



Media under fire: Press freedom lockdown in Sri Lanka

REPORT

International Press Freedom and
Freedom of Expression Mission to Sri Lanka

December 2008

This report is based on the findings of a joint mission to Sri Lanka in October 2008 comprised of the following members of the International Press Freedom and Freedom of Expression Mission:

International Media Support (IMS)
International Federation of Journalists (IFJ)
International Press Institute (IPI)
International News Safety Institute (INSI)
Reporters without Borders (RSF)

For further details about the mission and report please contact one of the following participating organisations:

International Media Support

Nørregade 18, 2nd floor
DK-1165 Copenhagen K
Denmark
Tel: +45 88 32 7000
Fax: +45 33 12 00 99
E-mail: i-m-s@i-m-s.dk
www.i-m-s.dk

International Federation of Journalists – Asia-Pacific

245 Chalmers St
Redfern Sydney NSW 2016
Australia
Tel: +612 9333 0999
Tel: +91 981838 3669
Fax: +612 9333 0933
E-mail: ifj@ifj-asia.org
E-mail: ifjsouthasia@hotmail.com
www.ifj-asia.org

International Press Institute

Spiegelgasse 2, A
1010 Vienna
Austria
Tel: (+ 43 1) 512 90 11
Fax:(+ 43 1) 512 90 14
E-mail: ipi@freemedia.at

International News Safety Institute

International Press Centre,
Résidence Palace, Block C
155 rue de la Loi
B-1040 Brussels
Belgium
Tel: +32 2 235 22 01
Fax: +32 2 235 22 19
E-mail: info@newssafety.com

Reporters Without Borders

47, rue Vivienne
75002 Paris
France
Tel: 33 1 44 83 84 84
Fax: 33 1 45 23 11 51
E-mail: rsf@rsf.org

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This report is being made publicly available in the interests of sharing information and enhancing coordination amongst freedom of expression, press freedom and media support actors. Information presented in this report is based on interviews and written contributions provided to the mission members during October 2008 and should be independently rechecked by any party seeking to use it as a basis for comment or action.

The mission team welcomes all feedback and suggestions from organisations or individuals about the report, which can be sent to the participating organisations.

Acronyms

CID	Criminal Investigation Department
EPDP	Eelam People's Democratic Party
FMETU	Federation of Media Employees' Trade Unions
FMM	Free Media Movement
GoSL	Government of Sri Lanka
IFJ	International Federation of Journalists
IMS	International Media Support
INSI	International News Safety Institute
IPI	International Press Institute
LTTE	Liberation Tigers of Tamil Eelam
PTA	Prevention of Terrorism Act
RSF	Reporters Without Borders
SAPC	South Asia Press Commission
SLA	Sri Lanka Army
SLBC	Sri Lanka Broadcasting Corporation
SLMMF	Sri Lankan Muslim Media Forum
SLPI	Sri Lanka Press Institute
SLRC	Sri Lanka Rupavahini Corporation
SLTMA	Sri Lankan Tamil Media Alliance
SLWJA	Sri Lankan Working Journalists' Association
TID	Terrorism Investigation Division
TMA	Tamil Media Alliance
TNL	Telshan Networks
UNESCO	United Nations Educational, Scientific and Cultural Organization

Executive summary

In October 2008, a delegation from the International Press Freedom and Freedom of Expression Mission undertook a solidarity and advocacy mission to Sri Lanka to assess the current media situation in the country and support local media under the shadow of the ongoing fighting between the Sri Lankan Government and the Liberation Tigers of Tamil Eelam (LTTE).

While the *International Mission* examined the current situation of the Sinhala, Tamil and English language media, it paid particular attention to the repression against both the Sinhalese and Tamil media, which have come under heavy and sustained attack, especially in areas affected by the fighting. This situation has restricted the free flow of information in the North and East, hindering public awareness both within these areas, as well as throughout the country. This also leaves local communities vulnerable to rumours and language that excites hostility, which in turn fuels instability and conflict. In the LTTE controlled areas, media practitioners are prevented from reporting freely and as a direct consequence press freedom and freedom of expression are severely restricted.

The *International Mission* found a deterioration in the press freedom situation since its last visit in June 2007, marked by continuing murders of journalists, attacks, abductions, intimidation and harassment.

Findings relating to the conflict

As the Sri Lankan Government in conjunction with the army continue to push toward a military solution and announcing that victory against the LTTE is imminent, independent information about the war has been reduced to a minimum. Freedom of the press is a victim of collateral damage in the war between the government and the Tamil Tigers with an almost total blackout of independent and objective reporting from the north and east of the country. Over the last year, the *International Mission* has noted with concern three trends relating to the coverage of the conflict: a lack of press access and independent information in the conflict zones; a wave of assaults and intimidation of journalists specialised in defence; and self-censorship by the media on the realities of the war.

Findings relating to safety

The *International Mission* found that there has been a serious deterioration in the security situation for the Sri Lankan media with threats, abductions and attacks committed by all parties to the conflict and particularly state and non-state armed groups. At least fourteen media practitioners have been killed since August 2005 and there have been numerous death threats and incidents of harassment, including violent attempts to stop the distribution of newspapers. Moreover, even in cases where evidence exists of the identity of the alleged killers, the relevant authorities have apparently taken little or no action. Those supporting a negotiated settlement are often labelled as 'traitors' and supporters of one or the other combatant parties and there appears to be a widespread acceptance of language that intimidates journalists and endangers them in the performance of their duties.

