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Freedom on the Net 2016 - Sri Lanka

Country:

[Sri Lanka](#)

Year:

2016

Status:

Partly Free

Total Score:

44

(0 = Best, 100 = Worst)

Obstacles to Access:

14

(0 = Best, 25 = Worst)

Limits on Content:

12

(0 = Best, 35 = Worst)

Violations of User Rights:

18

(0 = Best, 40 = Worst)

Population:

21 million

Internet Penetration:

30 percent

Social Media/ICT Apps Blocked:

No

Political/Social Content Blocked:

Yes

Bloggers/ICT Users Arrested:

No

Press Freedom Status:

Not Free

Key Developments:

June 2015—May 2016

- Internet freedom continued to improve under President Maithripala Sirisena, though free speech advocates criticized his reactivation of the draconian Press Council (see **Media, Diversity, and Content Manipulation**).
- In an isolated incident, one political website was reported to have been blocked by a telecommunications provider (see **Blocking and Filtering**).
- The government withdrew draft legislation to criminalize hate speech after political and civil society opposition (see **Legal Environment**).
- Digital activism increased and activists used social media to spur public engagement with political issues (see **Digital Activism**).

Introduction:

Following the defeat of Mahinda Rajapaksa in the January 2015 presidential election, internet freedom has improved considerably in Sri Lanka. During the coverage period of this report, there were no reports of attacks, arrests or intimidation for online activities, in contrast to previous years.

Despite securing a nomination to run in the August 2015 parliamentary election, Rajapaksa and his supporters were unable to defeat the incumbent government. The United National Party (UNP)-led United National Front for Good Governance (UNFGG) secured 106 seats in a 225-member legislature, but fell short of a majority.¹ After negotiations, the UNP signed a two-year memorandum of understanding with the Sri Lanka Freedom Party (SLFP) to form a government.²

For the most part, internet freedom continued to improve under President Maithripala Sirisena and Prime Minister Wickremesinghe.³ All websites blocked by the previous government continue to be accessible, including the exile-run news website *TamilNet*, which had been blocked since 2007 for reporting on the military campaign against the Liberation Tigers of Tamil Eelam (LTTE).⁴ Digital activism continues to strengthen. In the lead up to election, activists launched voter education campaigns on Facebook and Twitter, and news websites adopted mobile messaging platforms like WhatsApp to keep citizens informed.

However, in a move that went against his election promises, President Sirisena reactivated the draconian Press Council in July 2015 despite civil society opposition, chilling media freedom including online. Separately, the government's attempt to introduce legislation to criminalize hate speech (even though such a law already exists) was thwarted by civil society groups and opposition parties who argued that the proposed law could be used to target government critics. In one isolated case, supporters of Mahinda Rajapaksa said their website had been blocked in advance of the election.

Legal and regulatory reform is still needed to consolidate the opening for internet and media freedom. At the end of the coverage period of this report, an amended Right to Information bill was still under discussion, a public consultation process on transitional justice was underway, and a constitutional reform process had just begun.

Obstacles to Access:

Internet penetration in Sri Lanka continues to increase every year due to the affordable rates offered by ISPs. Moreover, an increasing segment of the population has turned to smartphones in order to access the web. According to the Department of Census and Statistics, Sri Lanka's digital literacy rate increased from 20 percent in 2009 to 25 percent in 2014. Regulatory reform to ensure independence and transparency is a pressing need as Sri Lanka's Telecommunications Regulatory Commission (TRC) continues to operate under the authority of President Sirisena, with his permanent secretary as its chairman.

Availability and Ease of Access

The International Telecommunication Union estimated internet penetration at 30 percent in 2015, up from 26 percent in 2014, as a continually expanding economic sector and a growing youth population drove demand for online services.⁵ Mobile penetration was reported at 112 percent.⁶ The Central Bank of Sri Lanka reported that mobile internet connections grew 22.2 percent, while fixed-line connections grew by 12.6 percent during 2015.⁷

Free access to the internet was a key campaign promise of President Sirisena and it was featured in his manifesto for the presidential election. A few months after his election victory, the interim government announced the availability of free Wi-Fi at 26 public locations around the country.⁸ The Information Communications and Technology Agency (ICTA), a state agency responsible for implementing the plan, announced that free Wi-Fi would be available at over 2000 public locations by the end of 2016.⁹ The government's 2016 Budget proposals included a plan to provide free internet to state universities.¹⁰

Internet connectivity is becoming more affordable, with Sri Lanka Telecom's cheapest broadband connections priced at just under US\$3 a month,¹¹ and Dialog's only slightly more.¹² In addition, increasingly affordable handsets and data packages have boosted mobile internet use, particularly among young people.¹³ The overall growth rate for the market has been consistent year on year. In early 2016, according to the Minister of Telecommunication and Digital Infrastructure, smartphone penetration stood at 26 percent,¹⁴ up from an estimated 20 percent at the end of 2014.¹⁵ Technology company Huawei described Sri Lanka as the fastest growing smartphone market in South Asia in 2015.¹⁶ Monthly subscriptions for mobile data packages can cost less than \$1 a month whilst users can also access data services through pay-as-you-use packages.¹⁷ Mobitel also offers 24-hour internet plans costing as little as LKR 3 (US\$0.02) for 17MB of data.¹⁸ Sri Lanka's average monthly household income is over \$300,¹⁹ making the cost of internet and mobile data packages relatively affordable given the range of pricing options.

