

We reproduce below the section dealing with media freedom from a report published by Article 19, the International Centre against Censorship, entitled **An Agenda for Change : The Right to Freedom of Expression in Sri Lanka**.

We also reproduce the section on Sri Lanka in the report for 1993 of the Center for the Protection of Journalists.

These two extracts reveal the shackles, formal and informal, that were imposed on the media by the previous regime and the means adopted to keep them in place.

The new government has promised to honour fully the right to free speech and expression and has just published its media policy, including proposals for the state owned television, radio and newspapers. We propose to comment on this policy in the next issue.

## MEDIA FREEDOM

**T**he new government of Prime Minister Chandrika Bandaranaike Kumaratunga has stated its intention to remove existing legal fetters on media freedom and to end informal methods of censorship. The Prime Minister has promised that the opposition will be free to express its views and that there will be no more political harassment of, or threats and attacks upon, journalists. The government has also promised to "broadbase" ownership of Associated Newspapers of Ceylon Ltd, thereby ending state ownership and control of this major newspaper publisher.

ARTICLE 19 welcomes the pledges the government has made so far. If they are implemented, and if safeguards to prevent their reintroduction are put in place, several of the major obstructions to media freedom which ARTICLE 19 has identified in recent years will be addressed. Some further important issues, however, do not yet appear to have been considered by the government. These include control of the broadcast media, and the investigation of attacks on journalists in recent years. ARTICLE 19 hopes that these, too, will receive early attention.

The issues which are summarized in this section, together with the recommendations for constitutional and legal reform set out above, reflect ARTICLE 19's most serious concerns about freedom of the media in Sri Lanka in recent years. The recommendations arising from this review set out principles which ARTICLE 19 hopes will be reflected in the government's forthcoming information policy. ARTICLE 19 believes that the overall objective of this policy, as it affects the media, should be to end state control of media organizations and actively encourage independence, diversity and pluralism in the media.

For a truly independent media to develop in Sri Lanka, covering a plurality of views and contributing to the public's "right to know", it is essential that all media institutions, both electronic and print, are free to collect and disseminate news, information and discussion, including minority viewpoints, on all matters of public interest. This is fundamental to the realization of freedom of expression. As expressed in a recent Supreme Court judgement:

Every legitimate interest of the people or a section of them should have the opportunity of being known and felt in the political process. Freedom of speech ensures that minority opinions are heard and not smothered by a tyrannizing majority. It is the only way of enabling the majority in power to have an educated sympathy for the rights and aspirations of other members of the community... Moreover, in a representative democracy there must be a continuing public interest in the workings of government which should be open scrutiny and criticism.<sup>1</sup>

### State Control of Broadcasting and Newspapers

**R**ecommendation 17: End state ownership and control of Associated Newspapers; ensure the independence of the Sri Lanka Broadcasting Corporation, Sri Lanka Rupavahini Corporation and Independent Television Network by creating a government board and financial structure for these bodies which is independent of government and which allows them to fulfil their public service functions; establish an independent broadcasting authority with sole discretion to grant licences to privately-owned broadcasting stations.

The largest media organizations are all under government control and have been used as propaganda machines by successive governments. Associated Newspapers of Ceylon Ltd (known as "Lake House") is the largest newspaper group and was brought under state control in 1973 under a special law. Radio broadcasting was a state monopoly from its inception in 1925 until 1993 when two private radio stations, which are purely entertainment channels, were permitted. Television broadcasting was introduced in April 1981 and remained a state monopoly until 1993, when two private channels were licensed. None of the private radio or television channels were permitted to broadcast independent news items on local events.

The new government has said that it will "broadbase" ownership of Associated Newspapers of Ceylon Ltd in keeping with the original intentions of the 1973 legislation, providing safeguards against any individual, organization or group being able to own or control more than 20 per cent of the stock. Priority in the initial issue of shares will be given to journalists and employees of Lake House, journalists organizations that encourage freedom of expression, trade unions and professional organizations.

The new government has not, however, addressed the issue of government control of the main broadcasting organizations. The governing boards of all three state-controlled broadcasting institutions are appointed directly by the President or government ministers, and ministers and other government officials also serve as members. Both the Rupavahini and the Sri Lanka Broadcasting Corporation (SLBC) Acts grant the Minister of Information absolute power in several areas. The Minister may dismiss any reason, and may issue special directions and make additional regulations to the Acts. The SLBC Act stipulates that the Corporation shall comply with the general policy of the government with respect to broadcasting. Under the two Acts, the three broadcasting institutions-SLBC, Rupavahini and Independent Television Network (ITN, also state-owned)-are obliged to ensure that nothing is included in any programme which offend any racial or religious susceptibilities or be offensive to public feelings. All news must be presented "with due accuracy and impartiality and with due regard to the public interest".