Findings relating to impunity and legal cases

The *International Mission* found that a culture of impunity has continued to grow in Sri Lanka with no accountability for verbal abuse and physical intimidation against journalists coupled with an increasing and systematic policy of interrogation of journalists with threats of legal action. In particular, the use of anti-terrorism legislation to punish journalists purely for what they have written has set a dangerous precedent. The *International Mission* is shocked at repeated instances of elected representatives and Government Ministers using violence and inflammatory language against media workers and institutions. The mission is also concerned that state-owned media and the website of the Ministry of Defence have contributed to the vilification of independent media and journalists. Such actions can only be construed as efforts to discredit media through false accusations and clearly places them in danger.

Findings relating to indirect censorship

The mission found that censorship exists, though largely through indirect means. Those refusing to toe the Government's line may be labeled as spies or traitors. The willingness of politicians and others to denounce the media reinforces self-censorship and makes the free expression of opinion a life threatening activity. Media access to areas of conflict is heavily restricted with journalists forced to reproduce information disseminated by the warring parties. Media are constantly threatened by all parties to the conflict in an effort to curtail independent and critical reporting.

In the LTTE-controlled areas freedom of expression and freedom of movement continue to be heavily restricted preventing diverse opinions and access to plural sources of information.

Furthermore, the provision of official information to media outlets is often conditioned upon the extent to which they support the Government. Media rules gazetted on October 10th by the Sri Lankan Government – though kept in abeyance at least in the short-term – provide for a number of contingencies under which broadcasting licenses can be cancelled, including seven different grounds related to broadcast content. Moreover, a popular broadcast channel has been put on notice that it is to submit transcripts of news broadcasts “to be carried” every week as of October 28th. The *International Mission* deplores any effort to impose prior restraint or direct censorship on the media.

The International Mission applauds the solidarity and resolve shown by the five organisations of journalists in Sri Lanka – the Free Media Movement, Sri Lankan Working Journalists' Association, Federation of Media Employees' Trade Unions, Sri Lankan Tamil Media Alliance and Sri Lankan Muslim Media Forum – in a tough and challenging situation. Moreover, the International Mission supports the solidarity displayed by media owners and editors in seeking to bring the perpetrators of recent attacks on journalists to justice.

1. The International Press Freedom Mission to Sri Lanka

Following two previous *International Missions* in 2006 and 2007, a seven-member delegation representing the International Press Freedom and Freedom of Expression Mission (also referred to as the *International Mission*), which is comprised of international press freedom and media development organisations, undertook a solidarity and advocacy mission to Sri Lanka from 25 to 29 October 2008

The five organizations participating in the mission and the authors of this report are (in alphabetical order) the International Federation of Journalists, International Media Support, International Press Institute, International News Safety Institute and Reporters Without Borders. The objectives of the mission were to assess the current media situation in the country and the impact of the escalation in fighting between the Sri Lankan Government and the Liberation Tigers of Tamil Eelam (LTTE) on the media.

During the mission, the international organisations sought to strengthen dialogue and relations with the media community in Sri Lanka, and highlight grave concerns with authorities and combatant parties over the situation for media and freedom of expression in the country. The mission stressed the central importance of press freedom and freedom of expression as fundamental components of a democratic society and an essential element for building lasting peace in Sri Lanka.

To achieve these objectives, members of the *International Mission* met with the President of Sri Lanka, the Ministerial Committee on Journalists' Grievances, political parties, media owners and editors, journalists and media workers, human rights and legal experts, and the international community.

Broader Composition of the International Mission

The International Press Freedom and Freedom of Expression Mission, in whose name the mission was undertaken, is based on an informal grouping of international organisations, including:

- ARTICLE XIX
- Committee to Protect Journalists (CPJ)
- FreeVoice
- International Federation of Journalists (IFJ)
- International Media Support (IMS)
- International Press Institute (IPI)
- International News Safety Institute (INSI)
- Reporters Without Borders (RSF)
- South Asia Media Commission (SAMC)
- United Nations Educational, Scientific and Cultural Organization (UNESCO)
- World Association of Community Radio Broadcasters (AMARC)
- World Association of Newspapers (WAN)
- World Press Freedom Committee (WPFC)

2. Introduction

Report Structure

This report is divided into four focus areas, each addressing one or more issues relating to the freedom of expression and press freedom situation. The report does not seek to provide an exhaustive list of all issues of concern, but rather those relevant to the current security situation as identified during the mission.

The report focuses on the following areas:

- The Conflict: Deadly Risks of War Reporting
- Safety: "Death Valley" for Reporters
- Impunity and Legal Cases: Spiralling Culture of Impunity
- Indirect Censorship: Silencing the Media

If you wish to provide any additional information relating to this report or would like any further information about the mission please contact any of the participating organisations (contact details can be found at the end of the document).

General Background

The Government of Sri Lanka has been engaged in a conflict with the Liberation Tigers of Tamil Eelam (LTTE or Tamil Tigers) for over a quarter century. The LTTE, which was formed in 1976, has advocated the creation of a separate state for the minority Tamil population in the North and East of the country. The conflict turned violent in 1983 and since then the LTTE has sporadically fought with the Sri Lankan armed forces. During the past two decades this conflict has claimed approximately 70,000 military and civilian lives, with a further 700,000 reportedly having been displaced both within Sri Lanka and overseas.

In 2001, the Sri Lankan Government and LTTE both announced separate unilateral ceasefires, thereby creating a suitable environment for an agreement to be signed, which came into effect in February 2002. Talks between the Government and LTTE subsequently began in September 2002.

However, these stalled in April 2003, although the 2002 ceasefire held despite isolated violations. The election of a more hard-line Government in November 2005, led by President Rajapakse, further strained peace with the LTTE. On 6 December 2005, the Government introduced anti-terrorism regulations providing the security forces with wide-ranging powers to search, arrest and question. Anti-terrorism regulations had previously been in force under the Prevention of Terrorism Act (PTA) prior to the 2002 ceasefire.

