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including the right to development**

Written statement* submitted by the Asian Forum for Human Rights and Development, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Freedom of Expression in Sri Lanka¹

(June 2014 – May 2015)

Freedom of expression was heavily suppressed under former President Mahinda Rajapaksa. Journalists, media personnel, freedom of expression advocates and human rights defenders, as well as their families, lived and carried out their work under threats of death, serious injury, arrest, interrogation, intimidation and being discredited publicly. In the period described in this report, at least one journalist survived a murder attempt. Frequently, media personnel were obstructed from doing their work by members of the police, the military, and violent pro-government extremist mobs. Newspapers and businesses associated with the press were harassed and intimidated. When called upon by those affected to investigate a case, the police typically made little progress, creating a pervasive atmosphere of impunity. This was reflected in a statement by Military spokesman Brigadier Ruwan Wanigasooriya on behalf of the Ministry of Defense: that there has not been a single attack on journalists reported in the past few years.²

At the 8th January 2015 elections, President Rajapakse was unseated by the current President Maithripala Sirisena. Under President Sirisena, the situation for freedom of expression has improved, however, many challenges remain.

1. Before the Elections: Country under President Mahinda Rajapaksa (June 2014- 8th January 2015)

Censorship occurred in various forms under President Rajapaksa. In June 2014, Mr. Ranil Wickramasinghe, leader of an opposition party (UNP), stated that a censoring letter had been sent media organisations, instructing them to do as told or suffer consequences, such as legal action and the revocation of licenses to the electronic media.³ Social media was targeted for censorship, and in the same month the Bar Association of Sri Lanka (BASL) accused the government of planning to bring in special legislation to suppress social media networks.⁴ As the presidential elections loomed, Sri Lanka's private television service providers blocked the common opposition candidate's first TV interview, as well as those of several other opposition leaders.⁵ In addition to reported censorship, countless journalists and editors have self-censored their work in order to avoid reprisals.

As in previous years, a number of journalists, their families and citizens associated with the media received death threats. In September, an area correspondent of the Jaffna Daily 'Uthayan' narrowly escaped a brutal murder attempt after being thrown in the path of a bus by two suspected members of the security agencies.⁶ Anonymous death threats were issued via telephone to a journalist in Vavuniya.⁷ Targeting an event held on 15th October in Colombo, a group called the Patriotic Force issued death threats to a former editor⁸, journalist participants, event organisers and their families as well as staff members of Transparency International Sri Lanka (TISL)^{9,10}. These included threatening phone calls, SMS messages, and a piece of paper thrown at the door by one among many suspicious looking onlookers (suspected to be intelligence agents) at the event itself.

¹ INFORM Human Rights Documentation Centre (Inform), a member organisation of FORUM-ASIA in Sri Lanka, associates itself with this statement.

² http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=107618 (last accessed 20/5/2014)

³ <http://www.adaderana.lk/news/video-govt-imposed-unofficial-censorship-to-cover-up-its-sins-ranil-> (last accessed 20/5/2015)

⁴ <http://www.ceylontoday.lk/51-67271-news-detail-laws-to-suppress-social-media-planned-basl-alleges.html> (last accessed 20/5/2015)

⁵ http://www.colombopage.com/archive_14B/Nov22_1416678446CH.php (last accessed 20/5/2015)

⁶ <http://tamilnet.com/art.html?catid=13&artid=37389> (last accessed 20/5/2015)

⁷ <http://www.tamilguardian.com/print.asp?articleid=11724> (last accessed 20/5/2015)

⁸ <http://srilankabrief.org/2014/10/death-threats-to-senior-journalist-and-his-family-from-so-called-patriotic-force/> (last accessed 20/5/2015)

⁹ <http://www.tisrilanka.org/?p=12277> (last accessed 20/5/2015)

¹⁰ <http://srilankabrief.org/2014/10/fmm-challenges-the-government-to-bring-culprits-to-book/#more-20709> (last accessed 20/5/2015)

A number of journalists, free speech advocates and media teams were intimidated and attacked by the police, military, and mobs. During the Aluthgama anti-Muslim riots in June 2014, journalists and media teams had equipment damaged and were threatened, held hostage, assaulted and obstructed by the military police and the military.¹¹ In the following weeks and months an Al Jazeera journalist was interrogated by the CID about his reporting of the riots.¹² Later in the year, two Sinhala journalists were assaulted by a pro-government mob led by government politicians.¹³

