

University of Colombo

NEWSLETTER

Centre for the Study of Human Rights

"The respect for human rights is one of the most significant advantages of a free and democratic nation in the peaceful struggle for influence, and we should use this good weapon as effectively as possible"

– Jimmy Carter

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International Seminar on Human Rights in Conflict Situations

The three-day International Seminar on Human Rights in Conflict Situations began on 11 January in Colombo and concluded on 13 January.

The Centre for the Study of Human Rights (CSHR), University of Colombo, in collaboration with the Justice and Peace Commission, India, the Human Rights Education Consortium International, NY (IHREC), and the Institute for Community Organization Research, India, organized this conference.

Professor Ravindra Fernando, Director of the CSHR delivered the opening address. He stated that the seminar would enable reciprocation of ideas, thoughts and experiences among the participants and generate useful insights towards taking a more proactive approach to promote and protect human rights in Sri Lanka.



Robert O Blake, US Ambassador addressing the gathering

in Sri Lanka, participated as the Chief Guest at the opening ceremony. Several international and local dignitaries, including Professor Theodore S Orlin of Utica College, New York, Ms Bella Das, Social Worker and Visiting Lecturer, Mumbai University, Ms Shweta Shalini, Attorney at Law, Institute for Community Organization Research (ICOR), India, Prof Jayadeva Uyangoda, Prof Ravindra Fernando, Dr Deepika Udagama and Prof Sharya Scharen-guivel of the University of Colombo also participated.



Session on the Role of Civil Society towards Peaceful Coexistence

Themes such as *Human Rights and Its New Developments, International and Non International Armed Conflict, Constitutional Challenges for Resolving the Conflict in Sri Lanka, Laws relating to Torture, Rights of Vulnerable Persons in Warfare, The Law and its Practice in Conflict Situations, The Role of Civil Society towards Peaceful Coexistence* were discussed.



His Excellency, Robert O Blake, US Ambassador Prof Ravindra Fernando lighting the oil lamp

VISION

To create a nation with a rights consciousness in which the dignity and rights of all people are respected.

MISSION

To be a centre of excellence for human rights education and research using a multidisciplinary approach

Feature Article

The Legal Constraints against the Freedom of Media in Sri Lanka

By Selvarajah Senthana

Without a doubt, a free media can contribute a lot to promote peace by changing the perceptions through proper education. As rightly said by Francis Bacon, "Knowledge is power." Knowledge cannot be neutral in meaning, interpretation and application. Access to knowledge is necessary for citizens to participate in the decisions that govern their lives and attain empowerment. The role of the Media in democratic ground establishes the channel of communication and helps shape public opinion¹.

It is in this context, that this article attempts to discuss the legal factors on the exercise of the right to freedom of expression and the state of media freedom in Sri Lanka.

A Better Legal Protection?

As we all know, the concept of media freedom demands journalists and media practitioners to have the freedom to investigate, obtain, report and publish news for public information and knowledge, without any hindrance or constraint.

The Freedom of opinion and expression is one of the important principles set out in the Universal Declaration of Human Rights (UDHR) (Article 19)². It says, "*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.*" Various international treaties and institutions also emphasize the significance of the very freedom of expression.

Also, the Sri Lankan Government has signed the International Covenant on Civil and Political Rights (ICCPR) in June 1980, making them accountable to the United Nations Human Rights Committee (HRC)³.

If so, how about the situation in Sri Lanka? Is the right of freedom of expression adequately protected in Sri Lanka?

The 1978 Constitution guarantees the right to freedom of speech and expression, which states "*Every citizen is entitled to the freedom of speech and expression including publication*"⁴. Even though, there are provisions in the constitution to protect the freedom of expression in Sri Lanka, there are also legal regulations and statutes which limit media freedom. There are a number of instances in the legislation that encourage secrecy and weaken the liberal flow of information, particularly the emergency regulations of August 2005 and the Prevention of Terrorism Act and Specified Terrorist Activities Regulations of December 2006, the Official Secrets Act, Press Council Laws, and broadcasting laws that fail to meet international standards on freedom of expression.⁵