By April 2006, the situation had rapidly deteriorated to the point that the ceasefire existed only in name. Although in February both the Government and LTTE declared their respect for the 2002 ceasefire at talks in Geneva, by April violence has flared in and around Sri Lanka's eastern provincial capital of Trincomalee. With fighting having intensified in the northern Jaffna peninsula, the humanitarian estimates are that 100,000 people have been affected.

During 2007 and 2008, the Rajapakse Government's military effort to squash

the LTTE has been pushed rapidly forward with an almost total blackout of independent information from the conflict areas of the country. At the beginning of 2008 the civil war turned on civilian targets, with commuter buses and train bombings carried out in most parts of the country including a series of attacks against commuters in and around Colombo. In the last nine months, there have been an ongoing series of back-and-forth attacks by the Government and the LTTE, which has generated increasing concern over civilian casualties.

3. The conflict: Deadly risks of war reporting

The intensified military conflict in 2008 has exacerbated the problems for journalists, particularly those covering defence.

"We have had no access to the field of operations for a year and now the authorities refuse to give us casualty figures," said one foreign press correspondent. "Now they are even banning some media from covering military parades," said a photographer working for an international news agency.

The government and the LTTE are carrying on a war of words and numbers that muddies all independent information about the war. Over the last year, the *International Mission* has noted with concern, three trends relating to the coverage of the conflict: a lack of press access and independent information in the conflict zones; a wave of assaults and intimidation of journalists specialised in defence; and self-censorship by the media on the realities of the war.

The authorities have in fact organised several press trips to the front line or to areas recently retaken by the army, but reporters for foreign media and those seen as too independent have been excluded. The pro-government media obtain access to the troops, but only to see the soldiers' living conditions and not the military operations or the plight of civilians. A *Daily Mirror* reporter has been waiting for several months for a reply to a request to gain access to Jaffna in the North. The correspondent for an international news channel admits to having given up seeking permission to visit the North of the country following numerous refusals by officials.

While a select number of foreign journalists have gained access to the conflict zone in the past year, they have been forced to go in under "embedding" programmes with military minders. "One international TV reporter came to Jaffna, but he went round in a military jeep, so nobody dared to talk to him," said one Jaffna journalist.

In October, the army set up a major checkpoint in Medawachiya on the road leading north from Colombo. Journalists who are identified as such are systematically turned back if they don't have permission from the Defence Ministry. Soldiers have also imposed restrictions on access to Tamil refugee camps.

*"They stopped me taking in my camera and my mobile phone," said a human rights activist interviewed by the *International Mission*.*

The government has just decided to stop releasing figures for soldiers killed and wounded in the conflict. For the past several months, the army had already stopped releasing numbers of soldiers "missing in action". The army in April 2008 banned the media from going into Colombo hospitals where soldiers wounded after a bloody battle in the north were being treated.

Jaffna-based journalists have no leeway at all when it comes to probing military operations. "We don't even dare speak in the street; how would you expect me to investigate human rights violations?" said one reporter. There is no longer a single foreign press correspondent in Jaffna. The last to leave, Vincent Jeyan, was a stringer for the Associated Press. He was forced to flee the country after receiving death threats. "The international media want to buy our photos and footage, but it's become dangerous [for us to be seen to have a relationship with them]," explained a member of the media in Jaffna.

The correspondent for the television group, MTV, Paranirupasingham Devakumar was killed for covering several events organised by the army in Jaffna. "He presented a military parade and the LTTE could have wanted to punish him," said a Jaffna-based reporter. Others close to the journalist said that he may have been killed for covering the murder of a professor who had made a complaint against the paramilitary EPDP.

In the East, even if military operations have been halted, political violence has continued to escalate in the last weeks of October.

"Batticaloa and the surrounding region is a valley of death for journalists," said a local journalist from the Eastern city who survived a murder attempt on 8 September.

As the army announces an imminent victory against the LTTE, independent information about the war has been reduced to a minimum. Freedom of the press is a victim of collateral damage in the war between the government and the Tamil Tigers.

4. Safety: "Death Valley" for reporters

Having met with a broad spectrum of media personnel including editors, publishers, human rights activists, politicians and members of the diplomatic community, the *International Mission* concluded that safety for the media has fast deteriorated in the last two years with a concentrated culture of impunity firmly in place. As far as safety for media practitioners is concerned, the rule of law is almost non-existent.

Over the last 18 months, a shadowy network of armed groups is believed to have been involved in abductions, threats and murder of media personnel. In all of these attacks, the perpetrators have still not been apprehended with police investigations lacking any sense of purpose and failing to achieve any sense of closure. Independent defence reporting is virtually non-existent following the assault and attacks on two defence correspondents. All war related news is restricted to information disseminated by the military via different arms of the Ministry of Defence.

Kumar Nadeson, Chairman and Publisher for the *Virakesari* Group of Newspapers put it succinctly, "where defence news is concerned we are a little powerless."

In June this year, the Defence Ministry launched scathing attacks against journalists critical of its war against Tamil rebels, labelling them "cowboy defence analysts" and "enemies of the state." In two commentaries published on its website, the Ministry also railed against what it said was "crap" being written about its escalating effort to eject the Tamil Tigers from the island's North. The Ministry presents reporters with a stark choice of being either pro-government or pro-terrorist. The Defence Ministry, headed by the brother of President Mahinda Rajapakse, said some writers were damaging morale, and warned that the ministry "does not wish to entertain mere doomsayers who always try to undermine the soldiers' commitment." It also warned it would take "all necessary measures to stop this journalistic treachery against the country," but did not elaborate.

Two weeks prior to this warning, Keith Noyahr, Deputy Editor of *The Nation* went missing. He had left his office around 10.30 pm on May 22 but did not reach home. His vehicle was found close to his house, with head lights on and engine running. Noyahr was released by his abductors in the early hours of the morning of May 23. The whole world saw his swollen face bruised from having suffered a severe beating.

