

# Overview of Threats against Journalists in Sri Lanka

(1990-2021)



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இலங்கை பத்திரிகை ஸ்தாபனம்  
Sri Lanka Press Institute



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# Acronyms

AI	Amnesty International
AG	Attorney General
ANCL	Associated Newspapers of Ceylon Limited
CID	Criminal Investigations Division
CPA	Centre for Policy Alternatives
CPJ	Committee to Protect Journalists
FMM	Free Media Movement
HRCSL	Human Rights Commission of Sri Lanka
ICCPR	International Covenant on Civil and Political Rights
IFJ	International Federation of Journalists
ISP	Internet Service Provider
JVP	Janatha Vimukthi Peramuna (People's Liberation Front)
LTTE	Liberation Tigers of Tamil Eelam
PTA	Prevention of Terrorism (Temporary Provisions) Act
RSF	Reporters Without Borders (Reporters Sans Frontières)
SLBC	Sri Lanka Broadcasting Corporation
SLPI	Sri Lanka Press Institute
TID	Terrorism Investigation Division
TRCSL	Telecommunications Regulatory Commission of Sri Lanka
UDHR	Universal Declaration of Human Rights
UNESCO	United Nations Educational, Scientific, and Cultural Organisation
UNHRC	United Nations Human Rights Council



# Introduction

Journalism is inherently a profession fraught with risk. It is even more so for journalists in South Asia – as there are many challenges which hinder journalists from engaging in their profession in a constructive manner. It should be noted that Sri Lanka, as a country that faced and overcame a civil war that lasted nearly 30 years, provides a unique perspective on the safety of journalists, both during and in the aftermath of the war.

This report is a comprehensive account of the main challenges faced by journalists in Sri Lanka, based on the data collected over the past 30 years (1990–2021), focusing in particular on physical attacks, attempts at intimidation, detainment, application of laws and regulations, and impunity. The report will further discuss the impact of these issues on journalists, evaluated during and post-war periods, and the consequences of these challenges on media freedom in Sri Lanka in general. The report offers an overview of the nature of the profession of journalism in the Sri Lankan context and brings to light most critical issues of the time. Based on the evidence collected, the report further attempts to formulate several suggestions for key stakeholders of journalism in Sri Lanka.

The Committee to Protect Journalists (CPJ) documented the killing of 19 journalists in Sri Lanka since 1992 <sup>1</sup>, the perpetrators of which are either unidentified or enjoying complete impunity. While this number is perhaps a more positive indicator among other South Asian states <sup>2</sup>, it is nevertheless an indicator that Sri Lanka still has a long way to go in terms of media freedom and independent journalism.

While the threat to journalists' lives has decreased significantly since the end of the civil war in 2009, the assessment of safety of journalists' physical integrity or freedom of expression, in addition to state suppression, paints a bleak picture. These threats, coupled with regulations imposed by the Sri Lankan state on independent journalism, have grave implications on the current status of the profession.

## Purpose and Research Objective

It is evident from the data collected that the working conditions for journalists, especially in terms of safety, remain at a questionable level. The correlation between the violence faced by journalists and the status of democracy and freedom of expression in Sri Lanka, is therefore one worthy of closer examination. The Sri Lanka Press Institute (SLPI) is an organisation actively engaged and invested in media-related research and systematic training of journalists, which advocates for a free and responsible media in Sri Lanka. Hence, the SLPI recognised the timely need to identify threats faced by working journalists in Sri Lanka. The expected outcome of this process was to hold authorities accountable for crimes committed against journalists and thereby enhance the safety of those who engage in this line of work.

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<sup>1</sup>The number of killings recorded in Sri Lanka by CPJ is based only on verified sources. However, according to the data collected by the SLPI research team, the number of journalists killed in Sri Lanka during 1991–2020 is much higher. CPJ (no date) *Journalists attacked in Sri Lanka since 1992* [Online Available at: <https://cpj.org/asia/sri-lanka/>] (Accessed: 24 March 2022).

<sup>2</sup> *Ibid.* The number of journalists killed in South Asia per the CPJ from 1992 to 2022 are as follows: Afghanistan - 5; Bangladesh - 23; Bhutan - 0; India - 57; Pakistan - 63; the Maldives - 2; Nepal - 8; and Sri Lanka - 19. However, the above numbers are only the deaths confirmed by official sources.

The primary objective of the proposed study was to formulate a database on the incidents which threatened the safety of journalists spanning over three decades – from 1990 to 2021 – and to produce a comprehensive report on the challenges faced by journalists in Sri Lanka. In doing so, this study intends to document, assess, and broadly expose threats and crimes committed against journalists. The overall purpose of such an examination is to expand on the existing information and knowledge of such crimes and threats in order to ensure judicial follow-ups as well as accountability of authorities in relation to such cases.

There is arguably no better legitimate factor through which to view Sri Lankan style of media freedom in past decades than legal restrictions imposed by the state. Therefore, another objective of this research was to precisely document the legal provisions (legislation, regulations, parliamentary directives, policy decisions, etc.) related to both journalism and journalists. The research identified their limitations and impact on the freedom of expression at large. The state-led legal restrictions shed light on the general understanding of how and to what extent freedom of press has been curtailed over the last three decades in a legitimate way.

Apart from the above stated objectives, this report further attempts to provide several suggestions through which the working conditions and safety of journalists in Sri Lanka could be improved and ensured.

## Significance of the study

It was discovered through the research process that literature specific to violence against Sri Lankan journalists and records of such incidents, especially from a local perspective, are severely lacking. The database recording these incidents was formed from scratch, and this initiative could be considered as an attempt to construct an online repository of incidents of violence against journalists. The database would be continuously updated by SLPI, maintaining a record of the latest information, and the incidents recorded are made accessible for the general public as well.<sup>3</sup>

Hence, this research report and the database in particular can serve as a starting point for any similar research conducted in future.

The research would also provide a clear insight into the threats faced by Sri Lankan journalists, and provide suggestions that would make their working conditions safer and more secure.

## Limitations

- More recent incidents had multiple sources (especially digital) with which the data could be easily verified and cross-checked, whereas the older incidents recorded in the database might be incomplete as there is only a single source which doesn't provide adequate information.
- Data collection was primarily done via newspaper reports and similar publications, which only recorded incidents of media freedom violations that were reported to a relevant authority. It should also be noted that during the period of the civil war, the war-affected areas of the North and the North-east were completely cut-off from the rest of the country. Therefore, many incidents where journalists were threatened or even killed by the LTTE may have gone unreported and therefore were not recorded in the database.
- There is no set mechanism to record or register complaints made with regard to media freedom violations specifically. Such incidents are mainly aggregated by various independent organisations but there is no central authority to formally handle the documentation process.

Taking the above into consideration, the research team is of the opinion that many incidents that were not reported to any authority (such as law enforcement, judiciary, independent commissions, or media freedom organisations) may remain undetected and thereby unrecorded in the database.

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<sup>3</sup> The incidents recorded in the database can be accessed via <https://spli.lk/safety-of-journalists/>.

## Methodology

The research was conducted with the systematic use of research tools; documenting the incidents where journalists were harassed and subjected to crimes committed; identifying the losses incurred; and evaluating their impact are among the key objectives of this initiative. Examining these objectives, including the state's role in crimes committed against journalists, allows for better understanding of the current status of the profession, especially the notion of impunity.

Qualitative methods of research have been used to conduct this study. The research process is based on analysing the primary data collected and utilising the qualitative approach for interpretation. Micro level planning and supervision was carried out at all stages of data collection in order to ensure impartiality. As previously mentioned, a separate database was used to record the data collected on various incidents of violence against journalists in Sri Lanka during the period between 1990 to 2021.

The primary data for the research was collected via newspapers (both print and e-paper/online editions) and registered news websites which have archived incidents of violence against journalists in the past 3 decades. Publications for the past 30 years were accessed via the archives maintained by the Associated Newspapers of Ceylon Limited (ANCL) and the Department of National Archives. The incidents were recorded from publications of all three languages and all aspects of media-related professions i.e. photojournalists, editorial staff, camera crews, distributors, etc.

At this stage the researchers were able to recognise that the various types of attacks against journalists were too numerous and had a multiplicity of nuances. Hence, for the ease of data analysis and visualisation, the various types of attacks were designated 11 broad categories which are as follows.





The literature review on threats faced by journalists in Sri Lanka was conducted by referring to similar research conducted in the past, and any publications or records related to the issue.

Apart from the database on the threats against journalists, the laws and regulations that affect media personnel were researched separately. For this purpose, domestic and international laws and legislations were compiled in order to observe their impact on working journalists. The findings from this section are expected to provide suggestions for necessary legal, policy, and organisational reforms for the betterment of the working environment of journalists under threat in Sri Lanka.

## Reflection of prior work on threats to the safety of Sri Lankan journalists

Existing literature on crimes committed against journalists in Sri Lanka during the time period

between 1990-2021 is analysed in this section.

Annexures to the Parliament Hansard dated 19 November 2016<sup>4</sup>, provides a detailed list of journalists who were killed, subjected to enforced disappearance, assaulted, and imprisoned during the time period between 2006-2015. The above-mentioned annexures to the Hansard were tabled in Parliament by the Minister of Mass Media and Parliament Reforms, Minister Gayantha Karunathilake in response to a question raised by Opposition JVP MP Dr. Nalinda Jayathissa. This is the first time in recent history, where the Government of Sri Lanka has revealed and officially documented a comprehensive account of incidents of violence committed against journalists in Sri Lanka. More importantly, this list also discloses information on the measures taken by the Government and the judiciary in ensuring democratic accountability for crimes committed against journalists.

<sup>4</sup> Parliamentary Debate (19th November 2016) Vol 249, No.1, Question No. 4-5. See Appendix A.





One crucial aspect of these annexures is the nature in which they divulge the progress of court cases in relation to the crimes. A summary of the incidents recorded in the annexures are depicted below:

1. Journalists killed - 13
2. Journalists attacked - 87
3. Journalists imprisoned - 20
4. Disappearance of journalists - 1
5. Media institutions attacked - 5

It is an indisputable fact that the lists tabled in the Hansard have critical value, given that these crimes committed against journalists have been recorded and acknowledged by an apex State apparatus – the Parliament. However, these annexures lack certain key information regarding the crimes, such as the names of the perpetrators and a description of the crimes. Moreover, the number of incidents recorded in the annexures (particularly with regards to attacks and imprisonments) remain inconsistent to the information gleaned by other publications.

The monograph titled *Martyrs of the Freedom of Expression in Sri Lanka* by Seetha Ranjani, lists out the killings of media personnel, media workers, artists, and cultural activists during the period 1981-2009<sup>5</sup> in Sri Lanka. This book is salient in analysing

the restrictions on freedom of expression in Sri Lanka by highlighting heinous crimes committed against media personnel.

Gehan Gunatilleke, who authored the working paper titled "Two Faces of Sri Lankan Media: Censorship and Resistance" examines the nature in which the political regime change affects the media freedom within the country. These studies outline how mainstream media channels were reduced to self-censorship, self-doubt, and servility to the regime in power, especially during the first tenure of the former President Mahinda Rajapaksa and power transformation that took place in 2014 to a new regime. Gunatilleke also commented on the deteriorating climate of media freedom during 2004-2014 by setting out incidents of killings and abductions of outspoken journalists, and incidents of arson committed against media organisations critical of the Government. After the regime change in 2014, the proliferation of physical harm against journalists, which had heightened in the preceding decade, had gradually decreased. This working paper was critical to understand how the ruling faction of the Government and political clout often determines the working environment of journalists. This involves the systematic suppression of fundamental freedoms of the media.

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<sup>5</sup>It should be noted that 1981-2009 was a turbulent time period in Sri Lanka, where the ethnic tensions were at their height, notably the start of the first Eelam War in 1983, multiple failed attempts at peace talks, assassination of President R. Premadasa in 1993, the 2004 tsunami which devastated the coastal regions, and finally the end of the Civil War in 2009. Hence journalists, especially frontline reporters, worked under extreme conditions during the above mentioned time period.

The series of reports named Repression of Dissent from 2014-2020 published by INFORM<sup>6</sup>, a Colombo-based human rights monitoring centre, documents the human rights situation in Sri Lanka, especially in the context of the ethnic conflict. These reports, which are available on the public domain, provide information on incidents that threatened the safety of journalists since 2014. The early reports made by INFORM are brief in nature and do not provide a detailed account of the cases systematically. Nonetheless, it should be noted that these issues have now been identified and addressed in their recent reports.

The monthly reports from January 2021 to December 2021 compiled by the Free Media Movement (FMM)<sup>7</sup> were critical to obtain timely insights about the status of media freedom in Sri Lanka. Whilst these reports systematically compiled attacks against journalists, they also outlined trends that emerge due to the explicit and implicit suppression of freedom of expression. At present, the FMM along with other media-related organisations including Sri Lanka Working Journalists Association (SLWJA), Sri Lanka Tamil Journalists Alliance (SLTJA), South Asian Free Media Association (SAFMA), Federation

of Media Employees Trade Union (FMETU) and Press Complaints Commission of Sri Lanka (PCCSL) issue press releases, statements, annual reports, and blog posts that provide an overall insight about the freedom of media in Sri Lanka.

The Freedom House annual reports (2000-2021)<sup>8</sup> rates the improvements in political rights and civil liberties of different countries by measuring progress in light of several key areas such as: political rights, participation in decision making, freedom of expression, and violence against civil activists including journalists. Even though the 2021 Freedom House report does not deal with all incidents of violence committed against journalists in Sri Lanka, they are critical to understanding the standpoint of the international community on certain incidents. One of the most crucial and common elements that can be identified in the aforementioned reports concerning Sri Lanka is that it traces how the political transformations in a country shape the conditions of media freedom.

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<sup>6</sup> INFORM (no date) Repression of Dissent [Online]. Available at: <https://www.inform.lk/category/rod/> (Accessed: 26 March 2022).

<sup>7</sup> Free Media Movement (2021) Media Freedom Rights Monitoring Reports [Online]. Available at: <http://www.fmmsrilanka.lk/mfrmd/> (Accessed: 26 March 2022).

<sup>8</sup> Freedom House (2021) Sri Lanka: Country Profile [Online]. Available at: <https://freedomhouse.org/country/sri-lanka> (Accessed: 26 March 2022).





