the progress made by Sri Lanka in the implementation of Resolution 30/1 during October 2015 and January 2019. The report identifies the challenges faced in the

operationalization of the reconciliation and accountability agenda to which the government of Sri Lanka committed under the Resolution. While calling upon the government to demonstrate sustained commitment and leadership to move that agenda forward, the High Commissioner urges the Council to continue to monitor and its engagement in developments in Sri Lanka.

The Human Rights High Commissioner's report on Sri Lanka highlighted two cases of killed journalists as emblematic cases – Prageeth Eknaligoda and Lasantha Wickrematunge.

“With regard to the disappearance in January 2010 of journalist Prageeth Eknaligoda, an army intelligence officer, Lieutenant Colonel Arantha Peiris, was arrested by the Criminal Investigation Division on 20 September 2018; however, 13 other suspects were released on bail in 2016. Reportedly, the ongoing police investigation has been delayed owing to lack of cooperation by the army in sharing relevant information. The police are due to report to court on the ongoing investigation on 10 January 2019. On August 8, 2018, Buddhist monk and Secretary-General of the Sinhala nationalist movement Bodu Bala Sena, Galagoda Aththe Gnanasara, was sentenced to six years of imprisonment after being found guilty of contempt of court owing to his conduct during a hearing in 2016 regarding the disappearance of Eknaligoda, when he had stormed into the courtroom and threatened the wife of the journalist,” it was noted.

“The killing of journalist Lasantha Wickrematunge, in January 2009, remains under investigation, although all suspects have been released on bail. The police last reported on the progress made in the investigation to the court in September 2018 and were due to provide the next update on 17 January 2019,” the report further noted.

Colombo-based think-tank the Centre for Policy Alternatives (CPA), has looked at seven cases in a report titled *The Need for Accountability in Sri Lanka's Criminal Justice System - A Glance at Seven Emblematic Cases*. This report looks at cases of murder, abduction and enforced disappearance of journalists. It examines the murder of Mylvaganam Nimalarajan in 2005, the abduction of Keith Noyahr in 2008, the murder of Lasantha Wickrematunge in 2009, and the disappearance of Prageeth Eknaligoda in 2010.

The CPA report attempts to identify general trends that require attention and recommends structural and legal reforms which are needed to address emerging concerns: culture of impunity; lack

of, or, delays in prosecutions; lack of independent investigations; deficient victim and witness protection; the issues of evidence tampering, concealment and destruction; and political interference in investigative institutions have been highlighted as key concerns.

Either due to the failure of domestic mechanisms or the unwillingness of the ruling political class to bring to justice the perpetrators of serious human rights violations, accountability for attacks against journalists has not yet materialized. This makes the need for international oversight and pressure vital.

On January 24, 2019, eight media organizations: the Sri Lanka Working Journalists Association, the Free Media Movement, Federation of Media Employees' Trade Union, Sri Lanka Young Journalists' Association, the Tamil Media Alliance, the Muslim Media Forum, Internet Media Action, and Media Movement for Democracy, handed over a joint letter to Hanaa Singer, Resident Coordinator of the United Nations in Sri Lanka. 'The undersigned believe it is essential for the UN to persist in pressuring the Sri Lankan government to take accountability forward. A first step would be to ensure that the current government fulfills the many promises it made with regard accountability for crimes committed against journalists. This enduring violence and culture of impunity must end. We trust you will take decisive, sustained action to ensure that Media Freedom and Freedom of Expression are installed to the fullest in Sri Lanka', reads the joint appeal.

On January 29, the Free Media Movement handed over a petition to National Police Commission and the Human Rights Commission of Sri Lanka, coupled with a report on the lack of legal action, and called upon them to intervene to speed up the investigations into journalists' killings and attacks upon media organizations. Issuing a press release, the Free Media Movement noted that the Chairperson of the HRCSL stated that the Commission was ready to accept any basic information that could be provided in order to commence further inquiries into assault, killings, and disappearances of journalists.

Left: Sri Lankan police escort parliament speaker Karu Jayasuriya (top R, in black and gold) as aides hold up cushions to protect him and themselves from projectiles thrown by rival legislators in the assembly hall in Colombo on November 16, 2018. Sri Lanka's chaotic political crisis in late 2018 were a harbinger of potential political misfortune that awaits 2019, an election year. CREDIT: LAKRUWAN WANNIARACHCHI / AFP

Right: Sri Lankan activists demonstrate amid an ongoing political crisis in Colombo on December 7, 2018. President Maithripala Sirisena plunged the country into crisis on October 26 when he fired the prime minister and appointed the contentious Mahinda Rajapaksa in his place. CREDIT: ISHARA S. KODIKARA / AFP

DETENTION AND IMPRISONMENT

No journalist or media worker was arrested or jailed in Sri Lanka during the period covered by this report. However, harassment and violence against journalists continue as isolated incidents:

In November 2018, journalists were attacked at the Fort Magistrate's Court premises, where they were covering a case over the abduction of eleven persons by the Navy in 2010, in which the Chief of Defence Staff, Ravindra Wijegunaratne was named a suspect. In February 2019, journalist Nadarajah Kugarajah was attacked by police officers in Kokuvil, Jaffna. Journalist Kasun Pussawela received threats from a key suspect in an ongoing case relating to prison riots, upon which Pussawela had previously reported.