Noyahr wrote a weekly defence column in *The Nation* under the pseudonym Senapathi. He was released as a result of immediate intense pressure from *The Nation* administration. Noyahr said he had been blindfolded and severely assaulted. He left the country refusing to make a police complaint at first but then gave one to the police later from hospital. He would not identify his abductors indicating that the lives of his wife and two young children would be endangered if he did.

On June 30, Namal Perera, former Telshan Networks (TNL) News Director and at the time a mid-career course coordinator and acting advocacy manager with the Sri Lanka Press Institute (SLPI), was the victim of a vicious assault narrowly escaping death while traveling on a busy highway in Colombo. The attackers had tailed Perera and his friend Mahendra Ratnaweera, a political officer at the British High Commission in Colombo, and attacked them near an army camp. The attackers fled after beating them with sticks and clubs only because the duo had locked themselves inside a car and screamed for help, providing enough time for a number of bystanders to gather.

Perera's troubles started after Keith Noyahr was abducted and assaulted. He had started getting calls from strangers asking for directions to his house. He was obviously under surveillance. This inference is supported by the fact that Noyahr's assailants had taken away his wallet and his mobile phone, which among other things had Perera's business card and mobile number in it.

The government of Sri Lanka had, six days before the attack on Namal and Mahendra, appointed a high-powered ministerial committee to look into the concerns and grievances raised by journalists.

The *International Mission* met with two members of this committee, Sarath Amunugama, Minister for Investment Promotion in the Sri Lankan government and Faizer Mustapha, Deputy Minister for tourism. Amunugama insisted there has never been an effort on the part of the government or its security forces to intimidate, threaten, harass, assault or kill journalists. The ministers refused to accept that a culture of impunity prevails seriously hindering the work and safety of journalists.

Defence Correspondent for *The Sunday Times*, Iqbal Athas told the *International Mission* that in all his 43 years of work as a journalist he has never felt so seriously under threat as he does now.

"The threats to me are from the government and paramilitary forces," he said, adding, "the current climate is extremely dangerous."

Iqbal dismissed the ministerial committee to look after reporters facing threats as being a non-starter. His view is shared by his Chairman and Publisher, Ranjit Wijeywardena – who also heads the Newspaper Publishers Society. A similar opinion seems to be held by the Editors Guild of Sri Lanka.

Editors and publishers who met with the *International Mission* pointed out that eleven journalists who have been killed in the last eighteen months, were murdered in government-controlled areas and no one has yet been brought to justice in connection with these deaths.

Manik de Silva, Editor-in-Chief of *The Sunday Island* reiterated that Tamil journalists over the years have been targets of state sponsored and guerilla attacks. He said however that it was only after and since journalists attached to the English press fell victim to such attacks (e.g. Keith Noyahr and Namal Perera) that the media as a whole "sat up and took notice", and began to condemn and seek to bring pressure on state and other forces to leave journalists alone.

Over the past year and a half the murders of media practitioners have included:

Subash Chandraboas, Nilam

April 16, 2007, near Vavuniya

Chandraboas, 32, editor of a small Tamil-language monthly magazine, *Nilam* (The Ground), was shot to death at around 7:30 p.m. near his home in the government-controlled town of Thoanikkal, near Vavuniya in ethnically Tamil Sri Lanka. A strong individualist who owned his own printing press, Chandraboas produced *Nilam* almost single-handedly and was recognized for his passion for literature as well as journalism. He had also contributed to the London-based magazine *Tamil World* and the Colombo-based magazine *Aravali* on a freelance basis.

Selvarajah Rajeewarnam, Uthayan

April 29, 2007, Jaffna

Rajeewarnam, a reporter for the Tamil-language daily *Uthayan*, was aboard a bicycle on assignment in Jaffna when he was shot by unidentified motorcycle-riding gunmen about 600 feet (180 meters) from a military checkpoint, according to *Uthayan* staffers. Rajeewarnam, a Tamil, had worked for another Tamil paper, *Namadu Eelanadu*, which closed soon after its managing editor, Sinnathambiy Sivamaharajah, was killed outside his home in Jaffna in August 2006. Rajeewarnam had worked at *Uthayan* for about four months. *Uthayan* has often been under attack. The mission met with E. Saravanapavan, the paper's managing director, who reiterated and expressed a plea to publicize the numerous threats against his staff who have been and still are consistently under threat.

Nilakshan Sahadavan

1st August 2007, Jaffna

Nilakshan Sahadavan (22), a journalist student from the Jaffna Media Resource Training Centre (MRTC) and a part-time journalist was shot dead by unknown gunmen. Gunmen riding motorbikes arrived at his family home in Kokuvil, Jaffna around 4.00 am and shot him leaving Sahadavan seriously injured. Kokuvil, just 3 miles away from Jaffna city, is heavily guarded by the Sri Lankan military and the shooting took place during curfew hours.

Isaivizhi Chempiyan, Voice of Tigers

Suresh Linbiyo, Voice of Tigers.

Tharmalingam, Voice of Tigers

November 27, 2007, Kilinochchi

Three journalists for the Voice of Tigers radio station in Kilinochchi – announcer Chempiyan and technicians Linbiyo and Tharmalingam – were killed in a Sri Lankan Air Force air strike. Fighter jets dropped a dozen bombs on the station shortly before Velupillai Prabhakaran, leader of the separatist Liberation Tigers of Tamil Eelam (LTTE), was due to broadcast a statement. At least five other people were killed in the strike against the LTTE-run station.

