

Still on the subject of media freedom, we publish below the concluding section of the latest report on Sri Lanka by Article 19 - International Centre Against Censorship. The report is entitled *Reform at Risk? Continuing Censorship in Sri Lanka*, and was published in March 1997.

THE GOVERNMENT'S MEDIA REFORM PROGRAMME

At the end of 1995, the Media Minister had promised that 1996 would be the year of media reform. Yet, by March 1997 there had still been no progress in implementing most of the reforms that had been promised, and government statements on media freedom and, more generally about freedom of expression, had become increasingly ambivalent, reflecting the increased polarization of politics in the south.

Some developments, however, were evident in implementing recommendations made by the Committee on the Working Conditions of Journalists and the Committee on the Establishment of a National Media Institute. In May 1996, the Media Minister reportedly sent copies of the two reports to a range of editors and others for consultation on implementation.¹ The following month, the President undertook to establish a pension scheme for journalists and to investigate the provision of housing and equipment for journalists, which were among the issues that had been covered in the report. The matter of improved insurance cover for journalists was apparently addressed in November, when the Sri Lanka Insurance Corporation launched a new scheme for journalists. With respect to the establishment of an autonomous National Media Institute (NMI) by Act of Parliament, in order to help enhance professional standards and provide training facilities for journalists, the Cabinet was reported to have approved this proposal in August 1996. It was announced that until such time as the legislation was passed, the government would set up a media training institute under the existing Press Council Act. This would then be converted to the NMI when the legislation was enacted.

These initiatives to improve journalists' working conditions and to establish an institute to improve journalists' professional skills would be welcome. But, as ARTICLE 19 has noted previously,²

[such] measures in themselves would [not] have much impact on the creation of the new, democratic media that the government claims is its goal. Without reform of the constitutional, legal and institutional frameworks within which the media operate, even better-trained and better-paid journalists will continue to find themselves subject to political interference and control. It is, therefore, of crucial importance that the government gives proper attention to these vital reforms and does not concentrate all of its energies on less fundamental aspects of its policy.

The government has given no indication of how it will implement the reports of the two committees which examined the fundamental issues of constitutional, legal and institutional frameworks of media freedom, the Committee to Advise on the Reform of laws, Affecting Media Freedom and Freedom of Expression and the Committee on "Broadbasing" Ownership of Associated Newspapers of Ceylon, Ltd.³

The Committee advising on legal reform submitted its final report to the Media Minister in May 1996. It has not been published in full, but a summary of its conclusions and recommendations was published in the journal *Pravada*.⁴ The report contained a comprehensive set of proposals covering constitutional and legislative reform relating to freedom of expression and freedom of information in general, as well as others addressing specific issues relating to freedom of the press and the electronic media. Although the government has continued to maintain its stated intention to implement reforms of this nature, up to now it has not made known what its precise plans are in this regard. No action has yet been taken to amend or repeal the specific pieces of legislation which the government had said it would address, and no known detailed response has been made to the Committee's report. ARTICLE 19 wrote to the Media Minister in September 1996 asking for information about the government's reform programme on media freedom, but to date has received no reply.

The government has taken two other steps relating to human rights protection more generally which could have a bearing on the protection of freedom of expression. In July 1996 legislation was passed to establish a National Human Rights Commission, which would have broad-ranging power to investigate complaints of violations of the rights protected by the by the Sri Lankan Constitution (which would include complaints alleging breaches of freedom of expression) and, amongst other things, to advise the government on means to promote and protect these rights. However, by March 1997 no member had yet been appointed to the Commission. The second initiative was the government's decision in September 1996 to ratify the (first) Optional Protocol to the International Covenant on Civil and Political Rights. This enables individuals who claim that their rights have been violated, and who have exhausted local remedies, to appeal to the Human Rights Committee of the United Nations, an independent international tribunal established under the Covenant to monitor its implementation. Human rights organizations in Sri Lanka have long campaigned for

this step to be taken and it was one of the specific recommendations made by ARTICLE 19 in *An Agenda for Change*.⁵

Government Statement on Freedom of Expression

Statements by various members of the government on media freedom over the past months reflect an increased sense of polarization in the country. Fears of a worsening military situation, and public criticism of the government's policies in the North East, seem to have provoked these statements by senior government figures. They have caused media organizations within Sri Lanka to express fears of increased censorship.

In the wake of the military defeat at Mullaitivu, the president was widely reported as saying at a public meeting that "certain newspapers may have to be closed down on the advice of the military".⁶ At a subsequent meeting, she named two newspapers—*Island* and *Divaina*—which both belong to the same publishing group, and which, she reportedly said,

had been slinging mud at the government. These newspapers were using their columns to sabotage the war effort of the government and the peace formula of the government... Those who try to sabotage the war effort will be dealt with under the law and not beaten up or threatened with abusive language like the UNP had done.⁷

The freedom of the press which her government had restored, she reportedly said, was "for some newspapers... the freedom of the wild ass". She said that these newspapers were owned by arms dealers connected with the previous government, whose deals her government had stopped.

The Media Minister, too, has made statements in support of the censorship of news relating to the conflict, and the denial of access by journalists to these areas. When asked in an interview whether these matters did not conflict with the PA's election manifesto, he was reported as saying,

Forget about the manifesto. To that extent we can tell the country forget the manifesto as far as the problems are concerned. We promised peace to the people. That is our genuine desire, to bring peace to the people, but if there's belligerence in the midst of peace process, certainly you can't have media freedom.⁸

And, on the apparent conflict between the President being Head of the National Security Council which recommended imposition of censorship, and also leader of the party which promised media freedom, he responded as follows:

Media freedom is one thing. But when it comes to national interest, the latter takes precedence and should be given priority. Because, first we have to get the country on a democratic path to get the media freedom through.