PROPOSED COUNTER TERRORISM ACT

Abolishing the Prevention of Terrorism Act (PTA) has been on the democratization agenda for years. When the current government came to power in 2015, it promised to replace PTA with a new Counter Terrorism Act (CTA) in line with international best practices. The draconian PTA, in operation since 1979, has been used as a weapon against media and journalists. The cabinet recently approved the draft Counter Terrorism Bill which is being discussed at the Parliamentary Oversight Committee. The draft Bill contains clauses that could be used to suppress dissent and ban organizations without an investigation or reasons given. Its definition of terrorism is much wider than those possessed by its predecessor. In contrast to the PTA, which limited arrest powers to the police, members of the armed forces or the Coast Guard may also make such arrests under the proposed Act. Considering the fact that outside of an armed conflict situation, armed forces do not have law enforcement training, permitting them to carry out arrests facilitates arbitrary arrests and mistreatment in custody, effectively undermining counterterrorism efforts.

One of the firm critics of the Bill, Attorney-at-Law and human rights advocate Kishali Pinto Jayawardena, explains the danger of the proposed CTA:

"For the media in particular, there are palpable risks at hand. Clause 10 (g) of the Bill summons chilling recollections of the harm caused by similar provisions in the past. That Clause defines aiding terrorism as 'intentionally and unlawfully distributing or otherwise making available any information to the public having intent to incite the commission of the offence of terrorism or other offence under this Act and to cause 'the fear of such offence being committed.'" Read together with the primary offence of terrorism with its vague wording of 'wrongfully' compelling the Government to do or abstain from doing any act,' the threat is explicit."

It is noted that practically, it is problematic to expect a





Representatives from the Free Media Movement, the Sri Lanka Working Journalists Association and the Federation of Media Employees Trade Union along with other media workers outside the Police Commission in Colombo. They met with the Police Commissioner to discuss continued inaction on impunity for crimes against journalists in Sri Lanka. CREDIT: FMM/SLWJA

journalist or an editor to assess this ‘fear’ that is referred to casually. It has been pointed out that the conduct in issue need not ‘expressly’ advocate such an offence. This reduces the bar at which the offence of ‘aiding terrorism’ comes into existence.

In a joint press conference held on March 18, 2019, Sri Lanka’s media rights organizations too stressed that the proposed Act could be used to suppress media freedom and democratic rights and called for its withdrawal.

SOLIDARITY

Sri Lankan media organizations joined hands on several occasions to strengthen solidarity among them. The Sri Lanka Working Journalists Association, the Free Media Movement, the Federation of Media Employees’ Trade Union, the Sri Lanka Young Journalists’ Association, the Tamil Media Alliance, the Muslim Media Forum, the Internet Media Action, and the Media Movement for Democracy came together to issue an appeal to the United Nations Human Rights Commission on January 24, 2019.

In 2019, similar to previous years, the Free Media Movement organized the Black January Protest in collaboration with other media organizations. A vigil was held on January 29, calling for justice for fallen media colleagues.

On March 18, three media organizations, namely the Sri Lanka Working Journalists’ Association, the Free Media Movement, and the Federation of Media Trade Unions, held a joint press conference to express their concerns over the proposed Counter Terrorism Act.

In continuation with capacity building efforts over the years, journalists’ training workshops were ongoing in Sri Lanka. Media organizations and the Transparency International, as well as government departments organized various trainings during the period under review. These included trainings on social media handling, digital security, and drone journalism.

The launch, in January 2019 of the Center for Investigative Reporting (CIR) was the result of a collective effort of senior journalists and media trainers in Sri Lanka to enhance professional journalism in the country. The Center, the island’s first such initiative, aims to launch investigative reporting initiatives in accordance with international professional standards and create a space that can overcome newsroom restrictions and build a strong community of young investigative journalists to drive change.

ONLINE HARASSMENT AND HATE SPEECH

Hate speech on social media platforms has become common in Sri Lanka. Extreme nationalist ideology plays a central role in propagating hate online.

Sandya Eknaligoda who has been fighting for justice for her abducted (and murdered) journalist husband Prageeth Eknaligoda faced an unprecedented level of online harassment. A coordinated and relentless online hate campaign was unleashed against her after a leading extremist Sinhala Buddhist monk was sentenced to six years in prison in a contempt of court case related to the Eknaligoda abduction case. “The threats against Sandya Eknaligoda are extremely worrying. The Sri Lankan authorities must urgently and effectively take appropriate action against those who seek to cause her harm,” said Dinushika Dissanayake, Deputy South Asia Director at Amnesty International in July 2018. Sandya Eknaligoda was subject to a barrage of hate, abuse, intimidation, harassment, and death threats on social media.

In the aftermath of anti-Muslim violence in Kandy in March 2018, 13 Sri Lankan civil society organizations wrote an open letter to Facebook requesting the social media platform to enforce its own community standards. The riot was fueled, and to a certain extent, organized, through Facebook. The open letter noted that Facebook chose to primarily respond to representatives from the government only after Facebook was blocked, and even after this, Facebook chose not to meaningfully engage with civil society actors who had been reporting abuse. Facebook was urged to seriously, urgently, and meaningfully commit to working with civil society to address the issues raised and provide clear information on measures taken to address these issues including information related to technical or human resource investments, clear reporting guidelines in local languages, precise response times, and independently verifiable key performance indicators.

In a positive example, Facebook recently took down an offensive post by one Chapa Bandara, a news anchor working for Sri Lanka’s Derana TV, and deleted several equally offending posts indirectly justifying the recent massacre of Muslims in New Zealand. Bandara’s colleague indirectly endorsed him on Facebook when she equated the massacre to what she called “New Zealand sending us poisoned milk”. Her Facebook