Paranirupasingham Devakumar, Maharaja Television

May 28, 2008, Jaffna

Devakumar, Jaffna correspondent for the independent Maharaja Television news channel News 1st, was stabbed to death, it is believed, by LTTE cadres or supporters. It is believed that his killing was in direct retribution for his critical reporting on LTTE activities in the area. Devakumar had been the host of a government-sponsored rally that the LTTE had wanted him to avoid. The group also killed Mahendran Warden, a friend of the journalist who was travelling with him by motorbike in the government-controlled area. Devakumar and Warden were returning home in the evening when the attack occurred. Warden was the son of a leading member of the Eelam People's Democratic Party, a Tamil party working with the government. Devakumar was one of few remaining journalists reporting from the peninsula, which is

a focal point of the civil war between the government and the LTTE, which claims the territory for an ethnic Tamil homeland.

Rashmin Mohamed, *Sirasa TV*

October 6, Anuradhapura, Northern Sri Lanka

Mohamed, a provincial correspondent of Sirasa TV, was covering the opening ceremony of the new office of the United National Party (UNP) in Anuradhapura when a suicide bomber blew himself up. The blast apparently came from a member of the LTTE, inside the newly opened and crowded office of the opposition UNP. The target seemed to be retired Maj. Gen. Janaka Perera, who died in the blast. At least 27 people died and at least 80 more were wounded in the explosion. Mohamed, a television journalist, was covering the opening. He is a member of Sri Lanka's Muslim community which makes up about 10 percent of the population.

Disappeared:

Anthonypillai Sherin Sithranjan, *Yal Thinakkural*

5th November 2007, Jaffna

A newspaper delivery person working for the Jaffna-based Tamil daily *Yal Thinakkural*, Anthonypillai Sherin Sithranjan has been reported missing since 5th November 2007. Mr. Anthonypillai is 36 years old, married and the father of one child. He was living at Uyarappulm, Annaikkottai, Jaffna and went missing after taking papers for distribution from Yal Thinakkural office in K.K.S Road at 6:00 a.m. on 5th November.

Vadivel Nimalarajah, *Uthayan*

17th November 2007, Jaffna

Vadivel Nimalarajah, a proof-reader for the Jaffna-based *Uthayan* newspaper has been reported missing since 17th November 2007. He had been with the *Uthayan* newspaper for the last three years working as a night-shift proof reader. V. Nimalarajah was cycling on his way home when he was abducted by an unidentified group near the Navalar Road railway crossing around 7.30 am. He is 31 years old, unmarried and was living at Nicholas Lane, Kachcheri Nallur Road, Jaffna.

5. Impunity and legal cases: spiralling culture of impunity

Impunity continues to be the norm regarding attacks on journalists in Sri Lanka. Since the murder of Dharmaratnam Sivaram "Taraki" in April 2005, there have been at least 14 other cases of journalists and media workers reported murdered. The *International Mission* was unable to identify any one case among these that had been brought to the stage of prosecution. The authorities are also yet to identify, let alone apprehend or bring to trial, the perpetrators of recent abduction attempts and armed attacks on journalists, in particular in the cases of Namal Perera in the heart of Colombo and Radhika Devakumar in Batticaloa.

The *International Mission* was told that little progress had been made in the investigations into the "disappearances" of two journalists – S. Ramachandran and V. Nimalarajah – in the Jaffna peninsula. Hopes are now receding that they will ever be found alive.

No accountability for verbal abuse and physical intimidation

Apart from these specific cases, a signal seems to have been sent from the highest political level that verbal abuse of media workers as well as physical intimidation and attacks are fair tactics. Labour Minister Mervyn Silva, a close political ally of President Mahinda Rajapaksa, has been a singularly conspicuous figure in this respect. Following a December 2007 incident when he stormed into the premises of the state-owned broadcaster, the Sri Lanka Rupavahini Corporation (SLRC), and roughed up the director of news supposedly for his failure to cover an event he had addressed, Silva has had several bruising encounters with the media community. He has in particular targeted personnel of the Maharajah TV group, which broadcasts in three languages and controls the top-rated Sinhala channel, Sirasa. The minister's ire may have been aroused by the strong stand that Sirasa TV took after the SLRC incident, in demanding some form of accountability from him.

Silva has indicated at three public functions where he has since been present, that Sirasa TV personnel would be unwelcome to cover his public engagements. At the most recent such incident on August 4, 2008, the minister attacked a Sirasa TV crew at the venue of a public function. Sirasa TV has filed a fundamental rights case against the minister, as too has one of the aggrieved staff members. Silva meanwhile led a demonstration outside the offices of the TV station, demanding that its broadcast licence be revoked. At the first hearing of the case against him, on August 21, the minister was granted bail and emerged from the court premises reportedly hurling abuse at the TV channel. He has since persisted in using explicit language associating the channel with the Tamil insurgency movement in the north of the country.

On November 16, the Colombo High Court indicted Silva and some of his political associates for the crimes of illegal assembly, assault and robbery. The *International Mission* welcomes this judicial intervention and calls on the Sri Lankan leadership to enforce some measure of political accountability till the judicial process is completed.

Terrorism law to persecute journalists

One of the most worrying aspects of the evolving legal environment for the media in the country is the use of terrorism legislation to prosecute journalists.

On March 6, 2008, B. Jasiharan and his wife V. Vallarmathy were arrested from the office of the E-Kwality printing press which also housed the offices of the www.outreachsl.com website. The following day, J.S. Tissainayagam, the editor of the website, went to the premises of the Terrorism Investigation Division (TID) of the Sri Lankan police, to inquire into the detention of the two. Tissainayagam himself was taken into custody along with a colleague, K. Wijayasinghe, who had accompanied him to the TID offices. Ranga and Udayan, a cameraman and videographer for the *website*, were arrested the same day.