Journalists who went to report on the pre-emptive surveying of private Tamil land were threatened by the Sri Lankan Navy.¹⁴ A Tamil journalist was threatened over a long period by the Sri Lanka Police.¹⁵ The military evicted journalists covering a court case on the gang rape of two Tamil schoolgirls, allegedly by Sri Lankan Navy personnel.¹⁶ Newspaper agents in Jaffna district were subjected to repeated harassment by Sri Lankan military officers for distributing a monthly paper, and the printers of the paper were instructed to alert authorities before printing.¹⁷ Several foreign and domestic journalists have been obstructed from carrying out their work.¹⁸ In the lead-up to media workshops delegates were threatened several times.¹⁹ Delegates were also obstructed from attending media workshops.²⁰ At times, workshops

¹¹ On 15th June, an undercover journalist attached to the Sunday Times (English) / Lankadeepa (Sinhalese) newspapers was threatened with death and sustained seriously injuries in a violent mob assault (<http://www.sundaytimes.lk/140622/news/need-for-calm-say-both-sides-104377.html> – last accessed on 20/5/2015). That same day, a local reporter working for the BBC Sandeshaya was pushed by a mob and threatened not to cover the communal violence. On 16th June, a crew from a local TV station was obstructed as they were travelling to the area and were almost assaulted. They escaped without injuries, but a camera was damaged (<http://www.ft.lk/2014/06/18/death-toll-rises-to-4-from-aluthgama-riots/> – last accessed on 20/5/2015). On the same day, a journalist for the Sunday Leader English weekend newspaper was threatened and held hostage, and his driver assaulted, in Aluthgama by a violent mob armed with poles (<http://colombogazette.com/2014/06/16/journalist-held-hostage-and-released> – last accessed on 12/7/2014). Mobs had also attacked a media team from the Al Jazeera network travelling in Mathugama and Aluthgama on 17th June, manhandling their cameramen and causing damage to their vehicle (<http://www.aljazeera.com/news/asia/2014/06/sri-lanka-riots-prompt-international-concern-201461752248175495.html> – last accessed on 12/7/2014).

¹² Online journalist Dinouk Colombage was grilled for four hours by the Criminal Investigations Division (CID) over his reporting during the Aluthgama riots (<http://lankanewsweb.net/news/8130-cid-quizzes-al-jazeera-journalist> – last accessed 22/8/2014)

¹³ <http://srilankabrief.org/2014/09/sri-lanka-journalists-assaulted-in-north-and-south/#more-20280> (last accessed 20/5/2015)

¹⁴ <http://www.tamilguardian.com/article.asp?articleid=11529> (last accessed 20/5/2015)

¹⁵ <http://www.tamilnet.com/art.html?catid=13&artid=37303> (last accessed 20/5/2015)

¹⁶ <http://www.tamilguardian.com/article.asp?articleid=11637> (last accessed 20/5/2015)

¹⁷ <http://www.tamilnet.com/art.html?catid=13&artid=37449> (last accessed 20/5/2015)

¹⁸ Gardiner Harris, the South Asia Correspondent for The New York Times, had his visa put on hold after applying to report on some local incidents, including incidents related to Aluthgama (<http://www.thesundayleader.lk/2014/08/24/visa-on-hold-for-us-journo/> – last accessed on 20/5/2015). Police sealed off Mount Lavinia District court to media personnel, when the Secretary to the Ministry of Defence (and brother of the former President), Mr. Gotabhaya Rajapaksa took the stand in a defamation suit (<https://www.colombotelegraph.com/index.php/press-barred-again-from-covering-gotabayas-cross-examination-in-court/> - last accessed on 20/5/2015). In September, a Sri Lankan journalist was barred from accessing post-riot Aluthgama areas; Military Police and Military were caught on film stating: “this is not a civilian controlled area.” (<https://www.youtube.com/watch?v=rqOOIjvig#t=163> (Minutes 2.12 – 2.45, in Sinhalese) – last accessed 20/5/2015)