Apart from local media monitoring collectives, international non-governmental organisations such as UNESCO<sup>9</sup>, Reporters without Borders (RSF)<sup>10</sup>, Committee to Protect Journalists (CPJ)<sup>11</sup>, Amnesty International (AI)<sup>12</sup>, and International Federation of Journalists (IFJ)<sup>13</sup> are frontline media monitoring institutions that defend and promote freedom of expression in different parts of the world. These collectives have reported attacks against freedom of expression in an objective stance with the goal of also raising awareness about crimes committed against media personnel. Through the examination and evaluation of brief reports, incident notes, press releases, and yearly reports of aforesaid local and foreign media monitoring groups, this study arrived at two key findings. Primarily, it was evident that investigations and arrests with regard to cases of murder, enforced disappearances, and other crimes against journalists were inconsistent and sporadic. Moreover, based on the evidence presented in these reports, the majority of cases were not fully investigated, or early police inquiries and reports to magistrates were frequently found missing. Secondly, these reports provided accounts of incidents which enabled the researchers to verify information about crimes committed against journalists during certain periods of time.

Accordingly, the point of departure of this study arises out of several gaps that exist within the existing literature on crimes committed against journalists between the time period 1990-2021. Whilst there is a need to comprehensively outline all available cases of crimes committed against journalists during the aforesaid time period, it is equally imperative to

examine the conditions and circumstances under which the safety of journalists was threatened. In doing so, it is critical to pinpoint the hows and whys of the incidents recorded, particularly looking into the role played by the state and non-state actors in response to crimes committed against journalists.

## Physical safety of journalists

*"Despite growing global efforts, journalism remains a dangerous profession. Recent years have highlighted both the vital role that journalists occupy in maintaining the flow of information and the great risks (old and new) associated with this task. Hostile actors threaten journalists with harassment, imprisonment, violence, or death—simply for doing their jobs"* (UNESCO, 2021, p.6).

Attacks against media personnel in Sri Lanka remain a commonplace phenomenon, with killings, acts of intimidation, threatening, assault, repressive legal actions, and abductions being frequent occurrences. These attacks against journalists cannot be considered as isolated incidents, and emerge as a part of a larger trend in media suppression. In fact, the status of Sri Lanka's democracy is reflected through the manner in which freedom of expression is curbed.

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<sup>9</sup> UNESCO (no date) World Trends in Freedom of Expression and Media Development [Online]. Available at <https://www.unesco.org/en/world-media-trends> (Accessed: 26 March 2022).

<sup>10</sup> RSF (no date) Terminator v. Press Freedom [Online]. Available at: <https://rsf.org/en/sri-lanka> (Accessed: 26 March 2022).

<sup>11</sup> Refer supra note 1.

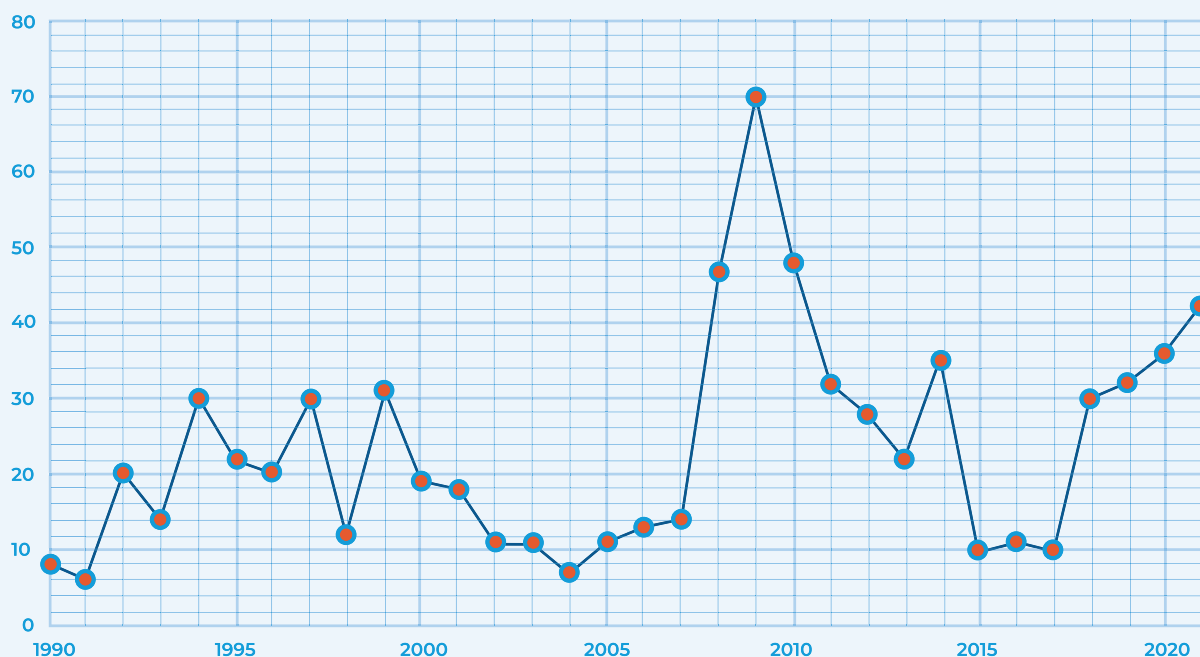
<sup>12</sup> Amnesty International (2021) Everything you need to know about human rights in Sri Lanka [Online]. Available at <https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/sri-lanka/report-sri-lanka/> (Accessed: 27 March 2022).

<sup>13</sup> IFJ (no date) Sri Lanka: Country Profile [Online]. Available at: <https://samsn.ifj.org/category/countries/sri-lanka/> (Accessed: 27 March 2022).

The safety of journalists is directly tied to safeguarding the right to freedom of expression<sup>14</sup>, which is a basic element to establish transparency and accountability within a state. This is reinforced by the constitution of Sri Lanka, which explicitly ensures freedom of expression as a fundamental right<sup>15</sup>. However, available data indicate that the status of safety of journalists vis a vis freedom of expression is currently at a very dismal state.

Freedom Index by Reporters Without Borders. The index ranked Sri Lanka at 162 out of 180 countries in 2013, which briefly rose up to 126 in 2019, and fell to 127 in 2020<sup>16</sup>. The Democracy Index by The Economist Intelligence Unit demonstrates how the level of democracy correlates to this suppression of media freedom – i.e. in 2019, Sri Lanka had an overall score of 6.27 on the index, which decreased to 6.14 in 2021 while the country is categorised as a flawed

**Figure 01: Incidents of threats against safety of journalists in Sri Lanka (1990-2021)**



The database compiled by the SLPI research team recorded 753 incidents of threats against the safety of journalists between the years 1990-2021, with 2009 recording the highest number of incidents reported, as depicted by **Figure 01**. While the overall recording of incidents appears to be irregular through the years, the graphical representation of incidents recorded correlates to Sri Lanka's ranking in the Press

democracy<sup>17</sup>. Likewise, the Democracy Matrix by the University of Würzburg too corresponds to the degradation of media freedom, as Sri Lanka is ranked among the Top 5 decliners in democracy during 2019-2020.<sup>18</sup>

<sup>14</sup> Universal Declaration of Human Rights (1948) Article 19: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers".

<sup>15</sup> Constitution of the Democratic Socialist Republic of Sri Lanka (1978) Article 14(1)(a).

<sup>16</sup> Refer supra note 10.

<sup>17</sup> Refer Economist Intelligence Unit (2022). Democracy Index 2021. The China challenge. London: EIU.

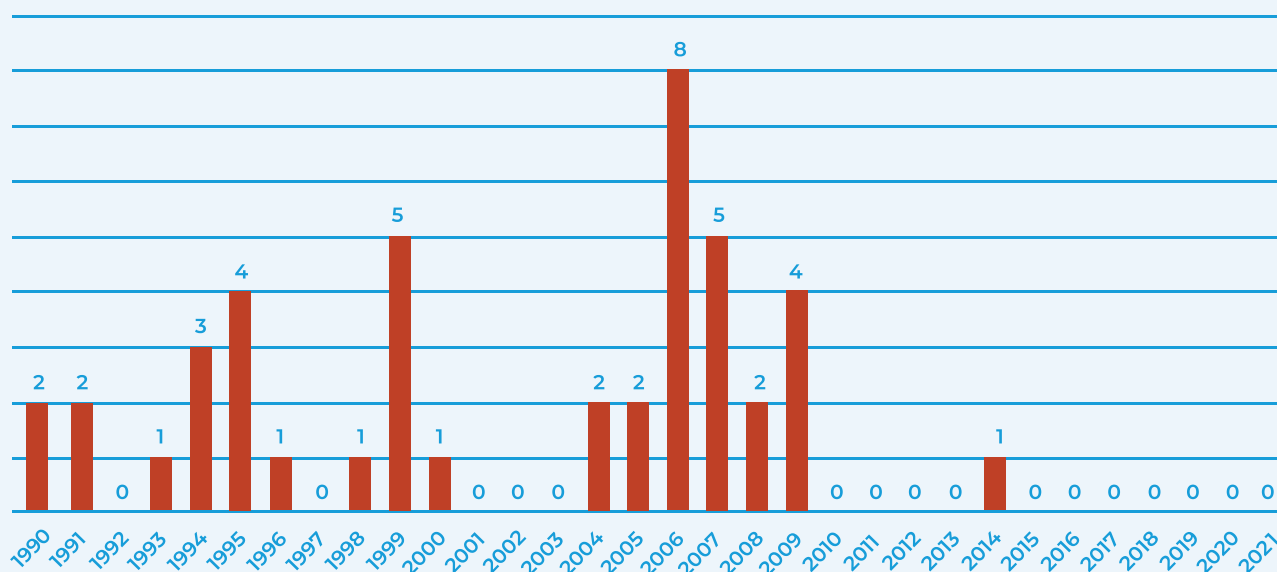
<sup>18</sup> Democracy Matrix (no date) Ranking of Countries by Quality of Democracy [Online]. Available at: <https://www.democracymatrix.com/ranking> (Accessed: 28 March 2022).



One of the most concerning aspects of the research was the frequency in which the physical integrity of journalists was threatened by violence. The breakdown of the threats faced by journalists in each decade reveals how the domestic circumstances have inevitably affected the environments in which they have worked. For example, during the civil war period in Sri Lanka, state sponsored media suppression reached a peak where journalists had

Likewise, it is evident that in the years in which the armed forces engaged the Liberation Tigers of Tamil Eelam (LTTE), threats faced by journalists had increased significantly. As recorded in the database, many frontline journalists were victims of the civil war<sup>19</sup>. Moreover, as previously discussed, this number does not truly reflect the incidents that might have gone unreported in the war-affected areas of the North and the North-east.

**Figure 02: Journalists killed in Sri Lanka (1990-2021)**



to work under heavy arbitrary censorship. Whereas censorship in general is used as a practice which allows an authority to suppress content that is considered sensitive, harmful, and objectionable, the incidents recorded in the database refer to occasions where the state has deliberately controlled the information that is disclosed to the public by monitoring print, electronic, and digital media.

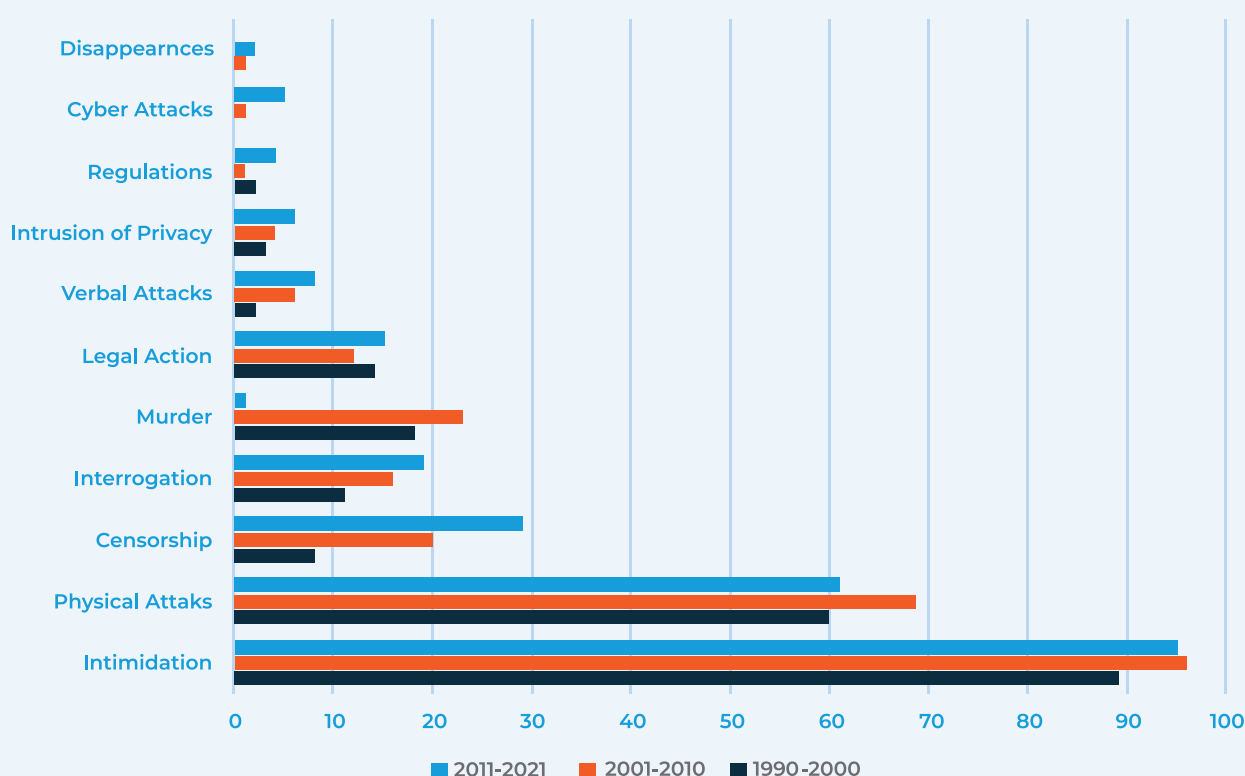
As depicted in Figure 02, between 1990 and 2021, 44 journalists were killed in Sri Lanka. However, it should be noted that deaths are on a downward trend during the post-war period. 2006, the year in which the fourth phase of the civil war resumed after a cease fire, appears to be the deadliest year for working journalists in Sri Lanka, where eight individuals were killed on the job.

<sup>19</sup> The case of journalist Puniyamoorthy Sathiyamoorthy who sustained critical injuries from a Sri Lanka Army artillery barrage and died from the same in 2009 is an example recorded in the SLPI database.