Legal arrangements like the Public Security Ordinance (PSO)

and the Sixth Amendment to the Sri Lankan Constitution have

been accused of limiting media freedom. Article 157A of the Sri Lankan Constitution known as the Sixth Amendment has been accused of threatening civic disability and seizing property by banning the promotion of separatism. The purpose of the PSO is the preservation of public order and public security and this law is often applied liberally when the government enforces emergency regulations. History records that 'The Saturday Review', the English paper published in Jaffna and the "Aththa", the Communist Sinhala language daily were banned in the early eighties under the PSO. In the seventies also, the government sealed an Independent Newspaper company by using the emergency regulations. In 2000, the government banned three newspapers under emergency rules.⁶

By using the same regulation, the Sri Lankan government imposed censorship on war news during the period 2000-2001. Under this measure, all material relating to war had to be submitted for censoring by a 'competent authority' appointed by the government.⁷

Criminal defamation laws also existed in Sri Lanka to suppress media freedom. They were introduced during British colonial rule, and since the 1970s they have been used to suppress the media and impose strictures on journalists. Until 18th June 2002, criminal defamation was a penal offence in Sri Lanka, and politicians and others in power could easily prosecute journalists and editors under this.⁸

Besides all these legal arrangements, there have been instances where the régimes used the Inland Revenue authorities to raid media organisations, when clearly there were other means to pursue legitimate investigations of suspected tax offences. Also, under government instruction, the courts froze the bank accounts of two newspapers in March 2007. As a result of the legal action, and the resulting financial constraints, the Newspaper Group had to close the two newspapers.⁹

Conflicting Demands

Now, it is quite clear that there is a conflicting demand between these provisions and the way they function. Clearly they function one against the other. Therefore, the question arises "*whether or not the provision is adequate to protect the media in its role as society's watchdog.*" Media practitioners and human rights organizations criticize the provision, for not specifically protecting and guaranteeing the right of the media to freely gather and publish information. The expectation of the media is to play an important role in information dissemination across the masses without any restraint, in order that the right to information is protected.

(Continues to next page)

By guaranteeing the right to freedom of speech and expression, the provisions of the Sri Lankan Constitution, however obliges the media to uphold the 'fundamental objectives' of the constitution and abide by the responsibility and accountability of the government to the people. But ironically, it is the same constitution that does not give the media proper constitutional protection towards the execution of its constitutional obligations.

It is true that Article 14 of the Constitution recognizes freedom of speech and expression in Sri Lanka. But, there is no reference in the constitution to the right to information. This creates a query as to *whether the right to receive and communicate ideas and information and to own and operate any medium in furtherance of these rights are fully guaranteed under the Sri Lankan constitution or not?*

There are constitutions in the world, even endorsing the provisions of the Universal Declaration of Human Rights, the UN Charters and other treaties. For example, some countries have affirmed Article 19 of the UDHR, which recognizes the right to review and impart knowledge as part of the right to freedom and expression that it demands.¹⁰

According to the result of a survey of the right to information in South Asia, *"the grounds for restrictions on freedom of expression in the Sri Lankan Constitution go beyond those allowed under international law or many national constitutions and has been subject to consistent criticism from civil society groups in Sri Lanka"*.¹¹

Meanwhile, a school of theory advocates that media freedom must be accompanied by media responsibility. It rightly justifies that "to every freedom there is a corresponding responsibility, and there is a duty and obligation to every right and privilege."

On the other hand, a society without freedom is grossly oppressive and extremely unfair and unjust. Freedom with imposed/manipulative restrictions suggests anarchy, which itself leads to even worse forms of authoritarianism.

This is where a tension is created between media freedom and responsibility. A good example of this is the publication of offensive cartoons of Prophet Mohamed in a Danish newspaper in 2006. This event had formed a debate between "freedom of expression and respect for religious beliefs/duty of upholding responsibility". On the one hand, the justification for publishing such offensive cartoons and images as "liberty of press" is unacceptable because the claimed "liberty of press" does not justify offending another's religion and beliefs. On the other hand, the papers that published the cartoons were well within their rights of the freedom of expression. Several countries had taken immediate measures to stop republishing the cartoons in their countries.¹²

However, in the Sri Lankan context, it is difficult to claim that the governments have genuinely used these acts to regulate the media, in line with the conscience.