The arrests were confirmed unofficially late that night, after repeated inquiries from Tissainayagam's family, with the summary explanation that all the detainees were LTTE cadre against whom credible cases of terrorism could be made out. Early the next morning, Tissainayagam's home was raided by TID officials, who searched it thoroughly without a warrant, and seized a NorthEastern Monthly Magazine that Tissainayagam used to edit. This Magazine ceased to be printed after June 2007.

At 10 p.m., Tissainayagam's wife Ronnate, was allowed briefly to visit and talk to him, though under the watchful eyes of two TID officials, who have been present at all subsequent visits. Family members of all three detainees who have sought to visit and arrange legal assistance, have often been threatened. On March 11 and 12, Jasiharan's sister was reportedly jostled and manhandled as she left home. On the second occasion she was pushed into a white van – a symbol of abductions and lawlessness in Sri Lanka – and held captive briefly, during which time she was warned that her whole family could be picked up by the TID.

Wijayasinghe, Ranga and Udayan were released without charge on March 19, the day that Tissainayagam filed a Fundamental Rights Case in the Supreme Court.

The prosecution has continually run foul of the law in its handling of the case and yet managed to avoid any form of stricture. The detention order for Tissainayagam was issued only on March 27, the day the Supreme Court, hearing a fundamental rights application filed on his behalf, asked for it. A lawyer representing Jasiharan petitioned the court on May 27, claiming that his client had been tortured and demanding a medical examination.

Emergency Regulations in force in Sri Lanka allow the detention of anybody for up to 90 days without judicial authorisation. But following that the detainee has necessarily to be produced before a judicial officer for further extension of custody. In the case of Tissainayagam, Vallarmathy and Jasiharan, the TID ignored repeated petitions that they be produced in court, citing certain "administrative difficulties".

On June 30, when the accused were produced in court after over 110 days in detention, the magistrate ruled, without assigning any clear reason, that they should be kept in the custody of the TID while investigations continued. An urgent request for medical attention in the case of Tissainayagam, who was suffering from a serious eye condition, was admitted. But an appeal for bail for all three accused was rejected.

An indictment against all three defendants was filed before the High Court of Colombo on August 13. Charges were formally laid under Sri Lanka's Prevention of Terrorism Act (PTA) – a draconian law that has remained on the statute books despite being introduced in 1979 as an ostensibly temporary measure – on August 25. The charges against Tissainayagam were: bringing discredit to the government, inciting racial and ethnic animosities, through material published in the *North East Herald*, and raising funds through non-governmental sources in pursuit of terrorist objectives. The charges against Jasiharan was aiding and abetting Tissainayagam and Vallarmathy was charged with the offence of aiding and abetting her husband Jasiharan to further terrorism.

On September 9, the charge of “bringing discredit to the government” was deleted and Tissainayagam and Jasiharan were charged, for the ostensibly criminal offences of editing and printing the magazine.

The evidence produced by the prosecution included two articles published in the *Northeastern Monthly*. The first of these which was run as an editorial without a byline in the July 2006 issue stated that “the inability to protect its citizens within the areas it controls has caused Sri Lanka international embarrassment”. It posed the question of what the future would be of Tamils in government-controlled areas of the northeast of Sri Lanka. “It is fairly obvious”, the editorial argued, “that the government is not going to offer them any protection (since in fact) it is the state security forces that are the main perpetrator of the killings”.

The second article, published under Tissainayagam's initials in November 2006, drew attention to the deteriorating humanitarian situation in the eastern provincial town of Vaharai, which had allegedly been subjected to a sustained campaign of artillery and aerial bombardment as Sri Lankan forces sought to recapture it from Tamil Tiger rebels. Tissainayagam commented that the government was not doing this “without design”. “By trapping the Tamil population in Vaharai”, he argued, the government hoped to create a “human shield” that would prevent any Tamil Tiger offensives further south. “At the same time, starving and bombing Tamil civilians in Vaharai (would) create disaffection between them and the LTTE leading to friction and ill-will. Such internal quarrels (would) act as insulator for the government in the highly vulnerable East”.

Apart from these two articles, the prosecution placed as evidence before the court, the alleged confessions made by Tissainayagam and Jasiharan while under police custody and the personal affidavits of 15 officials of the TID. Two judicial medical officers (JMOs), who had examined Jasiharan for evidence of torture, were listed as witnesses in his case.

Informed observers believe that there is a deep political vendetta behind Tissainayagam's arrest and prosecution, arising from critical commentary he published in February 2008 on the shoddy processes of information gathering adopted by an officially constituted body called the Committee to Inquire into Allegations of Abductions and Recruitments of Children for Use in Armed Conflict. Comprising Sri Lanka's Minister for Human Rights and the Secretary in its Ministry of Justice, the report of the Committee was presented at a meeting of the U.N. Human Rights Council in February, refuting the widespread belief that Tamil militias aligned with the government of Sri Lanka in the north and the east were recruiting child soldiers in large numbers.

Tissainayagam's commentary recorded that the report was based on a visit to Batticaloa lasting four hours by the Secretary in the Justice Ministry and

that its basis in reality was quite weak. The article reportedly caused a certain degree of embarrassment to Sri Lanka's Human Rights Minister, who was then visiting Geneva to present his report before the U.N. Human Rights Council.

In dealing with the charges laid against Tissainayagam and his co-defendants, the defence initially sought to dismiss the charges on the grounds that they pertained to a period of time when the PTA was not operative. It was agreed following the ceasefire agreement between the government and the Tamil Tigers in February 2002, that PTA would no longer be operative. Since the ceasefire was formally abrogated only in January 2008, the charges against Tissainayagam and his co-defendants amounted to a retroactive application of the PTA to a period when it was not operative.