Additionally, Rupavahini Corporation is required to exercise supervision and control over the making of television programmes, including those produced by foreign and other television crews for export. No person may produce or market television programmes without first registering with the Corporation, and the Corporation can refuse to register an applicant or may cancel their registration if they are "unable to maintain the requisite standards that would be required in the public interest". Appeals may be made to the Secretary to the Information Ministry; there is no independent appeal board.

From its interviews in 1993 with the then Chairmen of the three state-owned broadcasting institutions, ARTICLE 19 concluded that there was little concept of a public service duty of broadcasting in these institutions. The chairmen rejected the argument that there was a need for broadcast of informed debate or criticism about government policy, as an instrument of democratic monitoring. Sri Lankan broadcasting was "too young" to cover debates at present.<sup>2</sup> The Chairmen were clear that subjects such as civilian casualties in the conflict in the north and east, "disappearances" and other human rights concerns should not be covered. Controversial issues-especially controversial political or social issues-would be avoided, and the emphasis was instead placed on culture, education and entertainment. The Chairmen emphasized that law and order, peace, and religious and cultural harmony were the dominant values which should constantly be reflected in broadcasting.

ARTICLE 19 was concerned at the manner in which the "public interest" tended to be conflated with the interests of the government, and at evidence of direct governmental interference in editorial decision-making. Broadcasts paid considerable attention to governmental activities and very little indeed to the activities of the opposition, even on major political issues. During the attempted impeachment of President Premadasa in 1991, for example, the President was given 90 minutes of television air time to speak on the impeachment resolution. The sponsors of the resolution were given no time at all. There were also instances when the government apparently felt its interests were not being served, and so intervened to prevent an item being broadcast. During provincial council elections in May 1993, for example, the leader of the opposition Democratic United National Front, Gamini Dissanayake, gave a television interview for broadcast on Rupavahini.<sup>3</sup> Following a telephone call from the President's press secretary to the Chairman of the Rupavahini Corporation, however, the journalist who had recorded the interview was ordered to take compulsory leave, and the Chairman cancelled the broadcast, despite the fact that Election Commissioner had authorized it.

The interests of the government, rather than of the public, also appeared to influence the choice of international news items broadcast. For example, news about impeachment proceedings against former Brazilian President Fernando Collor de Mello and Russian President Boris Yeltsin was not carried on state television.

In July 1993 the Cabinet issued a set of "Guidelines on the Prudent Use of the Electronic Media" which elaborated "how the electronic media should function in the public interest". These guidelines, applying to both state-and privately-owned institutions, illustrated yet again the fusion of "public interest" with the interests of the government itself. They also demonstrated the total lack of any sense of governmental responsibility to foster pluralism in the electronic media. The second guideline specifies that the electronic media "must provide opportunities for the Government to place its policies before the people without getting undue political advantage in the process". It then goes on to specify that government projects should be given priority attention in this coverage, but says the intention of such publicity is "that information pertaining to these activities should be placed before the people. In this exercise credibility is all important".

There is not one mention in the guidelines of any need to ensure that alternative views, and the activities of other parties, are also covered. The guidelines also address standards and practice in relation to commercial advertising on the electronic media. "Public Interest should be considered significantly important in the making of advertisements. ... Hence programme makers, both for entertainment and advertising, should make honest efforts to prepare their programmes to provide harmless entertainment".

Another method by which the last government attempted to influence the content of electronic broadcasts was through an informal, non-statutory body called the National Information

Strategy and Coordination Committee (NISACC), which was set up in 1990 by President Premadasa to monitor television broadcasts, apparently in order to recommend ways to protect the state media from public criticism. The members, under the chairmanship of Bradman Weerakoon, the then Presidential Adviser on International Affairs, included the Chairmen of ITN, Rupavahini, SLBC, the Director of Information and the Director-General of Foreign Affairs. The Committee apparently met about once or twice a month, at least until the assassination of President Premadasa on 1 May 1993, to make suggestions for future improvements in broadcasts. ARTICLE 19 was told by the then Director-General of Foreign Affairs that NISACC's purpose was to encourage "a lighter touch" in covering government activities and, in particular, "to ensure that people did not get bored". To achieve this goal, the Committee recommended reducing the length of news items.

The new Minister of Information has said that the government will "allow the opposition parties to express their views freely", including on state-owned television,<sup>4</sup> which is to be welcomed, and that "instructions have been given to the state-controlled media to act impartially and state involvement will be withdrawn gradually. However, "permission" and "instructions" provide only an insecure basis on which to protect the fundamental democratic right of media freedom; they can be withdrawn at whim. For freedom of the media to be protected, important changes need to be made, both to the control of media institutions and to the laws governing the media. Only then will a framework be created in which the democratic values of free expression can flourish.