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Events and Happenings

Recent Events

Human Rights Education for Prison Officers and Inmates

- Human Rights Programmes on the *National and International Human Rights related Instruments for the Protection of Prisoners* was held at Prison Holiday Resort, Anuradhapura on 4 and 6 April in the Sinhala and Tamil media to make aware and sensitize Prison Officers of the North and East
- Recording of Short messages on Radio for *Rajarata FM*, Regional Radio in Anuradhapura

Armed Forces Project

- Two Day Programme for Officers of the Air Force on *The Law of Armed Conflict and Human Rights* at the SLFI, as part of their Senior Staff Course on 28th February and 29th February

Plantation Sector

- Human Rights Awareness Programme for Community Leaders, Field Officers, Community Facilitators, Family Welfare Officers and Community based Volunteers held at Plantation Human Development Trust, Paradise, Kuruwita, Ratnapura in the Tamil Medium on 27th and 28th February
- Human Rights Awareness Programme for Community Leaders, Field Officers, Community Facilitators, Family Welfare Officers and Community based Volunteers, held at Sarvodaya Bikku Training Centre, Pathakada, Pelmadulla, Ratnapura in the Tamil Medium on 26th and 27th March

University Programme

- Half a day Programme on Human Rights and Workers' Rights and Duties for the Academic and Non-Academic Staff of the Sabaragamuwa University on 5th March at Belihuloya

Supplementary Reading Book

- A meeting was held with the Expert Panel to discuss the amendments to the syllabus on 16th January
- Half a Day Programme to finalise the *Supplementary Reading Book* for the subject of *Civic Education* for Grade 11, with the National Institute of Education (NIE) on 25th March

Human Rights Internship programme

- The Internship Programme commenced in January with Fourteen interns being placed in various government and Non Governmental Organizations for 6 months Internship training, which aims to provide a practical training in advocacy, organizational ability, dissemination and other skills in the field of human rights

- The Orientation for interns was held on 27th and 28th March at the Alcohol and Drug Information Centre, Colombo 5, with thirteen interns participating in the programme
- Lectures on Research Methodology were conducted to guide the Interns who are required to submit a paper on a chosen topic related to Human Rights on 21 February and 16 May at the CSHR
- Monthly Meetings were conducted to measure the progress of the Interns on 21 February, 3 March, 4 April and 30 April

Other Activities:

- Visit to Welikada Prison for Working Group Members and funders of the Equal Access to Justice Project of the UNDP on 31st January
- Sub Committee Meeting of the A2J Project at Prison Headquarters on 26th February
- MOU with DEMP signed by the Director of the CSHR, Prof. Ravindra Fernando at the SLFI on 28th April

Book Donation

Saferworld UK has made a welcome donation of some of the latest books on Human Rights and related subjects to the Resource Centre, for the year 2007/2008. CSHR acknowledges with deep gratitude this generous donation, which greatly enhances the Reference Collection. This kind gesture by Saferworld will greatly benefit the undergraduates, post-graduate students and other members of the public that are keen on reading on the subject of Human Rights

E Current Awareness Bulletin

The Quarterly Current Awareness Bulletin for January, February and March has been dispatched. Readers who are interested in receiving the Bulletin can send their Email address to: cshr.info@yahoo.com

Photocopy Charges

The Library photocopy charges for all users other than the undergraduates have been increased as follows:

Paper size A4
Single Side Rs.4.00 Double Side Rs.6.00

Paper size A3
Single Side Rs.6.00 Double Side Rs.8.00

Information

The Information Centre is Located at the CSHR premises, Faculty of Law, University of Colombo,

Reid Avenue, Colombo 07

Working Hours:

Monday to Friday: 8.30 a.m.—4.00 p.m.

Saturday: 9.00 a.m.—12.30 p.m.

(Closed on Sundays and Public Holidays)

Information Unit

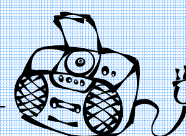
A Reference Facility with:

- Approximately 1600 books in Sinhala, Tamil and English
- 50 titles of journals, pamphlets, bulletins and newsletters
- UN, Amnesty International, ICRC and other reports
- Photocopy service
- Quarterly Current Awareness Service on E-mail

Library Database

Library database has been upgraded to WIN ISIS and new records are being continuously added in accordance with the new books received in the library. 107 new books have been acquired during the year which includes both local and international publications.

Radio Programmes



- *Himikam Yuthukam* Regional Radio Programme on *Rajarata FM* broadcast every Wednesday afternoon
- *Oba Avadiyenda?* broadcast on *Neth FM* every Thursday from 9:20 p.m.—11:00 p.m.

Please contact us if you require further information relating to this newsletter. Your comments and feedback are also greatly appreciated.

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