The implication here, that media freedom is secondary to democracy and can be suppressed in the name of democratic ideals, is particularly worrying. Media freedom is inherent to, and is an essential component of, any democratic process; it cannot be considered a "luxury" to be granted later.

Another government minister—the Minister of Posts and Telecommunications—wrote a lengthy letter to the Free Media Movement (which had supported the PA when it came to power). The letter was reproduced in the government-owned *Daily News* in November. This letter ended with a call for a national debate on true media freedom, and promised the Minister's continuing assistance "towards creating a free and civilized media tradition in this country". But there were numerous references in the text which suggested that he did not believe in free expression for all. In particular, he contended that only those who had fought against the repression of the previous UNP government now had the right to criticize the government; those who had supported the UNP, or remained silent amid gross abuse and corruption, had thereby lost their right to criticize now. For example, he wrote:

We who joined hands with you for the cause of media freedom had to wipe out the politics of terror [from the UNP era] in order to ensure some sort of freedom to the people... Journalists like you who assisted in that task have the sacred right to question and launch struggles as before if terror and corruption are raising their ugly heads under the present government and if there is a press censorship. But are those who undertook pilgrimages to India with authorities responsible for terror to invoke blessings on them when lives of our village youths were reduced to ashes during the barbaric period of terror entitled for that right? Do the bookie owners and heirs of Media Institutions involved in armament rackets who served those blood thirsty oppressors then have a right to speak a word about it? What did these newspaper men do when journalists like de Zoysa and H.E. Dayananda were tragically murdered, six hundred odd members of the Sangha [Buddhist monks] and thousands of youth were killed and burnt on roads? What moral right do such persons have to question about media freedom prevailing today?"

The Minister complained that it was often difficult for the government to have its views represented in certain sections of the media, or to have misrepresentations corrected. The only recourse he and other members of the government have, he said, is to use Parliament to respond to allegations made about them or to use the state media to answer criticism and misrepresentation.

Conclusion

There is a clear need for a new commitment to freedom of expression in Sri Lanka, backed by implementation of the reform programme which the government promised in its election manifesto. The government has at its disposal the recommendations of the four committees which reported on media reform. It now needs to move ahead urgently to implement them. The proposals on

constitutional and legal reform are broadly consistent with the recommendations which ARTICLE 19 put forward in October 1994 in *An Agenda for Change* and in March 1995 in *Words into Action*. ARTICLE 19 believes that this area of reform is particularly important, and should be implemented without delay.

Lack of media freedom, and the apparent trend towards increasing political interference and harassment, is likely to have serious consequences for the democratic process in Sri Lanka if it is not curbed soon. Important constitutional issues are at stake in the coming year, and the climate must be created for them to be freely and openly discussed and debated without fear of intimidation or violence.

The risk of political violence escalating is very real, and decisive action needs to be taken to curb this. The leaders of the main political parties have spoken out against violence, and the government has taken steps to confiscate illegal weapons held by politicians. Yet, numerous violent incidents involving members of both main political parties had been reported by the end of February 1997 in the run-up to the local government elections in March, involving members of both main political parties. It is important that, in tackling the violence, the government is seen to be even-handed, treating all offenders alike regardless of political affiliation. Otherwise its

actions may be archived as a political vendetta against the opposition, as another form of suppression.

Note:

1. *Daily News*, Colombo, 17 May 1996.
2. *Silent War*, note 2 above, at 35.
3. See *Silent War*, note 2 above, for further discussion of the report of these committees.
4. *Pravada*, Vol.4, No. 10 & 11, Colombo.
5. See *An Agenda for Change*, note 3 above, Recommendation 6.
6. 'FMM condemns newspaper closure threat', *Sunday Observer*, 11 August 1996.
7. *The Island*, Colombo, 20 August 1996.
8. 'Media minister has no say in allowing media to areas', *Weekend Express*, Colombo, 28 December 1996.



DOCUMENT-2

We print below a report on incidents of violence associated with the local government elections. Nominations were accepted on the 5th of February and the polling was held on the 21st of March 1997. This report was compiled by the Center for Monitoring Election Violence, set up by the Center for Policy Alternatives, an independent public policy institute, the Free Media Movement and the multi-member NGO - the Coalition against Political Violence.

REPORT OF ELECTION-RELATED VIOLENCE DURING LOCAL ELECTION CAMPAIGN (FEB 5 - MAR 19,1997)

The period Feb 5 - Mar 19, 1997 has seen 1836 incidents of violence in 30 Police Divisions covering all areas where local government elections have been scheduled for March 21st., ranging from Amparai and Colombo South which recorded the lowest number of complaints (10) to Kandy which reported the highest (177). Of these incidents, the greatest number has been allegations of [Simple] threat (594), followed by assault (438), mischief (245), damage to property (210) and threat and intimidation (197). Four reports of murder and two of attempted murder have been received by the Centre, as well as 30 complaints of hurt, 18 of robbery, 42 of arson and 06 unclassified. The number of incidents reported represents an average of nearly 44 complaints a day in the 42 days of campaigning before the elections.

The Police Election Secretariat has, however, recorded 1725 incidents to date, and the classification of these incidents differ significantly from that employed by the Centre for Monitoring Election Violence. In addition to these reports received from the Police Secretariat, the Centre has received 111 direct reports of election-related violence. Moreover, the Police records have a much higher incidence of threat and intimidation which at the Centre has been reclassified as threat.

The analysis of data concerning the alleged perpetrators of these incidents reveal that during this time frame, supporters of the People's Alliance have allegedly been responsible for 847 acts of violence, those of the UNP for 463, the JVP for 34, Independent Groups for 23, the Police for 15, the MEP for 08, the CWC for 04,