## Broadcasting of News by Privately-Owned Stations

**R**ecommendation 18: permit the gathering of information and broadcasting of local news by private radio and television stations.

The licences granted to private radio and television stations prevent them from gathering and broadcasting local news. The People's Alliance election manifesto said that "[t]he PA will recognise the right of privately owned electronic media to have their own news services free of any governmental control". ARTICLE 19 welcomes this pledge and urges the government to ensure that right is both granted and fully protected by law as soon as possible.

## Attacks and Threats Against Media Personnel

**R**ecommendation 19: Ensure that all attacks and threats against journalists and other media workers, as well as media institutions and printing presses, are investigated and punished.

There have been numerous attacks on journalists in recent years. The Free Media Movement (FMM) estimated that there were over 50 incidents involving harassment of journalists between January 1992 and March 1993.<sup>5</sup>

Death threats and physical attacks on journalists, especially those who attempted to report on human rights violations committed by government forces, became common in the period of the government's counter-insurgency campaign against the JVP (1988-1989), a period when tens of thousands of people are believed to have been extrajudicially executed or "disappeared" at the hands of government forces.

The murder of Richard de Zoysa, who was abducted from his home in Colombo in February 1990 by a group of gunmen who his mother later said had included police officers, attracted particular public attention. Richard de Zoysa was a well-known broadcaster, writer and actor. He was a correspondent for Inter Press Service, and had reported on human rights violations. He is said to have been involved with the production of a play entitled "Me kauda? Mokada karanne?" ("Who is he? What is he doing?"), the title of which was understood by some to be a satirical reference to President Premadasa, who had used this slogan during the presidential election campaign.<sup>6</sup> The police inquiry into his murder has brought no results, and the last government refused to institute an independent inquiry. ARTICLE 19 urges the new government to reopen the investigation into Richard de Zoysa's murder, and to ensure that it is conducted by an independent authority, following procedures which fulfil the standard of investigation required under the United Nations Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.<sup>7</sup> ARTICLE 19 also urges the government to ensure that full investigations are held into the cases of journalists and others who have been abducted and "disappeared", attacked or killed.

More recent threats to the lives of journalists appeared to be because of their coverage of military issues, human rights, corruption, or other criticism of the government. In the case of Iqbal Athas, defence correspondent of The Sunday Times, death threats were made after he criticized the number of casualties and weaponry lost during military operations in the north in October 1993. He received repeated threats, at least one of which was said to have come from the Commander of the Army, and a funeral wreath in the name of a regiment involved in the operations was delivered to his wife. The Army Commander subsequently denied any involvement. Some of the newspapers which publicized this incident were themselves reportedly threatened.

Numerous incidents have been reported in which the security forces have prevented journalists from freely reporting on matters such as strikes, the assassination of President Premadasa, and the visit of the Presidential Mobile Secretariat to Batticaloa in 1993.

Prime Minister Chandrika Bandaranaike Kumaratunga has said that her government will not stifle freedom of expression, and "will act fast" if it is notified of any incident of state powers

being used in such a manner.<sup>8</sup> ARTICLE 19 believes that it is also necessary to ensure that past abuses of power are fully investigated, in order that no veil of impunity can be drawn across the past.

## Use of Advertising and Other State Resources to Influence the Media

**R**ecommendation 20: Provide protections in law against the use of government advertising and other state resources to influence, threaten or reward newspapers or other media.

Under the last government economic pressures were reportedly frequently used to exert leverage on publications which opposed its policies. Access to government advertising, which provides a lucrative source of funds, was largely confined to the state-owned press, and the mainstream privately-owned newspapers have carried little or no state advertising in recent years. In addition, it was alleged to ARTICLE 19 that in early 1993 President Premadasa had asked the Chairmen of two major business groups to withdraw advertising from Upali newspapers, one of the mainstream, privately-owned newspaper groups. The smaller, independent "tabloid" newspapers reported that they had no access to public sector advertising and that private companies did not advertise with them because they feared adverse repercussions from the government.

The last government was said to have used other indirect pressures to influence or threaten newspapers, including withdrawal of loans from state-owned banks. Previous governments have also used tariffs on newsprint and a newsprint quota system to threaten opposition publications. There are no protections in law, to ARTICLE 19's knowledge, to prevent a future government from exerting such pressures again.