¹⁹ A training workshop for journalists in the Northern Province was cancelled after a number of journalists were threatened over several days in the lead up, while one of the journalists and his family members living in Jaffna was questioned (http://www.lankaviews.com/en/index.php?option=com_content&view=article&id=12024:military-shows-its-force-in-the-north-journalists-threatened&catid=150:lead-news&Itemid=113 – last accessed on 29/12/14). A senior journalist and media activist was subjected to interrogation by a Special Criminal Investigation Division over two months on his interactions with international media watchdogs and training programmes with journalists (<http://www.tamilnet.com/art.html?catid=13&artid=37400> – last accessed on 20/5/2015).

²⁰ 12 Tamil journalists from the Northern Province were obstructed in the late night/early morning by a Sri Lankan Police, Army and intelligence joint operation while travelling to Colombo to attend a workshop and discussion on digital security (<http://srilankabrief.org/2014/07/12-northern-sri-lankan-tamil-journalists-impeded/> – last accessed 20/5/2015).

themselves were disrupted by mobs.²¹

2. After elections: Country under President Maithripala Sirisena (8th January 2015 – 21st May 2015)

President Maithri Sirisena's presidency has brought about improvements in the situation of freedom of expression. Sirisena's new Prime Minister, Ranil Wickremesinghe, told reporters that they are "free to report whatever you want without the fear of being abducted."²² Websites that were blocked were unblocked. A process to enact a Right to Information Act was initiated and consultations were held with journalists, media organisations, civil society and professionals. The law is expected to be enacted in the coming months. State media has stopped discrediting those critical of the government in power and have in some instances even provided space for critiques on the government. Foreign journalists have found it much easier to obtain visas, and foreign nationals are no longer required to obtain special permission from the Ministry of Defence to visit the North. Speeches and events that could not have occurred under the previous government can now go forward. On 4th May, delegates from private and state media came together to celebrate the World Press Freedom Day and the freedom of expression while commemorating a Tamil journalists killed under the Rajapaksa government.²³

Despite these positive developments, there have also been an alarming number of assaults on free expression since January 8th.²⁴ These included attacks, threats, arrest and restrictions on journalists and obstructions to an event at a university to discuss a book about the end of the war. Compared to previous years, there was widespread expression of grief by Tamil people through remembrance events in the North and East of the country on 18th May, the 6th anniversary of the end of the war. However, the government also engaged in restrictions and intimidation surrounding such events,

²¹ A training workshop for Tamil journalists by the Transparency International Sri Lanka (TISL) was disrupted by an organized group of protesters (<http://www.tisrilanka.org/?p=11979> – last accessed 20/5/2015). Hours later, hotel management forced participants to leave the hotel, threatening that if they didn't comply, "they" would personally come and remove the journalists from the premises (<http://www.tisrilanka.org/?p=11979> – last accessed on 12th July 2014). Government orchestrated mobs sabotaged a planned media workshop for Jaffna journalists scheduled at the Sri Lanka Press Institute (SLPI) (<http://srilankabrief.org/2014/07/sabotage-of-media-workshop-and-death-threats-are-govt-orchestrated-slwja/#more-19122> – last accessed 20/5/2015). The leader of the mob later threatened to use violence against future workshops (<http://srilankabrief.org/2014/07/dont-say-we-are-bad-boys-next-time-thugs-warn-to-slpi/#more-19126> – last accessed 20/5/2015).

²² <http://www.theguardian.com/world/2015/jan/10/sri-lanka-president-maithripala-sirisena-promise-change> (last accessed 20/5/2015)

²³ <http://groundviews.org/2015/05/03/world-press-freedom-day-2015-and-freedom-of-expression-in-sri-lanka/> (last accessed 20/5/2015)