By late-October, the prosecution finished its presentation of arguments. At this writing, the court was hearing evidence led by the defence on whether the evidence against Tissainayagam was admissible under law. With all said and done, there is little doubt that the prosecution of Tissainayagam, Jasiharan and Vallarmathy stands as a direct threat to media freedom.

Minister aggrieved by investigative report, lays charges of extortion

Arthur Wamanan, a reporter at *The Sunday Leader*, was detained by Criminal Investigation Department (CID) of the Colombo police in October 2007, on charges of extortion levelled by Mano Wijeratne, Sri Lanka's Minister for Enterprise Development.

The Sunday Leader had on October 21, 2007, carried an article by Wamanan which reported that Wijeratne's wife had while on an overseas tour, incurred roaming charges on her telephone amounting to roughly Sri Lankan Rupees (SLR) 87,000, which his ministry had borne, despite it being an inadmissible perk under government rules. On October 19, well before sending his story to press, Wamanan had called Wijeratne from a phone registered in his mother's name, to obtain his account of the story.

On the day the story was published, the minister filed a case of extortion against Wamanan, accusing him of having demanded a sum of SLR 5 million as the price of not publishing the story. He cited the call records on his cell-phone as evidence. On October 23, minister Wijeratne attacked Wamanan by name in the Sri Lankan parliament. The CID arrested Wamanan the following day, briefly detaining his mother too.

At the first bail hearing, the city magistrate observed: "Media are there to report on what is happening in society. Just because some people are embarrassed by a news report, the media must not be subjected to restriction".

The prosecution then argued that Wamanan, a 21-year old Tamil youth just beginning his career in journalism, did not deserve bail on account of his ethnicity.

Wamanan was granted bail, but the case against him continues. The CID has reportedly referred the phone used by the accused to its computer analysis section and at the most recent hearing on November 7, 2008, pleaded for more time to furnish details before the court.

Interrogation of journalists and the implicit threat of legal action
The mission has also learnt that top officials of Sirasa TV channel have

repeatedly been called in for questioning by the CID of the Sri Lanka police in recent months. Typically, these sessions follow some incident of terrorist strikes and the mode of coverage that the channel adopts. All channels are obliged to observe a government diktat that the body parts of victims are not to be shown in coverage of terrorist incidents. Sirasa TV has reportedly been observing this diktat scrupulously, though channels that are favourably inclined to the government, including the state-owned broadcaster, often get away with lurid coverage accompanied by highly emotionally charged commentary.

Yet according to Sirasa TV, only their top personnel have been often questioned on the material used in coverage of terrorist incidents.

In June 2008, the office of the web-based news portal www.lankaenews.com, was visited by officials of the CID who interrogated the editor and news-editor for close to three hours on certain news stories they had covered, and asked particularly, that they name sources. This news portal was one among eight media organisations that were on May 31, identified by an "editorial" posted on the website of the Ministry of Defence, as "anti-national" and "treacherous". Just over two weeks later, the Ministry posted another editorial proposing that all news stories having a bearing on national security would need pre-publication clearance from a specially empowered body.

Though these guidelines have not been formally notified, they create a climate of intimidation that permits officials of the security and intelligence agencies to walk into media offices when they please, or to summon journalists for interrogation on any whim.

6. Indirect censorship: silencing the media

The ongoing war between Sri Lankan defence forces and outlawed terrorist organisation Liberation Tigers of Tamil Eelam may not have, yet, resulted in enforcement of direct censorship measures in Sri Lanka. However, journalists in this war-torn nation are increasingly finding it difficult to present, as one of them put it, “the whole true picture”.

The sources of censorship can be found through a variety of factors:

- fear for life as the conflict between the defence forces and LTTE rages
- the conflict between the paramilitary outfits owing allegiance to erstwhile LTTE warlords, namely Karuna and Pillayan, as they covertly struggle for control over the eastern province
- sometimes mild and sometimes blunt warnings from the government, army, and the LTTE.

As a result, a large number of journalists are resorting to self-censorship, in order to avoid state sanctions or repression and attacks by officially-sponsored and non-state armed groups. As an interviewee stated to the *International Mission*:

“This government has won the war with the media and has ceased to invite independent media that is not willing to be controlled to the conflict zones in the north and east”.

Journalists in the north are not even allowed to talk to passers-by on the road. A journalist operating until recently in Jaffna was suddenly told by soldiers that he should not talk to people on the road even if the person was his close friend. “Go home and talk. It was an order thrust upon me. If we can not talk how can one expect us to write freely. Reporters avoid doing spot reporting as they fear for their lives”. “They source information on the conflict from secondary sources as well as information about social and development activities which is handed down through government agencies,” he said.

The journalist pointed out that they can not write independent public interest stories anymore. “The army convoy movements often force people to wait for more than hour. People are facing a severe transport problem. The A-9 road is closed for traffic. We want to file stories on similar public interest issues but security forces have told us not to. They want us to show that everything is fine in Jaffna. So far I have not been harassed but I received polite orders not to cover the visit of Louise Arbour (the U.N. High Commissioner for Human Rights) when she visited Jaffna. A young captain told me it would be better if I did not cover the visit,” he pointed out.

“As a result, if I feel that my story is clashing with the security forces’ point of view, I avoid it altogether,” he added, alluding to the fact that indirect censorship has become commonplace in Sri Lanka.

Beyond censorship tactics employed by the security forces, the LTTE also pressures journalists and threatens them with dire consequences if they write critical stories about their activities. "In order to escape the wrath of security forces and the LTTE, we often pretend that we have not written the stories that appear from the northern region," explained another journalist. "We have worked out a way in which our stories are sent to us from Colombo so that if anyone wants to check it appears to have originated from Colombo and no bylines are given at all," he revealed.