Other forms of harassment of the press included, in February 1993, a concerted wave of visits and checks on certain newspapers critical of the government, and associated presses, by an array of different government departments: officers from the Inland Revenue, the Labour were all involved in services bills. No prosecutions resulted from any of these visits, which appeared to be primarily intimidatory in intent. A range of papers which were critical of the government were visited: The Sunday Times and Lankadeepa, published by the mainstream, privately-owned publishing houses; Yukthiya, Lakdiva and Ravaya, independent "tabloid" papers; and Aththa, the Communist Party newspaper. The Navamaga Press, which prints Yukthiya, and Lalithakala, which prints Ravaya, were also visited. The offices of Lakdiva were sealed by Colombo municipal officials on the night of 5 February, allegedly for non-payment of rates and unauthorized sub-letting of part of the premises. The Supreme Court later ordered the Municipality to reopen the premises.<sup>9</sup> The visits had been preceded by a series of public attacks on dissenting publications by members of the government, including President Premadasa himself, and by the state-owned press.

In its manifesto, the People's Alliance said that its government "will not use its advertising to control, influence or threaten any newspapers or media organizations". Again, ARTICLE 19 would emphasize the importance not only of desisting from exerting such pressures, but of providing a legal obligation on government to allocate advertisements and other resources to the media in a non-discriminatory manner.

## Reporting the Conflict in the North and East

**R**ecommendation 21: Permit full reporting of the conflict in the north and east, including of any human rights abuses that have been committed. Provide ready access to the north and east for journalists who wish to cover the conflict, and issue full information on the conflict to the public.

Information on the conflict in the north and east has been very limited indeed in the Sri Lankan media. Most news reports have relied on press statements put out by one or other party to the conflict - the Sri Lanka military or government, or the LTTE - which are often propagandist in tone. There has been little direct reporting from the conflict zones, and journalists' visits to these areas are generally controlled by the military. The government issues very little information about the course of the conflict or its true costs; security concerns are used to justify silence on a wide range of issues relating to the war. There has been more direct reporting on the conflict in the north and east by foreign correspondents than by local journalists, and many people within the country have turned to foreign broadcasts, such as those of the British Broadcasting Corporation or Radio Veritas, for news on Sri Lanka.

The appalling lack of information available to the public about the conflict and its implications was summed up by one Sri Lankan journalist as follows:

What do our people know about the war that is taking such a toll of lives of Sinhala, Tamil and Muslim citizens? Do we really know how many Tamils... have been killed in the past two years since the fighting resumed? Can we not see that official sources of information about the battlefield have fallen victim to the Westmoreland Syndrome which was seen in the Vietnam war? ... When three soldiers are killed, we are told that three times Tigers were also killed. Fancy estimates of Tiger deaths are given which can never be verified. Journalists have often noted that the casualty rates for Tigers given by official sources tend to make it five to ten times the government casualty rate in major operations.

Should not the people know why Sinhalese and Tamil youth are dying in such numbers? Is there a need for such killing? Do they not have a right to be informed of such things? Should not the people know how much is spent on the purchase of a single tank? Should this be kept a secret from the public of this country? If an aircraft crashes,

should not the public, who paid for it, know how it happened? Are these military secrets? Why did an aircraft which carried explosives also carry fuel and thirteen airmen? Is it democracy to deny this information to the people?

Isn't this the principle of accountability which flows from the financial burden the people are called upon to bear for the prosecution of this war? This is what we seek when we ask for the right to information. This is the essence of democracy.<sup>10</sup>

Since the new government came to office, there has been an increase in reporting from the north both in the electronic and the print media, a development which ARTICLE 19 hopes will be encouraged. ARTICLE 19 also urges the government to ensure that the ability to report on the conflict and associated issues will be guaranteed, and not subject to arbitrary decisions by government or military personnel.

## Notes:

1. SC Application Nos 146/92 - 155/92 (the "Wadduwa" case), decided on 17 June 1994.

2. Radio broadcasting in Sri Lanka, which began some 60 years ago, is among the oldest in South Asia.

3. Gamini Dissanayake has since rejoined the United National Party and is their presidential candidate in the forthcoming election.

4. Interview with the Minister of Information, *The Island*, 4 Sept. 1994.

5. See also INFORM, "Incidents of Harassment and Intimidation of Journalists and Media Personnel as Recorded in 1992", and "Freedom of Expression 1993".

6. Richard de Zoysa's murder was believed by some to be linked to the "disappearance" on 26 Jan. 1990 of Lakshman Perera, a UNP member of the Mount Lavinia Municipal Council who was also involved in producing this play.

7. Principle 11 requires that "[I]n cases in which the established investigative procedures are inadequate because of lack of expertise or impartiality, because of the importance of the matter or because of the apparent existence of a pattern of abuse, and in cases where there are complaints from the family of the victim about those inadequacies or other substantial reasons, Governments shall pursue investigations through an independent commission of inquiry or similar procedure".

8. *Daily News*, 7 Sept. 1994.

9. See INFORM, *Human Rights Situation in Sri Lanka*, 1993, for more on these incidents.

10. From a speech by Lucien Rajakarunanayake, journalist and founder member of the FMM, published in *Tamil Times*, 15 Jan. 1993.

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