²⁴ A journalist was reported as having being attacked by a local politician. A prominent political commentator and university academic was hospitalized after being attacked on 1st May, as he was observing a May Day rally in Colombo by political forces loyal to the former President. Earlier in March, several persons dubbing a film related to the militarization were arrested by the police in Colombo, and equipment of the studio confiscated. In the Eastern province, it was reported that harassment and intimidation of family of a Muslim women activist continued to date, after she had expressed her opinions about legalization of sex work, back in 2012. From the North, an alarming number of threats to free expression had been reported against Tamil journalists. One was prevented from covering a discussion related to pollution of water. Another Tamil was reported as detained in Jaffna on 23rd April. Four Tamil journalists based in the northern cities of Mannar and Vavuniya were summoned for questioning by the Police in Colombo on 28th April. Another journalist had received a similar summons that resulted in him being charged with publishing false information on 26th April. Police in the northern city of Jaffna had arrested N. Logathayalan, a freelance journalist working for the newspaper Uthayan, on 8th April because of an article about police violence on a school girl. On 7th April, three Tamil journalists were harassed and threatened by Police officers in Jaffna, after they went to report about a protest against oil pollution. Also in April, the Vice Chancellor of the University of Jaffna had refused permission for a discussion about a book written by a University academic, about the end of the war. Few weeks after the election of the new President, it was reported that the Sri Lankan military had threatened displaced residents from Valikamam North in Jaffna, not to share their experiences and views with the Britain's Foreign and Commonwealth Office minister, Hugo Swire, during his visit to Jaffna. - <http://groundviews.org/2015/05/03/world-press-freedom-day-2015-and-freedom-of-expression-in-sri-lanka/> – last accessed 20/5/2015)

including through two court orders, although restrictions and intimidations was less intense than previous years.²⁵ These are perhaps indications that old institutions and personnel in the security and political establishments still practice policies of the previous government to suppress free expression, and that no strict instructions have been given and enforced by the new dispensation to ensure free expression.

3. International Media Assessment Missions

Two International Media Assessment Missions were undertaken during 2015 under the Sirisena Presidency. The Missions were able to meet the Prime Minister and some other relevant Ministers, an indication of the openness of the new government to engage with international media freedom advocates. Both Missions noted the relatively positive atmosphere for free expression, but expressed concern about ongoing challenges and made a number of recommendations²⁶.

4. Challenges ahead:

An important priority for the new government should be the halting of arrests, threats, intimidations, restrictions and attacks on journalists and others for expressing themselves.

The Prevention of Terrorism Act (PTA) continues to pose grave threats to freedom of expression and even freedom after expression. A formal circular by the NGO secretariat restricting the issuing of press releases as well as the conducting of press conferences and trainings for journalists has not been formally withdrawn. A gag order on writer and leading human rights defender, Ruki Fernando, still remains in place, despite submissions by his lawyer to close the ongoing anti-terror investigation and lift the restriction²⁷. The new government has announced investigations into few high profile cases such as murder of Sunday Leader editor Lasantha Wickramathunga and disappearance of Cartoonist Prageeth Ekneligoda, but in last 4 months, progress made on these cases is not clear. Nothing appears to have been done and no commitments appear to have been made in relation other pending cases related to freedom of expression, including on killings, disappearances, assaults on journalists and arson attacks on media institutions. The Uthayan newspaper noted that they are not aware of any fresh efforts to expedite justice and accountability for more than 40 cases against the institution and its personnel, which includes killings, serious assaults and arson.

A key challenge in this relatively positive atmosphere for freedom of expression is building effective self-regulatory media mechanisms along with strong legal and institutional frameworks. This is necessary if state media is to change from being propaganda organs of the government in power to public service entities that could act as a buffer against authoritarian governments. Another major challenge is for journalists, media institutions and media freedom organisations to engage in self reflections, about their own political, ethnic and other biases as well as self-censorship, particularly on subjects formerly considered taboo such as accountability for allegations of war crimes during last phase of the war, charges of genocide, political solutions to the ethnic conflict, and deep-seated cultural and religious prejudices (caste, sexuality, gender, and so on).

²⁵ <http://groundviews.org/2015/05/20/tamils-in-north-east-sri-lanka-remember-those-killed-despite-intimidation-and-surveillance/>

²⁶ See <http://srilankabrief.org/2015/05/much-needs-to-be-done-to-ensure-that-the-overall-environment-for-the-media/#more-23685> and <http://srilankabrief.org/2015/03/sri-lanka-needs-a-series-of-critical-reform-measures-for-media-freedom/#more-22971>

²⁷ <http://www.slguardian.org/?p=27256>