Research has shown that where a single journalist is killed (by either state or non-state actors' order), the government repression and deterioration of human rights are more likely to follow in the immediate future (Gohdes and Carey, 2017, p. 158). This statement is verified by the trends observed in Sri Lanka, years in which most deaths are recorded are the same years in which threats against journalists and state repression of dissent was at its peak. For example in 2009, BBC reports on the killing of The Sunday Leader Editor-in-Chief Lasantha Wickrematunge were censored by the Government of Sri Lanka. BBC broadcasts that included comments from Wickrematunge's colleagues and politicians from both the ruling party and the opposition were blanked out by the Sri

Lanka Broadcasting Corporation (SLBC). Likewise, a statement by the then opposition leader Ranil Wickremesinghe blaming the Government for not being able to prevent attacks on media in the Parliament was also censored<sup>20</sup>. Noteworthy, among the deaths recorded during the civil war, journalists targeted were not limited to frontline reporters but also those journalists who were critical of both the Government and the LTTE<sup>21</sup>. Nonetheless, the fact that the threat to life faced by journalists has decreased in the past few years and there had been no deaths recorded since 2015, is a positive development that needs to be acknowledged.

**Figure 03: Breakdown of threats faced by Sri Lankan Journalists (1990-2021)**



<sup>20</sup> BBC Sinhala (2009) SLBC censorship 'breach of privilege' [Online]. Available at: [https://www.bbc.com/sinhala/news/story/2009/01/printable/090120\\_ranil\\_censorship](https://www.bbc.com/sinhala/news/story/2009/01/printable/090120_ranil_censorship) (Accessed: 27 April 2022).

<sup>21</sup> Notable incidents include the assassinations of Relangi Selvarajah in 2005 and The Sunday Leader Chief Editor Lasantha Wickrematunge in 2009.



In stark contrast, the upward trend in physical violence towards journalists, i.e. abductions, torture, beatings, harassment, threatening, intimidation, and damaging their equipment is deeply concerning. As per Figure 03, the rate of physical attacks and intimidation has not changed significantly over the span of 30 years and accounts for close to 70 percent of the incidents recorded. Physical attacks and intimidation vary from journalists being injured during the course of their duty, to being harassed by authority figures and the general public, to deliberate targeting. The database records multiple incidents where journalists are targeted, where their physical integrity was threatened by invasions into their private residences, they were stalked by unknown persons, threatened via anonymous telephone calls or letters, or beaten and tortured by unknown men/law enforcement officers.

Interrogation of journalists is another element that has not seen a significant improvement over the years, which further contributes to the unsafe working conditions. Sri Lankan journalists are repeatedly summoned and questioned by the authorities, the Criminal Investigations Division (CID) and the Terrorism Investigation Division (TID)<sup>22</sup> in particular. Interrogation of those who engage in the profession includes; being pressured to divulge their sources, about the manner in which reporting was done, or being forced to reveal information about ongoing investigations. Such interrogations have become a tool to harass and intimidate journalists, and over the course of years, journalists have learned to practise self-censorship in order to avoid being subjected to such interrogations. Hence, it is undeniable that

such unwarranted interrogation of journalists has had a direct impact on the quality of investigative journalism in Sri Lanka.

As further observed in **Figure 03**, the increase in censorship over the years is a crucial factor that has had an impact on freedom of expression. According to the available data, there has been a 45 percent increase in censorship during the past 10 years. This tendency towards the rise in censorship can be largely attributed to the proliferation of online media platforms with the advancement of new media. State media institutions – both print and broadcast – were also heavily influenced by the regime in power, as indicated by several incidents recorded. For example, censorship was a preferred method controlling information disseminated to the public, where alternative narratives were continuously suppressed<sup>23</sup> and the Government in power influenced the work done by journalists and media institutions<sup>24</sup>.

One more aspect of threats faced by journalists that had not seen any improvement over the period of study is that of legal action taken against journalists. This includes arbitrary arrests, detainment, lawsuits, and imprisonments. In this regard, out of the legal provisions in place in Sri Lanka, especially the International Covenant on Civil and Political Rights (ICCPR) Act No. 56 of 2007 (*referred to as ICCPR Act from hereinafter*)<sup>25</sup> and the Prevention of Terrorism (Temporary Provisions) Act No. 48 of 1979 (*referred to as PTA from hereinafter*)<sup>26</sup> have been misappropriated to stifle freedom of expression in Sri Lanka.

<sup>22</sup> According to the database, Lanka newspaper's Chief Editor Chandana Sirimalwatte was arrested twice and questioned five times by the CID during the years 2009 and 2010.

<sup>23</sup> The database records an incident from 2013 when the Sri Lanka Broadcasting Corporation (SLBC) has repeatedly censored its FM retransmission of the BBC's Tamil-language broadcasts of news related to the debate around UNHRC Resolution 22/1.

<sup>24</sup> An example from the database would be when President Mahinda Rajapaksa met with heads of private and state-owned media institutions in 2012 and instructed them to not use the media to "incite communal disharmony" and to act with a "sense of responsibility".

<sup>25</sup> International Covenant on Civil and Political Rights Act (No 56 of. 2007)

<sup>26</sup> Prevention Of Terrorism (Temporary Provisions) Act (No. 48 of 1979)

Lending credence to the former statement, the Centre for Policy Alternatives (CPA) made the following comment on the ICCPR Act: "However, the ICCPR Act which intended to give effect to certain Articles in the ICCPR through national legislation is now known to be widely used to restrict the rights and freedoms<sup>27</sup> guaranteed by the same Covenant"(CPA, 2022, p. 13).

Similarly, the utilisation of Prevention of Terrorism Act (PTA) against journalists has been continuously questioned in recent years, while the Human Rights Commission of Sri Lanka (HRCSL), along with legal experts have called for its abolition. According to the database, the PTA has been used on multiple occasions to arrest and detain journalists during the period under study. The grounds for stating the PTA is being misused is based on more recent data recorded from 2019 to 2021, where it was used in post-war Sri Lanka where terrorism has been eradicated.<sup>28</sup> The negative implications of the PTA for Sri Lankan journalists are clearly exemplified through the case

of award-winning journalist J.S. Tissainayagam, who was charged under both the PTA and Emergency Regulations in effect at the time.<sup>29</sup> On 31 August 2009, was convicted under the PTA and sentenced to 20 years in prison. After a prolonged legal battle and international intervention, Tissainayagam was granted Presidential Pardon in 2010, and upon his release immediately fled the country.

In addition to legal action, certain regulations that have been enacted with regards to journalists in Sri Lanka have further contributed to their oppression. The implementation of these regulations are mentioned on the database as a singular incident i.e. when they were first enacted, but it should be noted that the impact of the said regulations lasted for however long they were in effect.

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<sup>27</sup> Journalists are arrested or detained by the misapplication of ICCPR Act Section 3(1): "No person shall propagate war or advocate national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence".

<sup>28</sup> Journalists are detained and sentenced by the misapplication of PTA under section 2(1)(h): "By words either spoken or intended to be read or by signs or by visible representations or otherwise causes or intends to cause commission of acts of violence or religious, racial or communal disharmony or feelings of ill-will or hostility between different communities or racial or religious groups, knowing or having reason to believe that such person has committed an offence under this Act, shall be guilty of an offence under this Act".

<sup>29</sup> Three charges were filed against J.S. Tissainayagam based on the following: two articles published in 2006 that would create ethnic disharmony which was an offence which is punishable under section 2(2)(ii) read with section 2(1)(h) of the Prevention of Terrorism (Temporary Provisions) Act no. 48 of 1979 as amended by Act No. 10 of 1982 and Act No. 22 of 1988 which is to be read with section 113 (a) and section 102 of the penal code and for collection of money for the furtherance of terrorism or specified terrorist activities which was an offence punishable under Regulation 6 (c) of the Emergency (Prevention and Prohibition of Terrorism and Specified Terrorist Activities) Regulations No. 07 of 2006. Refer International Commission of Jurists (2009) Trial Observation Report Regarding Proceeding before the High Court of Colombo, Sri Lanka brought against Mr J.S. Tissainayagam [Online]. Available at: <https://www.icj.org/wp-content/uploads/2012/05/SriLanka-journalist-report-2009.pdf> (Accessed: 2 April 2022).

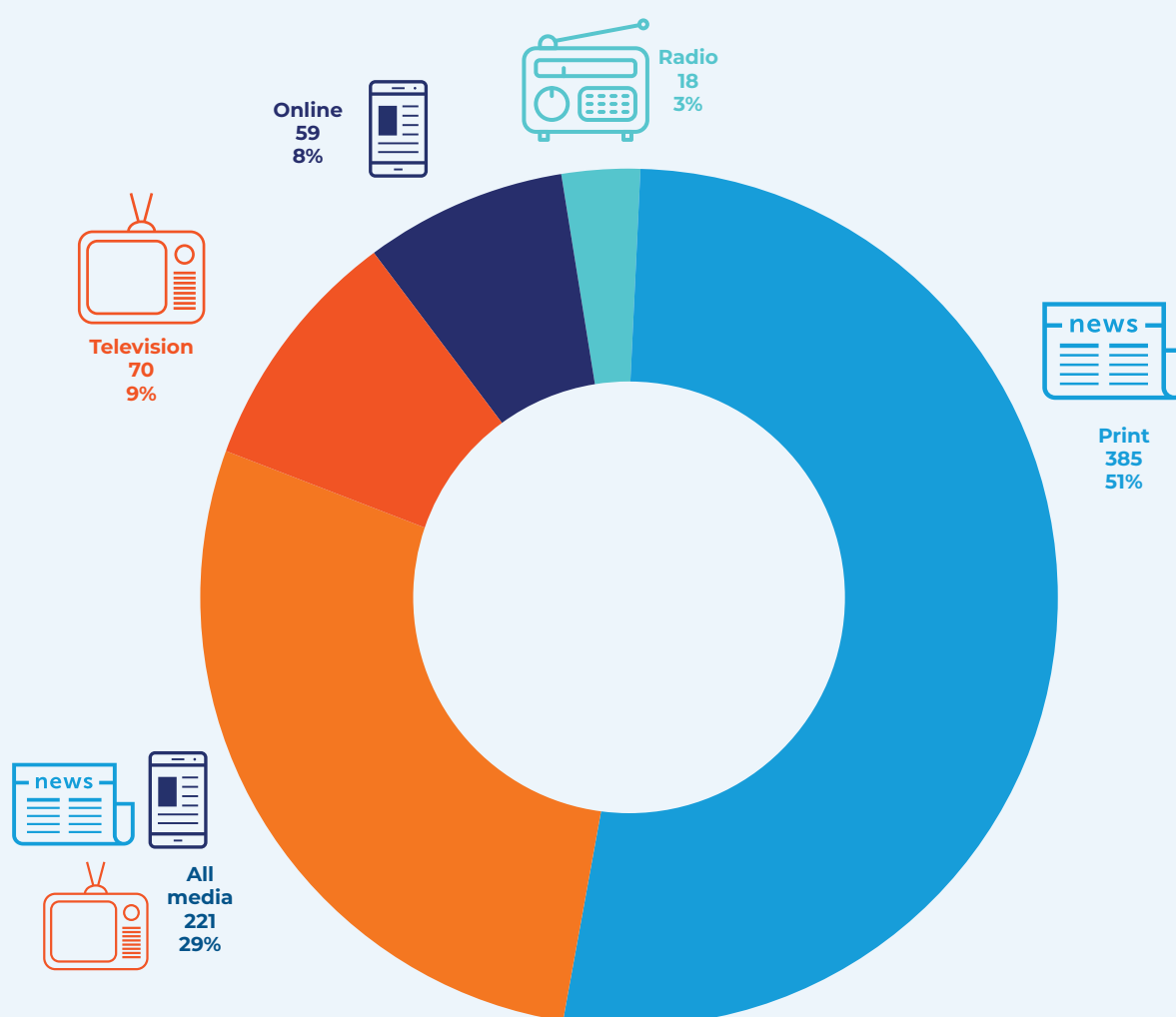


For example, on 2 July 2015, former President Maithripala Sirisena took a controversial decision to reappoint the Sri Lanka Press Council operating under the Ministry of Mass media, established under the Press Council Act No.5 of 1973,<sup>30</sup> which delivered a significant blow to the press freedom in Sri Lanka. This was mainly due to the fact that stakeholders were under the impression that the Yahapalanaya government would amend the Press Council Act and not reappoint it without any significant reforms. Hence, the move was harshly criticised by human rights defenders and various local and international organisations advocating for freedom of press – including the SLPI,<sup>31</sup> as the Council was

often described as draconian, used to impose strict control over the press and occasionally to imprison or sanction journalists.

As demonstrated in **Figure 04**, in Sri Lanka, media personnel employed in print media – journalists, editors, photojournalists, distributors, etc. – remain the most vulnerable in Sri Lanka, accounting for 51 percent of the incidents recorded since 1990. In comparison, personnel involved in other traditional media i.e. television (9 percent) and radio (3 percent) are considerably less vulnerable.

**Figure 04: Media types under threat in Sri Lanka (1990-2021)**



<sup>30</sup> Press Council Act No.5 of 1973

<sup>31</sup> Sri Lanka Press Institute (2016) Media Release on Press Council Act [Online]. Available at: <https://slpi.lk/2016/01/21/media-release-on-press-council-act/> (Accessed: 26 March 2022).



On the other hand, journalists who contribute to digital platforms (8 percent) are equally vulnerable to threats as those employed in television media. This is an interesting development as digital media is a relatively new method of information dissemination that began to proliferate during the 2000's. Yet digital or online media has risen to the forefront of the media landscape in Sri Lanka to the extent that the threats faced by digital journalists have rapidly increased over a period as short as 20 years. Moreover, certain threats are levelled against those journalists who contribute across platforms (28 percent), and are working either as freelance journalists or affiliated with multiple media platforms and types.

Therefore, based on the data analysed above, the safety level of journalists in Sri Lanka could be said to be at the bare minimum. The significance of the above statistics lie in the underlying implications of the threats faced by journalists. Evidence suggests that threats faced by journalists have eventually led to self-censorship, self-doubt, and hesitation, which in turn has resulted in weakening democratic practices such as accountability and exposing widespread corruption in Sri Lanka. Furthermore, these crimes committed against journalists have also diminished the plurality of information available to the general public, creating a media culture of polarised information. While the risk of death faced by journalists in Sri Lanka has reduced drastically, the prevalence of incidents which threaten the physical integrity of journalists has prevented journalists from taking up the path of investigative journalism. Consequently, one of the primary functions of media, i.e. to expose malpractices such as corruption within the state and to hold state institutions and personnel accountable,

is rarely discharged by Sri Lankan media. Hence, it is evident that any form of violence against journalists affects not just the individual victimised but also the society as a whole.