Another senior editor pointed out that none of his stringers from Batticaloa and Trincomalee want bylines as they fear for their lives. "A woman journalist quit journalism because of the LTTE threat and pressures that she constantly faced. Nobody from the east can report on police and security issues." A publisher also admitted that self-censorship is increasing among his journalists. "One of my editors received a threat from LTTE because they felt we wrote against them," he said. However, he was quick to point out that the only coverage they have to worry over is coverage of the war. "The stronger the military gets, the less its tolerance for criticism becomes. It is very difficult to be a journalist in Sri Lanka right now. Self-censorship is a way of protecting ourselves," he stated.

Several Tamil journalists confirmed that they receive regular calls from Vanni to dissuade them from talking about particular subjects, especially military setbacks. Terrorism attacks, have put the lives of several journalists in danger with a cameraman for Sirasa TV killed in the October bomb attack that killed General Janaka Perera. Most of the media, following Sinhala public opinion, are forced to take the side of the government and the army giving backing to the "military solution". Victories in the East and on several fronts in Vanni have been exploited by the government media to rouse people in favour of a purely "military solution". However, the Tamil media and some of the English-language press describe a very different situation, in particular highlighting the suffering of the Tamil people. An executive of the Tamil daily *Virakesari* described the approach of journalists on the paper saying, "When they write about the war or military abuses, they do it with fear in their stomach".

Attacks and intimidation have also led to more self-censorship.

"Anything about the army and military operations is difficult to cover. From our correspondent up to the editor of the paper, we all practice self-censorship," said a member of management on an English-language daily. "We still carry news about corruption, but never now if it's about the army," said the editor of a privately-owned Sinhala-language newspaper.

The publisher had received polite instructions not to give any news from India, especially from Tamil Nadu, the southern Tamil state in India. A senior executive of a television channel noted that his channel has been instructed not to air any show that has visuals of smoking and consumption of alcohol. Now the authorities have instructed the military officials not to speak to this channel. "Over the past year there have been increasing impositions on the electronic media. They are watching everything at the media ministry. Now the government wants us to limit soap operas to just 21 episodes. As a result self censorship has increased," he pointed out.

Another newspaper editor highlighted the plight of a television channel that was asked by the Sri Lankan government to "submit transcripts of all tele-

casts that the channel plans to carry". "This is a clear case of censorship as the government wants to silence any and every opposition ... they want to silence everyone," he explained. He also detailed how one of his Tamil reporters was taken into custody for 72 hours by the police just because he had exposed a corrupt minister. "They wanted to scrutinise his telephone records just because he was a Tamil," he pointed out.

A senior member of the diplomatic corps interviewed by the *International Mission* felt that journalists working in Sri Lanka are worried that they may get abducted if they are critical of powers that be. "There is a climate of impunity where nothing gets investigated," he said, adding that the only ray of hope open to journalists and people was the apex court.

However, on October 10, 2008, the Minister of Mass Media and Information promulgated a new set of regulations cited as the Private Television Broadcasting Station Regulations, under powers conferred by the Sri Lanka Rupavahini Act, No.6 of 1982. These new regulations seek to regulate all aspects of private television broadcasting, including classification of stations and services; issue, revocation, and duration of licenses; fee structure; territorial coverage; ownership; duties and responsibilities of private television broadcasters; extended powers of the Ministry; and content controls.

The new regulations give cause for serious alarm. The following aspects of the legislation are cause for concern.

- Classification of Private Television Broadcasting Stations
- Citizenship Requirements
- The Ineligibility of Political Parties to obtain a Private Television Broadcasting License
- Duration of License
- Cancellation of License
- Consultative Committee on Television Broadcasting
- The Role of the Minister

These aspects are sufficient to show the extent to which the new regulations can be used or abused for illegitimate and political purposes other than reasonable regulation. The *International Mission* met with several media practitioners who asserted that these new regulations have been created in a way they would allow governmental intrusion into the freedom of expression, media freedom and independence.

7. Conclusions and recommendations

Based on the mission findings and the collective long-term engagement of the international organisations in Sri Lanka, the members of the *International Mission* call on the Government, security forces, LTTE, political parties, paramilitary and militia groups, and media community, where applicable, to offer clear undertakings to:

Enable an open, diverse and pluralistic media environment, in which media practitioners can report safely and independently in accordance with the Government's obligations under the country's constitution, the International Covenant on Civil and Political Rights, the Universal Declaration of Human Rights, and other applicable international instruments.

The *International Mission* is calling for positive, clear and forceful measures to put an end to the threats, harassment, kidnappings, and physical assaults by different agents, both state and private, who seek to censor those who exercise, promote and defend the right to freedom of expression and press freedom. In this context, the *International Mission* reminds the combatant parties of their responsibilities under the Geneva Conventions.

In particular, the *International Mission* reiterates the need for thorough, effective and transparent investigations into cases of killings and "disappearances", as well as cases of death threats directed towards journalists exercising their profession and the family members of the victims in the search for justice. In this regard, while the *International Mission* welcomes the establishment, in June this year of the Ministerial Sub-Committee on Journalists' Grievances, at the same time the *International Mission* recognises its failure thus far to effect real change.

Furthermore, to tackle the growing culture of impunity in Sri Lanka, the *International Mission* supports the need for the interior ministry to establish a special task force integrating the roles of a witness protection programme and the police to investigate attacks against journalists and media workers.

In order to break through an ever-growing culture of impunity and censorship, the *International Mission* recognizes the need for journalists, media editors and owners to take steps to the best of their ability to ensure the safety of their media practitioners and to promote the fundamental principles of press freedom and freedom of expression in Sri Lanka.

The *International Mission* calls on the Sri Lankan government to invite the UN Special Rapporteur for Freedom and Expression to the country in line with its commitments to the Human rights Council in 2006.



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Published in Denmark by IMS
First edition January 2009

Design and production: Nanette Graphic Design