## Online safety of journalists

The proliferation of new media and communication technologies have introduced a new dimension to threats faced by journalists. Journalists are now susceptible to cyber attacks, online harassment, and hate speech originating primarily from various social media, which has increased in frequency since 2010. In addition to this, state media suppression in Sri Lanka took the form of blocking websites which provided alternative perspectives. The database recorded repeated suppression of online platforms and news aggregator sites in the aftermath of the civil war, as evidenced by the multiple times in which certain news websites and platforms were silenced through the Telecommunications Regulatory Commission of Sri Lanka (TRCSL) and internet service providers (ISPs)<sup>32</sup>. Moreover, in 2011, new registration rules were introduced by the Government of Sri Lanka for websites hosting any manner of content in the country, forcing web operators to reveal the location from which they operated from. The grounds for enacting this new regulation was based on the fact that several of these sites carried defamatory views of the Sri Lankan President according to the Media Ministry.<sup>33</sup>

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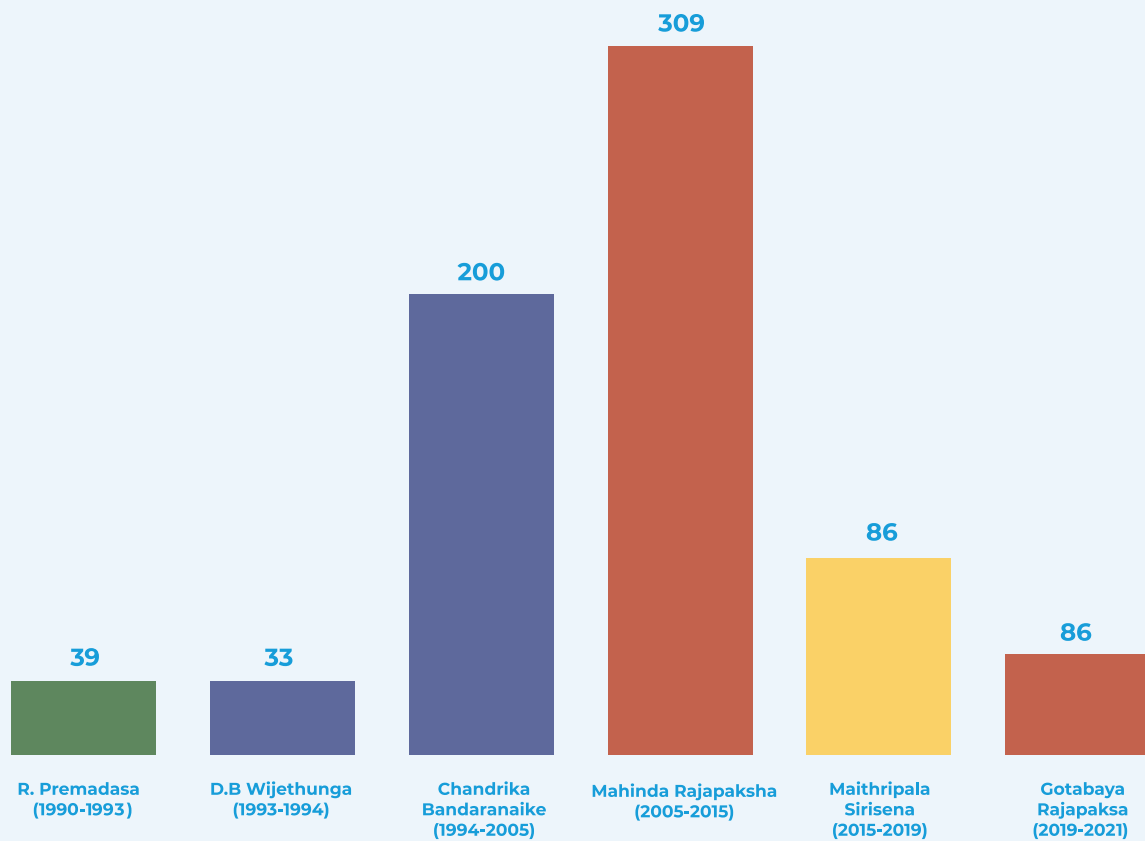
<sup>32</sup> In 2010, online media platforms Lanka E News, Lanka News Web, Infolanka, and Sri Lanka Guardian, alongside Sinhala-language news aggregator sites Nidahasa.com and Sinhala24new.com were blocked by one of Sri Lanka's leading ISPs.

<sup>33</sup> \_ \_ (2011) 'Court allows Media Ministry to continue news websites registration', Daily FT, 5 December [Online]. Available at:

Despite the increasing danger faced by journalists working online, there are little to no legal regulations and institutions which protect them from such threats. A previous study done by the SLPI revealed that 46 percent of the 202 journalists that took part have faced digital/online threats or some form of a negative experience online in the past 10 years. These threats include cyberbullying, defamation, hate speech, death threats, online sexual harassment, hacking, and state surveillance and monitoring. While it was only female journalists that reported incidents of online sexual harassment, the sample size of the study was inadequate to verify whether they face

double victimisation online or whether journalists who cover particularly sensitive topics are more frequently targeted in social media platforms in Sri Lanka. Therefore, with the growth of online media platforms as well as the increased use of social media for journalism, a mechanism to monitor and report online harassment needs to be in place to protect journalists.

**Figure 06: Incident Breakdown during each Presidential term (1991-2020)**



<https://www.ft.lk/News/court-allows-media-ministry-to-continue-news-websites-registration/56-59132> (Accessed 3 April 2022).

## Threats by political actors

As indicated by the incidents recorded in the database, a distinguishable trend observed in relation to the threats faced by journalists in Sri Lanka is the number and seriousness of attacks against journalists perpetrated by political actors. In fact, incidents of violence in Sri Lanka that garnered attention from both local media freedom advocates and the international community were politically motivated. These incidents include verbal attacks directed at media personnel in public. Media personnel are often described as traitors to the nation, individuals that lack morals, or branded as liars by Sri Lankan politicians. Generally, the rhetoric of politicians that attack journalists, label them as “Tigers” (affiliated with the terrorist organisation LTTE) or those defending foreign interests and thereby acting against the well-being of the nation. The association between politics and freedom of expression is evident by the number of incidents recorded during each regime in power as represented in **Figure 05**.

Accordingly, there is a significant rise in the number of journalists threatened during the regimes of President Chandrika Bandaranaike and President Mahinda Rajapaksa. These could be attributed to the fact that military operations were being carried out during their time in office, and as previously mentioned, the civil war period was an extremely hostile environment for journalists. However, as indicated in **Figure 01**, threats against journalists during President Mahinda Rajapaksa’s term in office peaked during 2009 and 2010, the former being the

year in which the war came to a close and the latter being the year in which he was a candidate for a second term at the Presidential election of Sri Lanka. The detailed descriptions of incidents during these two years indicate that media suppression was part of the modus operandi of the then government under Mahinda Rajapaksa, which in turn resulted in a period of severe oppression of the media. For example, the database records multiple offences against journalists carried out by a particular Minister under the Rajapaksa regime from December 2007 to March 2012. However, despite continuous condemnation of the said Minister’s behaviour towards journalists by advocates of media freedom, these incidents went unpunished. Hence, it was evident that the immunity enjoyed by the Minister was a result of the Government in power endorsing suppression of media and freedom of expression.

Threats levelled against journalists by political actors is not limited to verbal attacks. In Sri Lanka, as evidenced by the incidents recorded, political actors may go as far as to directly assault or even assassinate journalists critical of either their personal motives or the ruling party. An example of political victimisation of a Sri Lankan journalist is that of Frederica Jansz, investigative journalist and former Editor of *The Sunday Leader*. She was forced to flee the country for her attempts to expose misdeeds of the Rajapaksa regime in 2012,<sup>34</sup> by confronting then Defence Secretary Gotabaya Rajapaksa. Her dedication to her profession and refusal to curb her editorial style led to the termination of employment and eventual fleeing of the country due to constant death threats faced by her and her family.<sup>35</sup>

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<sup>34</sup> Minister Mervyn Silva was notorious for his hostility towards journalists, making several public threats against and claiming responsibility for the attack that forced journalist Poddala Jayantha to flee the country in 2009.

<sup>35</sup> Amnesty International (2013) Sri Lanka’s Assault on Dissent [Online]. Available at: [https://www.amnestyusa.org/files/asa370\\_032013en.pdf](https://www.amnestyusa.org/files/asa370_032013en.pdf) (Accessed: 3 April 2022).



Similarly, even state media faced politically motivated repression during 2008-2010, when former President Mahinda Rajapaksa took over the Ministry of Mass Media and proceeded to replace the heads of both Sri Lanka Broadcasting Corporation (SLBC) and Sri Lanka Rupavahini Corporation (SLRC).<sup>36</sup> Former President Rajapaksa then proceeded to utilise state media to boost his advantage during the 2010 Presidential Election.<sup>37</sup> In contrast, as indicated in **Figure 05** the Yahapalanaya government which followed the Mahinda Rajapaksa government recorded a 72 percent decrease in the number of cases recorded. However, President Gotabaya Rajapaksa's regime again denotes a sharp rise in threats against journalists after the significant decrease recorded during the previous regime. The database records a 12.5 percent increase in the number of cases in 2020 and a 19 percent increase in the following year. The upward trajectory is unlikely to decrease. As indicated in **Figure 05** the total number of threats against journalists in just two years of the Gotabaya Rajapaksa Presidency equals the sum of threats during four years of the Yahapalanaya government. Therefore, the safety of journalists under the current administration remains at a questionable level.

Therefore, political actors, particularly those belonging to the ruling party, have played a role in either silencing the media or controlling the information disseminated to the public for their political gain, thereby threatening both the safety of journalists and endangering the right to freedom of expression.

## Impunity for crimes against journalists

*"Impunity for crimes against journalists means a failure by states to bring redress for abuses against journalists, including harassment, threats, attacks, arbitrary detention, and murder" (Article 19, 2018).*

According to the Global Impunity Index by the CPJ, since the existence of the index until 2019, the murders of journalists where no perpetrators were identified and prosecuted vary from 85 percent to 90 percent of all cases worldwide.<sup>38</sup> Therefore, impunity has provided a licence for ongoing crimes and violence against journalists, including arrests and detentions, assaults, threats, intimidation, and access restrictions. Journalists continue to go into exile and subject themselves to self-censorship due to the prevailing impunity culture in Sri Lanka. It has been reported that journalists killed, disappeared, and assaulted in the country with no accountability extend from 3,995 days to 7,319 days. The longest impunity recorded is that for journalist Mylvaganam Nimalarajan, murdered in Jaffna in October 2000.<sup>39</sup> After more than 20 years, in March 2022, the Attorney General of Sri Lanka has instructed the courts not to continue the case against the suspects.

<sup>31</sup> FMM (2008) State radio head removed! and Rupavahini's DG ordered to resign [Online]. Available at: <https://freemediasrilanka.wordpress.com/2008/03/03/> (Accessed: 3 April 2022).

<sup>32</sup> RSF (2016) State media turned into presidential propaganda outlets [Online]. Available at: <https://rsf.org/en/news/state-media-turned-presidential-propaganda-outlets> (Accessed: 3 April 2022).

<sup>33</sup> CPJ (2019). Getting Away with Murder [Online]. Available at: <https://cpj.org/reports/2019/10/getting-away-with-murder-killed-justice/> (Accessed: 3 April 2022).

<sup>34</sup> Vikalpa (2021) #ENDImpunity | 365 or 50!! [Online]. Available at: <https://www.vikalpa.org/article/40851> (Accessed: 2 April 2022).

The incident of impunity which garnered most attention in recent years is that of Lasantha Wickrematunge. On 8 January 2009, the Chief Editor of The Sunday Leader Lasantha Wickrematunge was killed in the Sri Lankan capital of Colombo while driving to work. The investigation into his death was marked by cover-ups in the Police department and political interference. In 2015, with the regime change, the Sri Lanka Police Investigation Unit started a new round of investigations and revealed evidence linking his death to the Directorate of Military Intelligence. However, as of today, no charges were filed against the alleged perpetrators.

This impunity culture led Lasantha's daughter, Ahimsa Wickrematunge (henceforth referred to as 'Ahimsa'), to seek justice by way of a civil suit in the United States of America. The lawsuit was filed before the High Court of California on 7 April 2019.<sup>40</sup> The suit was filed against Gotabaya Rajapaksa, who served as the Secretary of Defence when Wickrematunge was assassinated. However, in 2019 the US District Court for the Central District of California allowed Gotabaya Rajapaksa's motion to dismiss the said case as he was entitled for immunity for any acts authorised as Secretary of Defence. Nonetheless, Ahimsa challenged this ruling and in 2020 the United States Court of Appeals for the Ninth Circuit overruled it. Hence, the case remains active to date as Gotabaya Rajapaksa enjoyed immunity from litigation as a head of state. However, the 2020 ruling ensures the way is cleared for future litigation against Gotabaya Rajapaksa regarding this case.

Likewise, the case of journalist and cartoonist Prageeth Ekneligoda (henceforth referred to as

'Prageeth') stands out among records of impunity in Sri Lanka. Ekneligoda disappeared from Homagama, shortly after leaving work at the Lanka E News office on 24 January 2010. Sri Lanka's media fraternity suspects that Ekneligoda's disappearance was enforced through State involvement. This is primarily due to the timing in which the incident took place i.e. the day before the 2010 Presidential Election. Over the years Ekneligoda's spouse Sandhya Ekneligoda has dealt with five lawsuits directly related to Prageeth's disappearance. In February 2010, she filed a Habeas Corpus in the Court of Appeal of Sri Lanka which was actively ongoing until 2016. However, the case came to a halt after President Gotabaya Rajapaksa appointed a commission to overlook the case. It has been over 12 years since his disappearance, yet the perpetrators have not been discovered and held accountable, and the fate of Ekneligoda remains unknown.<sup>41</sup>

Moreover, the actual perpetrators responsible for the killings of Veerakesari journalist Aiyathurei Nadesan in 2004 and Sudar Oli journalist Subramaniam Sugirdharajan in 2006 have not been identified by the authorities and thereby have gone unpunished. In addition, the 2009 attack on Sirasa TV is a black mark on the record of media freedom in the country. On 2 January 2009, the Sirasa Depanama studio complex was first attacked by assailants throwing petrol bombs. This was followed by another assault on 6 January 2009, where a group of thugs overwhelmed the security officers and severely damaged the equipment in the main television broadcast room.

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<sup>40</sup> CJA (no date) Assassination of Sri Lankan Journalist: Wickrematunge v. Rajapaksa [Online]. Available at: <https://cja.org/what-we-do/litigation/wickrematunge-v-rajapaksa/> (Accessed: 4 April 2022).

<sup>41</sup> \_\_\_\_ (2022) 'Justice for Prageeth', Daily FT, 27 January [Online]. Available at: [https://www.ft.lk/ft\\_view\\_\\_editorial/Justice-for-Prageeth/58-729682](https://www.ft.lk/ft_view__editorial/Justice-for-Prageeth/58-729682) (Accessed: 4 April 2022).

The thugs left the premises after setting up claymore bombs, which were later discovered by the investigators. It should be noted that despite being one of the leading media networks in the country, the perpetrators of the attack on Sirasa remain unnamed and justice denied for the victims of the attack.<sup>42</sup>

The continuous apathy and cover-ups that mark such investigations demonstrate why Sri Lankan journalists would never be free of self-censorship. Mentioned above are only a few of the many incidents that have led to journalists at present imposing boundaries on the issues they cover, in order to limit exposing themselves to such risks. Hence, Sri Lankan journalists continue to practise their profession in what could be considered a truly disabling environment.

## Laws and regulations affecting journalists in Sri Lanka

### During the Civil War in Sri Lanka

#### *(1) Emergency regulations*

Sri Lanka was ruled under the Emergency Regulations passed under the Public Security Ordinance during the time period 1990-2009. The

successive Governments reimposed censorship of coverage of military and news related to war efforts with the enactment of emergency regulations. The state continued to use the prolonged war as a pretext to restrict media freedom by way of emergency regulations and rules set out under the Public Security Ordinance.

On 17 June 1993, the Government issued revised regulations to safeguard human rights activists.<sup>43</sup> The regulations altered the general procedure for arrest and detention. This set of regulations prohibited secret detention and monthly magisterial inspection was required to see all the detainees in their places of detention. Even though the Government said that this would be a positive development, these changes were not sufficient to protect activists, since the emergency regulations permitted indefinite preventive detention which might lead to torture in custody. The regulations of the same name issued in June 1989, and their amendments, had been rescinded.

On 22 December 1993, the Government introduced a set of extremely controversial emergency regulations on sedition.<sup>44</sup> Civil disobedience, distribution of leaflets, and the display of posters which are prejudicial to the public security, were considered criminal offence under these regulations.

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<sup>42</sup> \_\_\_\_ (2020) '11 years since the attack on Sirasa Depanama Studio', NewsFirst, 6 January [Online]. Available at: <https://www.newsfirst.lk/2020/01/06/11-years-since-the-attack-on-sirasa-depanama-studio/> (Accessed: 4 April 2022).

<sup>43</sup> National Legislative Bodies/National Authorities (1993) Sri Lanka: Emergency (Miscellaneous Provisions and Powers) Regulations, No. 1 of 1993 [Online]. Available at: <https://www.refworld.org/docid/4561df8e1c.html> (Accessed: 4 April 2022).

<sup>44</sup> Canada: Immigration and Refugee Board of Canada (1995). Sri Lanka: Chronology of Events: September 1992 - November 1994 [Online]. Available at: <https://www.refworld.org/docid/3ae6a8163.html> (Accessed: 6 April 2022).

On 4 April 1996, the President issued emergency regulations which restricted the reporting of certain news items in Sri Lankan newspapers. However, the Government lifted these regulations on 8 October 1996. However, no Sri Lankan journalists were arrested under these regulations.<sup>45</sup>

In November 1999, the President introduced the Emergency (Prohibition on Publication and Transmission of Sensitive Military Information) Regulation No. 1 of 1998.<sup>46</sup> The regulation specifies that no media entity may print, transmit, or broadcast information on military activities without Government permission.<sup>47</sup>

On 3 May 2000, the President introduced Emergency (Miscellaneous Provisions and Powers) Regulation No. 1 of 2000 aiming at preventing journalists from reporting war-related news items. As per the regulations, the President may require anyone the power to do any work or render any personal service in connection with national security or maintenance of essential services. The regulations contain provisions rendering powers to the Competent Authority on the control of meetings, processions and publications. Thus, the President empowered law enforcement

authorities to arrest journalists, seize their property, block the distribution of newspapers, and shut down printing presses on the grounds of national security. Noteworthy, these regulations applied to both local and foreign journalists.

On 30 June 2000, following the verdict of the fundamental rights petition filed by The Sunday Leader, the Government issued a new set of regulations backdated to 1 July 2000.<sup>48</sup>

On 5 November 2003, the President declared a state of emergency under which temporary emergency provisions were introduced.<sup>49</sup> These regulations included media censorship and a ban on public demonstration. However, the Government lifted the state of emergency on 7 November 2003.

In December 2004, President Chandrika Bandaranaike Kumaratunga declared a state of emergency following the tsunami on 4 January 2005 and thereafter a set of emergency regulations were promulgated on 6 January 2005.

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<sup>45</sup> It should be noted that these regulations were nevertheless used against four Danish journalists who went to meet Chithra Rajendran. They were arrested, detained, and deported as Rajendran was accused of having links to the LTTE by the Government. Read more at Article 19 (1997) REFORM AT RISK? Continuing Censorship in Sri Lanka [Online]. Available at: <https://www.refworld.org/pd/475418afo.pdf> (Accessed: 6 April 2022).

<sup>46</sup> Emergency (Prohibition on Publication and Transmission of Sensitive Military Information) Regulations, No. 1 of 1998.

<sup>47</sup> A notable case under this regulation was that of 'Sunila Abeysekera v. Ariya Rubasinghe' where the petitioner (Sunila Abeysekera) accused that the regulation violated her right to freedom of speech. While the petition was dismissed by the court, it should be noted that this case provides an insight on how the same regulation might have restricted/hindered working journalists at the time as well. Refer Ministry of Justice in collaboration with the Bar Association of Sri Lanka (2000) 'Sunila Abeysekera v. Ariya Rubasinghe', Sri Lanka Law Reports, p. 314-386.

<sup>48</sup> Gazette Extraordinary No. 1138/34.

<sup>49</sup> Rohande, D. (2003) 'Sri Lanka President declares a state of emergency', The Guardian, 3 June [Online]. Available at: <https://www.nytimes.com/2003/11/06/world/sri-lanka-president-declares-a-state-of-emergency.html> (Accessed: 6 April 2022).

The second post-tsunami proclamation declaring a state of emergency in respect of 14 Districts was gazetted on 3 February 2005 along with a set of emergency regulations.<sup>50</sup> Under these regulations, the President appointed a Commissioner General of Essential Services for the purpose of planning and implementing all activities related to providing assistance to the victims and the displaced personnel as a result of the Tsunami. However, the regulations had not included any direct provisions under which the Competent Authority was given powers to undermine freedom of expression.

In August 2005, emergency regulations were reintroduced, which allowed the Government to bar the publication, distribution, performance, or airing of any print or broadcast material deemed likely to cause public disorder.<sup>51</sup>

In December 2006, the Emergency (Prevention and Prohibition of Terrorism and Specified Terrorist Activities) Regulations<sup>52</sup> introduced contained excessively broad language that local rights activists noted could restrict media freedom.

## Summary

1. The President of the country is constitutionally empowered to declare a state of emergency as empowered under and in terms of Article 155 of the 1978 Constitution.
2. In the legal context, a state of emergency brings Part II of the Public Security Ordinance (1947) into force.

3. The Governments during the period 1990-2009 imposed emergency regulations on 11 separate occasions.
4. President Chandrika Bandaranaike introduced seven emergency regulations, while President Mahinda Rajapaksa introduced four emergency regulations during the period under study.
5. All-emergency regulations largely dealt with activities related to the prolonged civil war, except the regulations introduced in January 2005 and February 2005.

## (2) Military censorship

Journalists in the country have been subjected to censorship provisions since 1998. On 5 June 1998, military censorship was implemented by the then President Chandrika Bandaranaike with the promulgation of The Emergency (Prohibition on Publication and Transmission of Sensitive Military Information) Regulation No. 1 of 1998.<sup>53</sup> The regulation empowered the Competent Authority to prohibit the use of any press or equipment and to seize the same where there has been a contravention of the regulation through such media. Moreover, the measure hampered attempts by local and international journalists to scrutinise military policy and procurements.

<sup>50</sup> These regulations were published on Gazette Extraordinary No. 1374/8, Gazette Extraordinary No. 1378/22, and Gazette Extraordinary No. 1378/23, respectively.

<sup>51</sup> The proclamation of the state of emergency was published in Gazette No.1405/13 of 13 August 2005. ERs under that state of emergency were published in Gazette No.1405/14 of 13 August 2005.

<sup>52</sup> National Legislative Bodies/ National Authorities (2006). Sri Lanka: Emergency (Prevention and Prohibition of Terrorism and Specified Terrorist Activities) Regulations No. 07 of 2006 [Online]. Available at: <https://www.refworld.org/docid/45af76a62.html> (Accessed: 26 April 2022).

<sup>53</sup> Refer supra note 46.

It also offered the aggressive publicity department of the LTTE an advantage in moulding the media narrative and coverage of the civil war, since it sent out numbers on battlefield losses to international news organisations faster than the Sri Lankan military.

The Defence Ministry broadened the scope of censored subjects in August 1998 to include a restriction on news of officer transfers inside the Government security forces' senior command. According to the Ministry, this censorship was in place to prevent the LTTE from utilising such information to develop its military strategy.

On 6 November 1999, following the surge of attacks on Government forces by Tamil rebels in the Vanni District of Northern Province of Sri Lanka, the Sri Lankan Information Department directed an immediate ban on press.<sup>54</sup>

### **(3) Reporting Parliamentary debates**

In July 1993, the Government embarked on an initiative to introduce a new set of restrictions on media reporting of Parliamentary proceedings superseding the general provisions of the Parliament (Powers and Privileges) Act.<sup>55</sup> Under these restrictions, all Parliamentary reporters were required to make their articles or news based only on Hansard records. Hence, opinions or interpretations in relation to Parliamentary debates were not permitted. The restrictions gave sweeping powers to Parliament to punish any attempt to interfere with any media-

related work directed against the Parliament. As these contentious restrictions have drawn polarised reactions from the media society and came in for a fair amount of criticisms from the sections of the parliamentary reporters, the Sri Lankan Government had to do away with the entire initiative.

### **(4) Criminal defamation**

Criminal defamation laws persisted until 2002 in Sri Lanka, and were constantly used to impose criminal charges and file lawsuits against journalists. At least five journalists faced criminal defamation charges initiated by individuals, state officials, politicians, and the President during the time period 1998-2000.

Victor Ivan, Editor of the Sinhala-language weekly Ravaya has been indicted three times during the time span of 1990-2000 for having defamed the government, ministers, and high level officials. Three indictments had been delivered against Victor Ivan dated June 26, 1996 (Case Nr. 7962/96), March 31, 1997 (Case Nr. 8650/07), and September 30, 1997 (Case Nr. 9128/97) respectively. All cases were pending at that time. In "Victor Ivan v. Sarath N. Silva, Attorney-General and Another",<sup>56</sup> Victor Ivan argued that the journalists should be treated differently from the ordinary citizenry considering the exceptional risk attached to their profession. In the judgement, the Supreme Court rejected Ivan's argument and held:

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<sup>54</sup> CPJ (2000) Attacks on the Press in 1999 - Sri Lanka [Online]. Available at: <https://cpj.org/2000/03/attacks-on-the-press-1999-sri-lanka/> (Accessed 26 April 2022).

<sup>55</sup> The Parliament (Powers and Privileges) Act No. 21 of 1953.

<sup>56</sup> Bar Association of Sri Lanka (1998) 'Victor Ivan v. Sarath N. Silva, Attorney-General and Another', Sri Lanka Law Reports, p. 340-350.

"Freedom of press is not a distinct fundamental right but is part of the freedom of speech and expression including publication which article 14(1)(a) has entrenched for everyone alike."<sup>57</sup>

In this case, Victor Ivan alleged that the above indictments were arbitrarily transmitted to the High Court by the Attorney General of Sri Lanka without having a careful assessment of facts as mandated by law. In this context, Ivan argued that his inalienable fundamental rights – including freedom of expression – were curtailed and thereby the publication of *Ravaya* was obstructed. However, the Supreme Court rejected his argument stating that having omissions or errors in an indictment does not mean that actions of the AG are arbitrary. Following the Supreme Court's decision, Ivan brought an appeal application before the Human Rights Committee established under Article 28 of the ICCPR employing his rights guaranteed under the first optional protocol to the ICCPR. On 30 July 2004, in the decision, the Committee upheld *inter alia* that the way in which the AG conducted himself did have a crippling effect which unduly curtailed the applicant's freedom of expression. Accordingly, the Covenant recommended that the State should compensate Victor Ivan, which he has not received to date.

On 1 July 1997, Sinha Ratnatunga, Editor of the English-language weekly *The Sunday Times* convicted and sentenced for one year (the sentence period had been suspended for seven years) with a fine worth Rs. 10,000 for defaming President Chandrika Bandaranaike Kumaratunga by the High Court of Colombo. The conviction order was based upon criminal defamation by way of an article published

in *The Sunday Times* on or about 19 February 1995. On 5 December 2001, the Court of Appeal reaffirmed the decision upheld by the High Court against Sinha Ratnatunga.<sup>59</sup> However, on 2 August 2002, the Supreme Court acquitted Sinha Ratnatunga on the grounds that the coalition Government in 2002 went on to remove provisions of criminal defamation from the Penal Code (Ordinance No. 2 of 1883) as amended..

The media collective in Sri Lanka pushed the then government to abolish criminal defamation provisions in the Penal Code and the Sri Lanka Press Council Law (No. 5 of 1973) as amended. Among other things, Section 118 of the Chapter 19 of the Penal Code was identified as a draconian provision which penalised by means of any contumacious, insulting or disparaging words, whether spoken or intended to be read, or by signs or visible representations, shall attempt to bring the a the President into contempt, shall be punishable. As a response, the government enacted Penal Code (Amendment) Act (No. 12 of 2002) aiming to repeal Section 118 of the Penal Code.

On 5 September 2001, the High Court sentenced *The Sunday Leader* Founder and Chief Editor Lasantha Wickrematunge to a two-year imprisonment for criminally defaming President Kumaratunga.<sup>60</sup> Wickrematunge in an article titled "Promising Government" had criticised President Kumaratunga for failing to deliver on the promises made during the election campaign and was sentenced for implying that the President was corrupt.

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<sup>57</sup> Ibid p. 347.

<sup>58</sup> Victor Ivan Majuwana Kankanamge v. Sri Lanka CCPR/C/81/D/909/2000

<sup>59</sup> Ministry of Justice in collaboration with the Bar Association of Sri Lanka (2001) 'Sinha Ratnatunga v. The State', Sri Lanka Law Reports, p. 172-214.

<sup>60</sup> International Press Institute (2000) Letter: Sri Lanka editor sentenced on charges of criminal defamation [Online]. Available at: <https://ipi.media/letter-sri-lanka-editor-sentenced-on-charges-of-criminal-defamation/> (Accessed: 26 April 2022).

The two-year sentence which was later suspended for five years, was considered a violation of international standards of fairness and good legal practice. This case brought attention to the fact that the criminal defamation law was being used as a mechanism to silence Sri Lankan journalists.

It should be noted that the Colombo Declaration of 1998<sup>61</sup> saw the criminal defamation law as a deterrent for voicing criticism and on 18 June 2002, the Parliament of Sri Lanka repealed this controversial law.

### **(5) Official Secrets Act**

The Official Secrets Act of 1955<sup>62</sup> is another law that affects journalists in Sri Lanka which criminalises entry and photographing of prohibited places, resistance or interference with sentries, spying, etc. While the law had fallen into disuse, in May 1999 President Kumaratunga's Government made a draft proposal to restore this Act in order to criminalise those who made reports covering Cabinet meetings, but it was not brought into effect. Hence, the Official Secrets Act remains obsolete but is referred to in the Press Council Law<sup>63</sup> which was revived in 2015. It should be noted that while the Official Secrets Act has been in effect, it has not been used to charge or arrest any journalist till date.

## **Post War Period in Sri Lanka**

### **(1) State of Emergency**

Emergency Regulations are introduced under the Public Security Ordinance by the President. Article 76 (2) and 155 of the Constitution pave the way for the President to make emergency regulations. The imposition of emergency regulations means bringing Part II of the Public Security Ordinance into force. Noteworthy, the Public Security Ordinance does not involve provisions to deal with any specific offence. In a situation where the President declares a State of Emergency under the Public Security Ordinance, the President can make regulations to create specific offences and prescribe punishments thereunder.

The provisions under the Emergency Regulations allow the government to interfere in certain aspects of human life that are deemed to fall under non-intervention under normal circumstances.<sup>64</sup>

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<sup>61</sup> Colombo Declaration on Media Freedom and Social Responsibility (1998), Section 2.3.

<sup>62</sup> Official Secrets Act of 1955.

<sup>63</sup> Sri Lanka Press Council Law of 1973, Section 16(3): "No person shall publish or cause to be published in any newspaper any official secret within the meaning of the Official Secrets Act or any matter relating to military, naval, air-force or police establishments, equipment or installation which is likely to be prejudicial to the defence and security of the Republic of Sri Lanka, unless such matter has been approved for publication in the newspapers by the Secretary to the Ministry charged with the subject of Defence."

<sup>64</sup> Silva, D. (2020), Emergency Regulations being normalized and Its Challenges to the Fundamental Rights Dogma in Sri Lanka: A Critique [Online]. Available at: [https://www.academia.edu/43137122/Emergency\\_Regulations\\_being\\_normalized\\_and\\_Its\\_Challenges\\_to\\_the\\_Fundamental\\_Rights\\_Dogma\\_in\\_Sri\\_Lanka\\_A\\_Critique](https://www.academia.edu/43137122/Emergency_Regulations_being_normalized_and_Its_Challenges_to_the_Fundamental_Rights_Dogma_in_Sri_Lanka_A_Critique) (Accessed: 26 April 2022).



The emergency law regime in a state often interferes with major aspects such as freedom of speech and expression including publication, the freedom of peaceful assembly, freedom of association, and the freedom to form and join a trade union, freedom of movement, etc. guaranteed under the UDHR, ICCPR, and the fundamental rights mentioned in Chapter II of the Constitution. However, freedom of religion, belief, thought and conscience, freedom from arbitrary arrest, cruel and inhuman treatments, right to fair trial before a competent court are rights that are not subjected to any restrictions under any emergency regulations.

In August 2011, Sri Lanka officially lifted the State of Emergency that had been in force for 28 years since 1983 except for five months in 1989. Even though there were no legal sanctions for censoring news reports due to the lifting of the emergency rules, the letter dated 9 March 2012 issued by the Media Centre for National Security (MCNS) demanded that any news related to national security, security forces, and the police should get prior approval from the Ministry of Defence before dissemination.<sup>65</sup> This prior approval policy was a seminal element of emergency rule that applied to all news alerts issued through text and SMS over telephone networks.

On 6 March 2018, in response to the days of violent unrest between Sinhalese and Muslim communities, the government of Sri Lanka imposed a nationwide State of Emergency for the first time in the post-war period with the introduction of the Emergency

(Miscellaneous Provisions and Powers) Regulation<sup>66</sup> on 22 April 2019, shortly after the Easter Sunday Attack.<sup>67</sup> The Government extended the same regulations every month following the Easter Sunday Attack up until August 2019.

## **(2) International Covenant on Civil and Political Rights Act**

International Covenant on Civil and Political Rights (ICCPR) Act<sup>68</sup> brought to criminalise those perpetrators who advocate national, racial, or religious hatred that constitute incitement to discrimination, hostility or violence. However, the law has been controversially used to curb media freedom since its implementation in Sri Lanka.

On 14 June 2019, police officers attempted to record a statement from Kusal Perera, the Editor of the Daily Mirror with regard to an article published in the newspaper, titled "From Islamic Terrorism to Marauding Sinhala Buddhist Violence".<sup>69</sup>

Even though the ICCPR Act continues to remain in the form of legislation, since its enactment in 2007 until 2019, no person who has incited communal hatred against numerical minority groups in the country, has been indicted under the Act.

<sup>65</sup> Library of Congress (2012) Sri Lanka: Media Outlets Face Approval Requirement [Online]. Available at: <https://www.loc.gov/item/global-legal-monitor/2012-03-14/sri-lanka-media-outlets-face-approval-requirement/> (Accessed: 26 April 2022).

<sup>66</sup> Emergency (Miscellaneous Provisions and Powers) Regulation, No. 1 of 2019.

<sup>67</sup> Ameen, A. (2018) 'Gazette notification out declaring the state of emergency', Twitter, 6 March [Online]. Available at: <https://twitter.com/AzzamAmeen/status/971011024588427264> (Accessed: 18 April 2022).

<sup>68</sup> Refer supra note 25.

<sup>69</sup> Wipulasena, A. (2019) 'Freedom of expression under threat?', Sunday Observer, 23 June [Online]. Available at: <http://www.sundayobserver.lk/2019/06/23/news-features/freedom-expression-under-threat-%E2%80%99g8aathal%E2%80%99comment-lands-derana-ceo-hot-water> (Accessed: 26 April 2022).

However, this does not imply that Sri Lanka has had a violence-free or minority-friendly environment in the post-war period. The perennial problem attached to the ICCPR<sup>70</sup> Act, by looking at its practical application so far, is whether the Act was competent enough to identify actual perpetrators who advocate for violence while serving the actual purpose of the ICCPR. By observing the way in which the police applies the ICCPR Act – particularly its Section 3 – the Human Rights Commission issued guidelines on application of hate speech law in 2019. In a letter addressed to the Inspector General of Police, the HRCSL writes that “the section 3 of the ICCPR Act is an important legal tool in combating hate speech and hate speech has become a common phenomenon in the country targeting various groups”.<sup>71</sup> Hence, the continuous use of ICCPR Act during a period when ethnic tensions were on the rise, implies that it was misappropriated to curb journalists and minorities rather than to serve its true purpose.

### **(3) Prevention of Terrorism Act**

The Prevention of Terrorism Act (PTA)<sup>72</sup> has been used for over 40 years to enable prolonged arbitrary detention, to extract false confessions through torture, and to target civil society groups including journalists. Expanding the scope of the PTA, the successive governments during 2011-2021 introduced four PTA Regulations.<sup>73</sup> One of common elements that appear in all the regulations are that they have placed

several restrictions on newspaper-related activities. For instance, PTA Regulation No. 1 of 2011 and PTA Regulation No. 2 of 2021 have banned the LTTE and seven other extremist organisations. Therefore, it is a criminal offence to write or report anything in favour of these organisations even if a writer doesn't believe the popular narrative on statehood.

The database records several incidents<sup>74</sup> where journalists were subject to arrest and sentenced for imprisonment under the PTA during the post-war period in Sri Lanka.

The incidents, all of which took place in post-war Sri Lanka, are a clear indication that the PTA has outlived its purpose and is being utilised as a tool by the State to suppress various forms of dissent including that of freedom of expression.

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<sup>70</sup> For example, M.R. Mazahima allegedly wearing a dress with a print of a ship's steering wheel was arrested under this Act. The symbol on the dress was confused with the Wheel of the Law (dharmachakra) symbol associated with Buddhism. Jayasuriya, S. (2019) 'A Symbolic Arrest', Daily Mirror, 24 May [Online]. Available at: <https://www.dailymirror.lk/plus/A-%18symbolic%19-arrest/352-167764> (Accessed: 18 April 2022).

<sup>71</sup> Human Rights Commission of Sri Lanka "HRCSL Issues Guidelines on Application of Hate Speech Law" Available at: <https://www.hrcsl.lk/hrcsl-issues-guidelines-on-application-of-hate-speech-law-s-3-of-iccpr-act/#> (Accessed: 15 July 2022).

<sup>72</sup> Refer supra note 26.

<sup>73</sup> The Regulations, namely: PTA Regulation No. 2 of 2021; PTA Regulation No. 1 of 2021; PTA Regulation No. 1 of 2019; PTA Regulation No. 1 of 2011.

<sup>74</sup> Notably the cases of J.S. Thissanayagam in August 2009 and Murugupillai Kokulathasan in November 2020.

While the Government did propose an Amendment to the PTA on 7 February 2022,<sup>75</sup> human rights defenders, legal professionals, civil society organisations, and journalists, are of the opinion that the Act needs to be repealed. After years of criticism, President Gotabaya Rajapaksa published the proposed amendments to the PTA which were approved by the Cabinet on 24 January 2022, and the Amendment Bill was gazetted on 27 January 2022. However, these amendments still fall short of the requirements mandated by the United Nations in accordance with international standards of human rights.<sup>76</sup>

#### **(4) Counter Terrorism Act**

In April 2017, the Yahapalana government proposed the Counter-Terrorism Act (CTA)<sup>77</sup> to replace the PTA as a better alternative. This draft Counter-Terrorism Act (CTA) was approved by Cabinet on 11 September 2018 and was tabled in the Parliament on 9 October 2018. The CTA was eyed by the media activists as a piece of legislation with a plethora of counterproductive effects over media freedom. For an example, when carefully read, the preamble of the CTA stated that it will be a terrorist offence to write or talk in a way that causes harm to the "unity, territorial integrity or sovereignty of Sri Lanka."<sup>78</sup> It was under a similar provision in the PTA that journalists had been jailed through politicised prosecutions in the recent past. After a series of protests, it was said that the contents of the draft CTA were revised and some controversial sections

were taken out. However, the CTA did not come into force as the draft was withdrawn from the Parliament on 3 January 2020.

The laws and regulations that impact Sri Lankan journalists demonstrate the scope of the challenges they faced in order to engage in their profession. The civil war in Sri Lanka started in 1983 and led up to 2009, covering nearly three decades of the country's post-independence history. During the war, the role played by journalists as a key protector of human rights and fundamental freedoms of a meaningful democratic society was relatively dynamic, and was marked by numerous fatalities over the years.

However, after the end of the war, the State, which is the principal protector of democracy, tightened its power-building exercise through constitutional reforms, which in return restricted the space available for the exercise of freedom of expression. As evidenced from reported crimes in post-war Sri Lanka; abductions, killings, non-fatal attacks, enforced disappearances, detention, arrests, threats, acts of intimidation, interrogation, illegal prosecutions, exile, impunity, and imprisonment were frequently outlined in journalistic accounts which implies the 'normalisation' of crimes committed against journalists. Hence, from 1990 leading up to 2021,

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<sup>75</sup> Ministry of Foreign Affairs (2022) The proposed amendment to the present Prevention of Terrorism Act is a progressive step towards securing, advancing and protecting fundamental rights guaranteed under the Constitution [Online]. Available at: <https://mfa.gov.lk/pta-sl/> (Accessed: 18 April 2022).

<sup>76</sup> Human Rights Watch (2022) "In a Legal Black Hole": Sri Lanka's Failure to Reform the Prevention of Terrorism Act. New York:HRW.

<sup>77</sup> Counter Terrorism Act of 2018.

<sup>78</sup> Note to Cabinet "Policy and Legal Framework relating to the Proposed Counter Terrorism Act of Sri Lanka". Available at: [http://www.sundaytimes.lk/170430/Policy\\_Legal\\_Framework.pdf](http://www.sundaytimes.lk/170430/Policy_Legal_Framework.pdf) (Accessed: 15 July 2022).

Sri Lanka has continued to witness crimes perpetrated against journalists, alongside certain newer forms of restrictions, such as self-censorship, state surveillance, and intimidation. Interestingly, certain restrictions are a result of the advancement of information technology.

In Sri Lanka, the response towards attacks against journalists and on media freedom tend to be lukewarm at best. Years of state-sanctioned media suppression has resulted in journalists acknowledging that no justice could be expected for crimes committed against their person. A Sri Lankan journalist described the plight of those in his

line of work as follows: "This government sees 'the use of freedom of expression' as a 'crime' and the violation or threat to the right to use the freedom of expression is not seen as a crime. It has become a norm for senior officers of the top police investigative agencies to go behind those who express their ideas while resorting to lethargic investigation patterns by police stations when someone is threatened for exercising the freedom of expression."<sup>79</sup>

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<sup>79</sup> Uduwaragedara, T. (2022) 'A month of police inaction' in CPA (ed.) Human Rights and Democracy in Sri Lanka: Threats to Journalists, Human Rights Defenders and Civil Society, pp.50-53.





# Suggestions for strengthening safety of journalists

It should be noted that in addition to legal and judiciary arms of the State, the Human Rights Commission of Sri Lanka, and international organisations such as UNESCO, RSF, CPJ, AI, etc., many other local media freedom advocates have been taking an active role in ensuring the safety of journalists in Sri Lanka. Such local organisations include but are not limited to SLPI, FMM, SLWJA, PCCSL, FMETU, and SAFMA. However, when it comes to the involvement of law enforcement, it is evident that the process is more or less dysfunctional. Taking this fact into consideration, it is evident that media institutions, civil society organisations, as well as advocates of media freedom need to build up strategies and resources to respond and counteract threats faced by journalists. Based on the available data, following are some suggestions put forward by the SLPI research team in order to strengthen the existing mechanism.

## 1. Safety protocols for journalists

When it comes to counteracting crimes committed against journalists, one of the recommended practices is to establish a standardised safety protocol for working journalists and raise awareness of the same. Such protocols would be useful for journalists on the ground level, where injuries can be prevented and the risks minimised when covering violent protests and demonstrations. For example, The ACOS Alliance (A Culture of Safety Alliance) – a coalition of 130 media-related organisations,

recommend practical guidelines that create a culture of safety within their day-to-day working environment and on dangerous assignments. For this purpose, they have endorsed the Freelance Journalist Safety Principles<sup>80</sup> to be adopted as a standard by journalists and media outlets globally. These include measures such as basic first-aid training, on the ground positioning while covering incidents of civil unrest, how to deal with tear gas, and utilising an assignment safety checklist, etc. Nonetheless, it needs to be acknowledged that such protocols are effective only so far and that regulations and law enforcement officers need to acknowledge the special status of frontline journalists and ensure that their person and equipment is secured in the event of violence. It would be useful if there is a coordinating officer within media organisations that act as a liaison between media and law enforcement, in order to ensure the physical safety of journalists in the frontline.

In addition, journalists could utilise safety tracking apps. For example, SLPI is in the process of developing a mobile app that allows journalists to enable GIS tracking in order to share their location with the respective newsroom, to trigger a threat alert to inform that their lives are at risk, and incorporates a safety manual. Such measures are becoming more common as news organisations and media freedom advocates make use of advanced technology to implement a more innovative and efficient layer of safety for journalists.

<sup>80</sup> ACOS Alliance (no date) Freelance Journalist Safety Principles [Online]. Available at: <https://www.acosalliance.org/the-principles> (Accessed 27 April 2022).



## **2. Constitutional reforms**

The freedom of expression guarantees provided by Sri Lanka's Constitution must be brought into line with its obligations under international law, particularly the ICCPR, which Sri Lanka signed in 1980. There is a demanding need to rephrase the Constitution's definition of freedom of expression, opinion, and information in a way that is more consistent with Articles 19(1) and (2) of the ICCPR.<sup>81</sup>

Likewise, the following suggestion made by the Public Representations Committee on Constitutional Reform Report on May 2016 can also be taken into consideration: "The public made submissions that the following institutions must be established by the Constitution other than those which have already been provided for under the 19th Amendment," which included commissions such as the Public Service Grievance Commission, Semi-Government Public Service Commission Commission on Anti-Discrimination and Equal Opportunity, and the Media Commission among several others.

## **3. Awareness of laws and regulations**

It was evident throughout this report that harassment, arrest, and physical violence against journalists were mostly triggered by State bodies. Therefore, raising awareness of the Constitutional and general procedure set out in accordance with law and regulations (such as the PTA) to deal with the above acts amongst the security forces, is of utmost importance. Journalists should be educated and armed with proper knowledge on the legal repercussions in a case where an officer follows a legally unjustifiable order by the superior authority.

## **4. Media support systems**

Another recommended course of action to respond to crimes committed against journalists, especially those threats that have both physical and mental impact, is to establish 'media support' systems within the country. This system could offer legal support where necessary depending on the circumstances faced by each journalist. Likewise, this system could include psychological counselling which would greatly benefit journalists who would prefer not to formally report crimes committed against them, but still seek to unburden themselves in a manner that guarantees confidentiality.

## **5. Increased involvement of the State in protecting journalists**

A critical observation made during the compilation of this report was the lack of a specific mechanism to monitor and document threats faced by journalists in Sri Lanka. It is highly recommended that such a mechanism be implemented under a relevant Ministry, as it would act as a preventive measure to the violation of freedom of expression. An added benefit of having a dedicated unit would be that in the case of violations taking place, the institution would be able to prompt law enforcement into action. Likewise, journalists would be able to directly report any violations to such an unit and have the assurance that the integrity of their profession is preserved.

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<sup>81</sup> International Covenant on Civil and Political Rights (1966) Article 19 (1): Everyone shall have the right to hold opinions without interference; Article 19 (2): Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

## **6. Online safety measures for journalists**

Due to the proliferation of new media and the gradual shift towards online journalism, it is pertinent that safety measures are implemented so that journalists can respond to online threats effectively. Among suggested recommendations to tackle online threats is to offer online security training for journalists, including awareness campaigns and ways to take legal action against online harassment and hate speech. Another preventive measure suggested under online safety of journalists is the strict imposition of community guidelines by news websites and media institutions. This would ensure that public forums where users comments could be monitored and regulated, while users themselves are encouraged to report harmful comments.

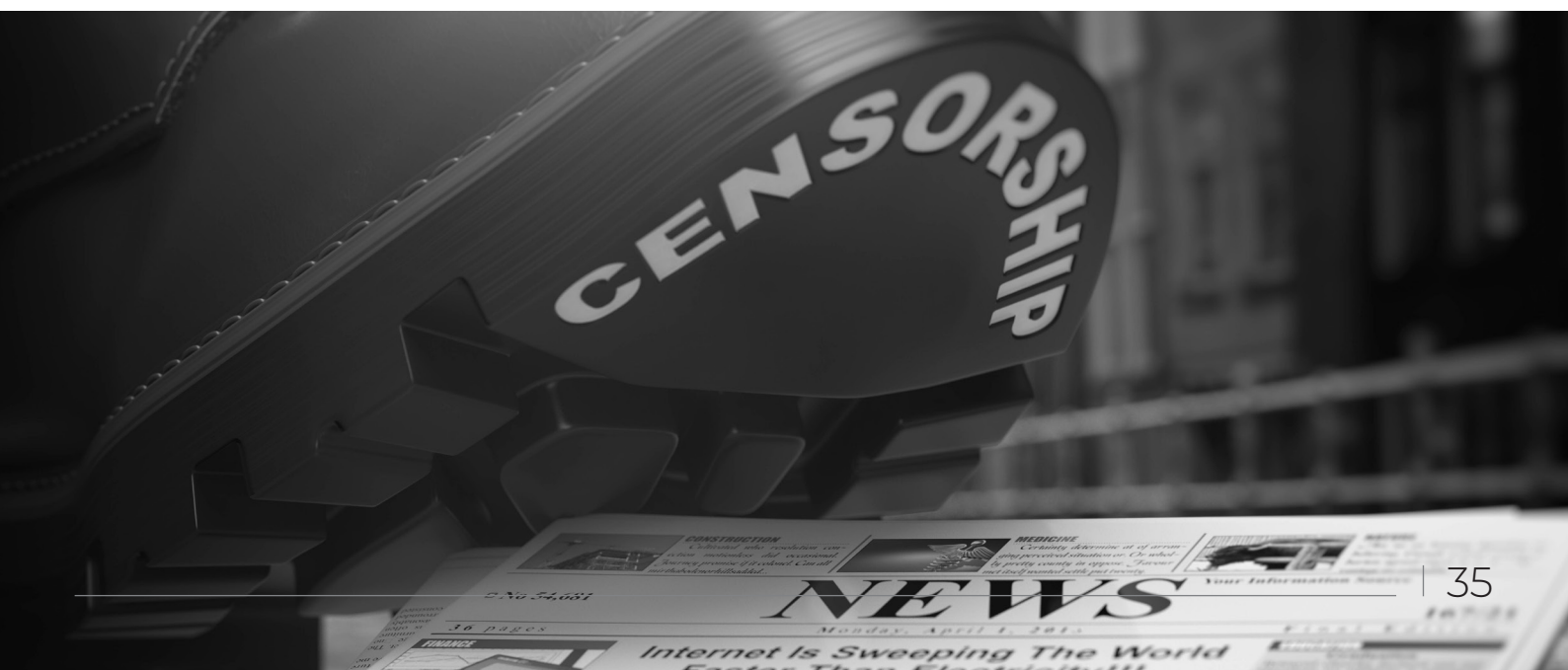
## **7. Safety of journalists in a gender-based context**

The safety of journalists in a gender-based context is an often overlooked factor in responding to threats faced by journalists as it is a highly male dominated profession in Sri Lanka. Research conducted regarding this aspect is limited and the available data is insufficient to gauge whether female journalists are more vulnerable to threats in Sri Lanka. For example, there is a concern that female journalists are re-victimised: firstly, in the face of the threat levelled against them; secondly, when gender-based discrimination occurs while reporting the crime; and

thirdly, when justice is denied for the violation of their basic human rights. Hence, it is recommended that better data collection and recording efforts are put in place to document gender-based violence against female journalists. This will pave the way to better understand threats faced by female journalists and the impact it has on their professional life. These measures should also extend towards the online safety of female journalists because they are targeted by cyber bullying, defamation and online sexual harassment.

## **8. Financial and technical support**

It is further recommended that multilateral bodies should be encouraged to continue to invest resources – both financial and technical – in order to provide appropriate training to journalists on how to safely engage in their profession. This training should include how to interact with law enforcement authorities, politicians, and IT experts; safety guidelines in reporting; and resiliency training to manage stress before, during, and after reporting traumatic and/or violent events.



## Conclusion

As elaborated in this report, threats to journalists in Sri Lanka take various forms; extending from outright physical violence, to online hate speech, to being targeted by political actors, and to state suppression. The frequency in which these threats occur at present demonstrates how freedom of expression is curbed and democracy is continuously degraded in Sri Lanka.

There is evidence presented in this report that physical violence against journalists has an impact on the entire media community as it fosters a culture of self-censorship. Eventually, the public are forced to consume information that is either prejudiced or heavily influenced by the state, resulting in further degradation of democracy within the country. Hence, it is unsurprising that the Democracy Index has labelled Sri Lanka as a 'flawed democracy' while the Democracy Matrix has labelled Sri Lanka as a 'deficient democracy'.<sup>82</sup>

Another issue of grave concern in Sri Lanka is the impunity for perpetrators; this includes negligence in investigating crimes committed against journalists or the failure to carry out legal action. The fact that justice is denied to their fellow journalists and their families who were victims of assassinations and

disappearances has negatively impacted the quality of investigative journalism. This is another factor that contributes to prevailing corruption and lack of transparency in Sri Lankan society, as the media is impaired from exposing the truth or holding public and private institutions accountable.

The data presented in this report highlights the fact that journalism is a career that is constantly under threat. While it is undeniable that journalists faced heightened risks during the civil war, these threats are not limited to times of conflict. In fact, Sri Lankan journalists are exposed violence perpetrated by law enforcement officers or political actors during times of peace as well. Furthermore, threats against 'citizen' journalists may remain unrecorded and that the emergence of new media may compound the various forms of threats faced by journalists.

Therefore, above mentioned suggestions put forth by the SLPI, along with the analysis of threats faced by journalists in Sri Lanka, could be considered as a way to enhance the safety of journalists and to improve their working environment. These suggestions attempt to prevent crimes committed against journalists, ensure their physical safety and rights, and to safeguard the integrity of the information disseminated to the public.

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<sup>82</sup> Refer supra notes 17 and 18.



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# Appendix A

English Translation of the Parliament Hansard Annexure dated 19 November 2016

## Attachment 01

### Details of journalists killed from 2006 January to 2015 January

No.	Name of the Journalist	Date killed	Progress of the investigation
01	Sadavan Thilakeshan	2007.08.01	Reported under B 372/2007. Filed under C 03 on 2008.05.27.
02	Selvaraj Rajuwaramana	2007.04.29	Reported under case no. B 247/07 to the Jaffna HC. Filed under C 03 on 2008.05.13 as a crime where perpetrators are unknown. Information not fully disclosed.
03	P. Devakumar	2008.05.28	Reported under case no. B 334/08 to the Mallakam HC. Investigations conducted so far have not revealed the perpetrators. Filed under C 03 on 2009.04.27.
04	Subramanyam Suharadarajan	2006.01.24	Reported under B R 62/2006 to the Trincomalee HC and the case filed under C 03 on 2008.10.10.
05	Subash Chandrabose	2007.04.16	Reported under B 1031/07 to the Vavuniya HC. Perpetrator was found not guilty and released on 2012.04.04 due to the lack of sufficient evidence.
06	Bastian George Sathyadasa (aka Suresh)	2006.05.02	The case has been set aside under B 171/2006 by the Jaffna HC. Investigations are still underway.
07	Rajarathnam Ranjith		
08	Sinnathambi Sivamaharaja	2006.08.20	The case has been set aside under B 300/2009 by the Mallakam HC and filed under C 03 on 2009.12.14.
09	Mohammed Maharoof Mohammed Rashmi	2008.10.06	Anuradhapura HC 2776/2008. After the court case 57/2010 heard at the Anuradhapura HC the first accused was sentenced to prison with hard labour for 20 years. The court case against the second accused will be called to court on 2016.10.18.
10	Lasantha Wikrematunge	2009.01.09	Suspect was arrested and remanded on 2016.07.15 and produced before the Mount Lavinia HC under B 92/2009. The case would be reconsidered on 2016.11.27.
11	Sampath Lakmal de Silva	2006.07.01	Case was reported to the Mount Lavinia court under B 2344/06. A file containing the excerpts of the investigations done so far has been submitted to the AG under reference no. CR 1/65/2004 on 2014.03.11. The case would be summoned by the Mount Lavinia HC under 2344/06 on 2016.11.23.
12	Sambasivam Baskaran	2006.08.16	The case was filed on 2008.05.30.
13	Sinnathambi Sivamaharaj	2006.08.20	The case was reported under B/300/2006 in the Mallakam HC on 2006.08.21. The case was set aside.

## Attachment 02

### Details of disappeared journalists from 2006 January to 2015 January

No.	Name of the Journalist	Date of the incident	Progress of the investigation
01	Prageeth Ranjan Bandara Ekneligoda	2010.01.24	Reported under B 7417/10 to the Homagama HC. The case would be summoned again on 2016.11.29.

### Details of journalists assaulted from 2006 January to 2015 January

No.	Name of the Journalist	Date of the incident	Progress of the investigation
01	Pahaladimulage Panduka Samarasekara	2007.07.24	The case was reported to the Aluthkade HC under B 5029/4/07 on 2007.07.26 and the perpetrator was released on 2012.01.10.
02	Kahandagamage Sanjeewa Chinthaka	2007.05.30	The case was reported under B 3113/4/7 to the Aluthkade HC on 2008.06.01. The case was settled in the Aluthkade HC under 17664/4/8 after the plaintiff accepted an apology from the defendant on 2008.03.14.
03	Bopearachchige Wijerathne	2007.07.14	The perpetrator was released after both parties decided to settle the case filed under 36061/07 at the Polonnaruwa HC on 2011.09.09
04	T.G. Thakshila Dilrukshi Jayasena	2010.01.13	The Polonnaruwa HC case B 1256/2012 has been filed under section C3 on 2011.06.10
05	S.P. Nimal Jayarathna	2012.12.06	On the request of the plaintiff, the case B 1256/2012 was settled by both parties at the Polonnaruwa HC.
06	H. Chaminda Perera	2009.01.10	Sent out for advice from the AG by the Kurunegala HC under case no. 106/09 on 2010.10.15.
07	Hettithanthrige Ishan Prathiba		
08	Mudiyanselage Saman Kumara		
09	Mangala Radaliyagoda		
10	Herath Mudiyanselage Weeraratna Bandara	2009.12.27	The case was settled at the Mahawa HC under B 08/2010 on 2010.05.07.
11	Adasuriya Mudiyanselage Sudarman Radaliyagoda	2007.01.05	Aluthkade HC had directed the case B 877/02 to a reconciliation board which had settled it.
12	Lal Heman Maawalage	2008.01.25	The case B 7367/08 was reported to the Kaduwela HC on 2008.01.02 and filed under C 03 on 2009.02.13.
13	Don Anurasiri	2008.03.14	The case B 1568/02 was reported to the Colombo HC and filed under C 03 on 2008.02.29
14	Athkotage Premajayantha aka Poddala Jayantha	2009.06.01	Case B 1738/09 where the accused was acquitted by the Gangodawila HC on 2010.01.01.
15	Jagath Dhammika Wijesuriya	2009.02.20	The case 3334/04/11 was settled at the Aluthkade HC on 2010.01.07.
16	Katuwawala Waduge Thilaksiri Weerasinghe	2008.07.08	The case was reported under B 2350/08 and was settled after being directed to a reconciliation board.

17	Mohammed Ibrahim Rahamatulla	2009.04.02	The case 93485 was settled after the payment of Rs. 30,000/= as compensation at the Batticaloa HC on 2011.05.03.
18	Manikkapo D. Sasikumar	2010.02.12	The case 2005/10 was reported to the Batticaloa HC and was filed under C 03 on 2011.03.04.
19	Mohammed Ibrahim Rahamatulla	2011.02.08	The case 201/11 was reported to the Batticaloa HC and set aside on 2014.01.22.
20	Askar Faraz Shauketaly	2013.02.16	Colombo CID is conducting the investigation. The case has been reported to the Mount Lavinia HC under B 488/13 and directed to advice from AG under WP/1/29/2013. The case would be summoned on 2016.11.22.
21	Sunil Ananda Weerasuriya	2013.11.06	The investigation is in progress. The case B 2983/13 has been reported to the Mount Lavinia HC.
22	Theen Loyer Goa	2008.05.22	The case B 1535/2008 has been reported to the Mount Lavinia HC and filed under C 3 on 2009.09.08.
23	P. Athula Kumara	2009.02.09	The case 84480 was settled by both parties at the Anuradhapura HC
24	Dhammika Rathnayaka	2009.11.16	Upon the request of the plaintiff the case 79165 was settled at the Kekirawa HC on 2010.11.09.
25	Mohammed Maharoof Rizmi	2010.02.02	Case was reported to Anuradhapura HC under B 26510. As the perpetrator could not be identified the case was filed under C 03 on 2011.02.21.
26	Victor Somasiri	2008.01.10	The suspect could not be identified in the lineup and therefore the case has been concluded.
27	S. Thilakarathna Perera	2009.05.31	As the plaintiff did not show up at court on 2011.10.07 the accused was acquitted by the Thangalla HC.
28 29	Sarath Amarasekara P.P. Kulasiri	2011.03.04	The case has been reported under 114/2011 to the HC. The forensic report would be called for examination on 2016.11.16.
30 31	Manjula Sampath Gnanasiri Bandara Samarakoon	2014.12.21	The case 21970 is reported to the Hambantota HC and will be summoned for further examination on 2016.11.16.
32	Halpita Herath Amal Priyankara	2009.12.10	The case was dismissed as the plaintiff did not show for the hearing scheduled for 2014.10.28 under case 62136 at the Elpitiya HC.
33 34 35	Weerasinghalage Sanjeewa J.P. Nimalsiri M.A. Ruwan Ranga	2007.08.20	The case was settled after Rs. 50,000/= was paid as compensation under 90015 at the Badulla HC.
36	Siyadillage Don Wijeyadasa Wickramaratne	2009.03.15	The case was reported under 5949 at the Badulla HC. The case was dismissed on 2015.12.01 as the plaintiff had passed away.
37	Kapila Chandana Kuruppuarachchi	2014.09.20	The perpetrator was arrested on 2014.09.25 and presented at the Badulla HC under 81725 and later remanded. The case was summoned again on 2016.09.26 and was settled on the agreement of both parties.



38	Kalimuththu Bala Mohan	2007.06.28	The case has been filed and set aside under B 921/07 on 2009.08.07.
39	Yohan Perera	2008.07.18	The accused has been released as the plaintiff did not show up for the hearing on B 893/08/87987/08 on 2009.07.18.
40	Mohammed Kasim Swide	2008.01.28	The case B 317/05/08 has been filed under C 03.
41	Paluwadana Mudiyansele	2008.01.28	The case 35330 has been set aside by the Horana HC on 2010.08.30
42	Amalage Don Chandra Sri Perera	2011.12.30	The case was settled on 2012.07.30.
43	Niroshan Premarathna	2011.05.07	The case 9863/13 has been reported to the HC and is awaiting advice from the AG.
44	Upali Tennekoon	2009.01.23	The investigation is under progress. The case B 294/2008 will be summoned by the Gampaha HC on 2016.11.25.
45	Keith Noyahr	2008.05.22	Under investigation. The case B 1658/2008 is set aside at the Mount Lavinia HC.
46	Maha Brahmmanage Namal Damayantha	2008.06.30	The case B 4690/2008 is recorded in Court 3 of the Colombo Chief Magistrate Courts and set aside as the investigations did not reveal the suspects.
47	Krishan Jeewaka Jayaruk	2008.05.29	The case B 2466/07 was settled and the suspects acquitted on 2009.10.06 by the Mathara HC.
48	Nallaperuma Arachchige Rathnasiri	2008.07.24	The case was settled.
49	W.A. Sankalpa Dhanuga Kalasara	2008.02.28	The case 34/08 was directed to a reconciliation board on 2009.07.03 and was settled by both parties on 2008.07.28.
50	Krishan Jeewaka Jayaruk	2011.09.01	The case BR 1998/2011 was reported at the Mathara HC and set aside on 2013.09.16 after being examined.
51	Nayana Dasun Liyanage	2013.03.24	The case BR 25839 has been reported under Morawaka HC and is set to be heard again on 2017.03.07.
52	P. Waruna Sampath	2008.08.04	The suspects were acquitted after the case was settled in the SC.
53	Moragoda Rukman Kumara Pinto	2012.07.11	The case B 3213/12 was reported to the Negombo HC.
54	Samarathunga Mudiyansele Lakshman Samarathunga	2009.01.05	The case B 333/13 is reported to the Negombo HC and evidence is set to be examined on 2017.02.23.
55	Habarana Arachchige Sampath Sudarshana	2011.08.06	The case has been concluded after being settled by a reconciliation board on 2012.04.20.

56	Senadheera Gunarathna	2008.09.13	The accused was sentenced for 01 year of imprisonment with hard labour for the first charge and 6 months of imprisonment for the second charge which was suspended for 5 years. Rs. 1500/- and Rs. 1000/- were allocated as fines for the first and second charges respectively. If the fine was not paid the accused was sentenced for 01 year of imprisonment with hard labour.
57	Bandu Kotandeniya		
58	Giniwaddage Don Vijith Prasad	2014.11.29	The suspects were arrested and presented before the Kandy HC under case B 32500 and remanded until 2014.12.03. The case would be heard again on 2016.12.07.
59	Gamini Abeykeerthi	2010.11.01	The case B 892/10 was settled by a reconciliation board on 2011.01.10.
60	Baskaran Sadeeshan	2015.12.24	The case 1642 was settled by both parties after being presented at the Vavuniya HC.
61	Selvanayagam Ravishan	2015.07.29	The case B 68571 was settled by a reconciliation board after being reported to the Jaffna HC on 2015.10.12. The reconciliation report has not been received.
62	Jayamanna Mudalige Prasad	2015.06.23	The case B 885/15 was reported to the Marawila HC and has been directed to the reconciliation board on 2015.07.11. The reconciliation report has not been received.
63	Ponweera Arachchilage Don Damith Thisara	2014.03.03	The case 31913/14 was reported to the Gampaha HC and is awaiting the examination of final evidence on 2017.03.13.
64	Ponweera Arachchilage Sarath Ariya Kumara		
65	Rupasinghe Arachchige Baduka Mahasen Rupasinghe	2010.08.18	The case B 3008/2010 was settled by both parties under the Gampaha HC on 2011.01.19.
66	Thuppihige Don Sarath Siriwardhana	2014.06.15	The case 3099/14 was reported and set aside by the Aluthgama HC.
67	W. P. Wijesinghe	2014.06.23 2014.06.24	The suspect was arrested and presented before the Kurunegala HC under case 68580. The case would be heard again on 2016.11.18.
68	M.J.P. Pradeep Nilantha Jayasekara	2012.10.27	The case was presented to the Kurunegala HC on 2012.10.28. The suspect was arrested and bailed out for Rs. 5,000/- and Rs. 100,000/-. The case 60063 was reported to the Kurunegala HC on 2013.11.04 and the plaintiff settled the case on 2015.07.28.
69	Mohammed Faizal	2014.03.02	The suspect was arrested and presented to the Kurunegala HC under case 67285. The case would be summoned again on 2017.02.13.
70	W.M.S.B. Wijeythilake	2014.07.04	The case 62286 was presented to the Dambulla HC and after agreeing upon a recompensation of Rs. 2,500/- by the accused the case was settled on 2015.04.22.
71	Kadegedara Dahanayaka Mudalige Ariyalatha	2010.03.12	The case 72344 was examined by the Dehiaththakandiya HC and settled on 2011.07.05.

72	Samsudeen Mohommed Aroof	2012.05.28	The case B 4346/12 was reported under Akkaraipattu HC and examined under case no. 37155 and settled at court under the request of the plaintiff on 2013.01.07.
73	Siri Mohommed Mohideen Abdul	2011.01.05	The case 64831 was filed against the suspect on the Kalmunai HC and later settled at court on 2011.07.05.
74	Rajadeva Mohotti Appuhamilage Dushyantha Manoj Rajadeva	2008.08.28	The case 6509/01/08 was reported to the Colombo HC and the suspects released on bail. The case was directed for advice from AG under W/P/156/2011 on 2010.03.06 and has not received any advice till date.
75	Shantha Keerthi Bandara Rathnayaka		
76	H.G. Mahinda Makadura	2011.02.04	The case B 6460/2/11 was reported and set aside by the HC on 2013.01.22.
77	R.M. Abeynayaka	2011.12.04	The case B 1674/11 was reported to the HC and settled by both parties on 2013.06.20.
78	Tennekoon Mudiyansele Gunawadhana Chandrasekara	2007.12.28	The case B 9413/01/07 was settled at the Colombo HC on 2007.12.29.
79	Jayarsathnam Sri Rangana	2010.02.03	The case 53538 was settled on the request of both parties at the Hatton HC on 2013.10.01.
80	Peter Anthony Marikkar	2010.07.22	The case B 369/2010 was reported to the Mannar HC and was filed under C 03 on 2011.08.26.
81	Shantha Priyadarshana Wijeysooriya	2010.12.07	The case B 3395/10 is under investigation and no suspects have been arrested so far.
82	Nishshanka Priyarthna	2013.08.17	The case B 3456/13 has been reported under the Negombo HC.
83	Kulasuriya Christy Nihal Fernando	2013.10.31	Under investigation.
84	Nishshanka Arachchilage Pious Roman Perera	2011.09.23	The case 81720 has been reported and upon the request of the plaintiff has been settled by the HC on 2014.03.26.
85	Herath Pathirana Anuranga Dilshan Premathilaka	2013.05.29	The case was examined on 2013.05.29 and settled after the suspect was warned by the HC.
86	Gonupinuwalla Vithanage Janath De Silva	2015.07.12	The case 40131 was reported to the Galle HC and the case was called for reexamination on 2016.11.07 and later postponed to 2017.01.23.
87	Egoda Simonlage Gunasekara	2013.10.08	The case 13925 was reported to the Galle HC and closed after the payment of recompensation of Rs. 25,000/- on 2014.09.12.

## Details of journalists arrested from 2006 January to 2015 January

No.	Name of the Journalist	Date of the incident	Progress of the investigation
01	Bopearachchige Wijeyarathna	2006.08.03	The case 34210 was reported on 2006.08.04 to the Polonnaruwa HC and was settled by both parties on 2009.11.26.
02	Sunith Jayasinghe	2008.02.10	The case B 460/08 was examined by the HC and was found guilty. Under the personal security right he was fined Rs. 100,000/- and sentenced to prison if the fine was not paid.
03	Warnajith Subhashana Sumanasekara	2008.03.05	The case B 721/08 was settled by both parties on 2008.10.23.
04	Ekanayake Wijesinghalage Polwaththe Walawwe Chandana Nishantha	2006.05.09	The accused was acquitted after trial under case 47812 being examined by the Mahiyanganaya HC on 2006.10.18.
05	Ranjith Rajapaksa	2007.05.16	The case B 1313/07 will be summoned on 2017.11.17.
06	T. Susantha Munisami Parameshwari	2006.11.23	The case was referred to the AG under EER 19/2007 as there was insufficient evidence to call the suspect to stand trial. Hence the accused was presented to the Colombo HC under 8347/01/06 and released.
07	Jayaprakash Sittampalam Tissainayagam	2008.03.07	The accused were sentenced for 20 years in prison under 04 HC 4425/08 by the Colombo HC on 2009.08.31.
08	Nagaraja Uthayan		
09	Wijesinghe Arachchilage Kithsiri Wijesinghe		
10	Thusitha Ruwan Weerakoon	2010.03.15	The suspects have been released under the instruction of the AG after standing trial under B 3849 at the Colombo HC on 2010.09.30.
11	Wijayananda Rajanayakalage Suranga Dilhan Rajanayaka	2014.05.26	The case was reported under 87138 to the Gampola HC and will be taken up for trial again on 2016.11.17.
12	Ravindra Pushpakumara Wickramarachchi	2009.09.02	The verdict to be issued for case no. 9740 under the Morawaka HC on 2017.02.01.
13	Agulwadu Naidelage Shalika Wimalasena		
14	Daya Weththasinghe		

15	Hettiarachchige Upali Gunarathne	2015.01.04	The case was called for trial under B 09/15 and settled by the Negombo HC
16	Colombage Sherman Dixon Richard De Silva		
17	Muhewelage Upali Roopasinghe		
18	Thuan Imran		
19	Bennet Rupasinghe	2009.06.02	The suspects were presented to Nugegoda HC under case no. 1738/09 and released due to insufficient evidence.
20	Don Pradeep Sandaruwan		



## Attachment 05

### Details of attacks against media institutions from 2006 January to 2015 January

No.	Name of the Journalist	Date of the incident	Progress of the investigation
01	Lanka E News	2011.01.02	The case was presented to the HC under B 7833 and will be reexamined on 2017.01.25.
02	Sirasa	2009.01.06	Referred to the AG under B 55/2009.
03		2010.03.22	The suspects were warned for the first charge and the remaining charges were settled.
04	Daily Mirror newspaper	2010.05.05	Investigation under progress.
05	Siyatha Media	2010.07.30	The case was presented to the Fort HC under B 1049/10 and set aside.

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