However, accessibility to internet services, in terms of greater coverage, continues to be a priority for the incumbent government. The ICTA signed an agreement with Google to start testing Project Loon—a balloon-powered high-speed internet service—with the aim of connecting more of the population to the internet. Three balloons launched by Project Loon entered Sri Lanka's airspace in February 2016.²⁰ It is expected that service providers will be able to extend coverage and also provide higher speeds through the balloons.²¹ The Minister of Telecommunications has stated that internet penetration will increase to 50 percent as a result of the project and other developments.²² After the initial media blitz on the project in 2015, there have been limited updates. News reports said Google would work with existing ISPs and share the frequencies after testing is complete.²³ Some form of a joint venture is expected to be established to take the project forward.

While Wi-Fi coverage appears to be increasing every year, telecommunications experts have voiced concerns about the reliability of speeds delivered through public Wi-Fi spots.²⁴ ISPs are attempting to address the issue of speed with new and improved services. SLT introduced carrier-grade public Wi-Fi technology, allowing enterprises, institutions and other private sector entities to access island-wide hotspots with a username and password.²⁵ In July 2015, Dialog Broadband announced the start of its LTE Advanced Pilot Network, which would provide data speeds in excess of 100 Mbps for home broadband users, initially within selected areas of Colombo.²⁶ As of March 2016, Dialog operated over 2,500 pay-to-use Wi-Fi hotspots around the country with tiered subscription rates.²⁷ SLT reported over 70 Wi-Fi nationwide hotspots for its broadband subscribers and prepaid access.²⁸

Low digital literacy represents a major barrier to ICT use. Although Sri Lanka's literacy rate is approximately 91 percent,²⁹ only 20 percent of the population was comfortable using computers in 2009.³⁰ However, this increased to 27 percent in 2015, according to the Department of Census and Statistics (DCS).³¹ The department reported that a higher percentage of young people use computers (57 percent for ages 15-19; 52 percent for ages 20-24; and 43 percent for ages 25-29). Older age groups had a lower rate of digital literacy (26 percent for ages 35-39 and 16 percent for ages 40-49).³² Digital literacy was higher in urban areas (40 percent) and lower in rural areas and among Up-Country communities (24 percent and 7 percent respectively) where the high cost of personal computers limits access for lower-income families, and schools with digital facilities lack corresponding literacy programs. The ICTA has promoted digital literacy in rural areas by establishing community-based knowledge centers, e-libraries, and e-learning centers to promote ICT access and services,³³ though some local journalists criticized aspects of the initiative in the past.³⁴ The Department of Census and Statistics has also reported climbing computer acquisition rates, with almost 67 percent of households acquiring a first computer between 2010 and 2014.³⁵ The acquisition rate was 70 percent in the rural sector and 56 percent in the urban sector.

The civil war caused severe lags in infrastructure development for the northern and eastern provinces. Since its conclusion in 2009, the government has made up some of this ground, thereby boosting the regions' economic growth, though development was also criticized for causing issues with respect to land ownership that threatened to further marginalize the local Tamil community, among others in the

region.³⁶ There has been some progress following the change in government. In April 2015, the military confirmed that it had released 1,000 acres of land from high-security zones (HSZs) in the Northern province.³⁷ In March 2016, the Navy released over 177 acres of land in Sampur, which is in the Eastern province, to rightful owners who had been previously displaced due to the conflict and the occupation of their lands.³⁸ However, militarization and the existence of other HSZs remain a serious concern.³⁹ More positively, census data identified heavy internet usage in post-war minority districts in 2011 and 2012, citing Vavuniya in the Northern Province as the district with the country's highest household internet usage.⁴⁰ In 2014, the Northern Province had the second highest percentage of households reporting internet and email usage in the entire country (11 and 8 percent respectively). In 2015, this encouraging trend continued. Vavuniya had the country's second highest rate of internet usage (18 percent); Jaffna had the fourth highest (17 percent).⁴¹

Restrictions on Connectivity

Sri Lanka has access to multiple international cables, but the majority of the landing stations for these cables is controlled by Sri Lanka Telecom (SLT), the majority government-owned ISP.⁴² Lanka Bell, a private operator, controls one landing station. SLT does not allow other telecommunications companies to connect to landing stations using their own fiber network and instead imposes price barriers by making competing players lease connectivity at significantly high prices.⁴³ The state's control over the internet architecture in the country is problematic, especially when non-price barriers emerge, such as delays in responding to private companies' requests for increased capacity.

In May 2016, however, Dialog announced that Sri Lanka was now connected to the Ultra High Capacity BBG Submarine Fibre Optic Cable through its cable landing station located in the south of Colombo.⁴⁴ The connection will boost speeds by providing over 6 Tbps of international bandwidth. It is reported that Dialog will allow other operators to buy bandwidth and directly compete with its data prices.

SLT also announced the opening of a new cable landing station for SEA-ME-WE-5 in the south of Sri Lanka in early 2016.⁴⁵ In 2014, SLT entered into a partnership with 15 international telecom operators and formed a consortium to build the SEA-ME-WE 5 undersea cable system to connect 17 countries in Southeast Asia, the Middle East, and Western Europe.⁴⁶

There were no large-scale connectivity interruptions during the coverage period of this report, although they have occurred in the past. SLT temporarily severed internet and 8,000 mobile phone connections in the predominantly Tamil-speaking north and east in 2007, then the center of the conflict with the LTTE.⁴⁷

ICT Market

SLT commanded more than 41 percent of the total fixed-line market in 2013, which is substantially lower than the 87 percent it held in 2004.⁴⁸ President Sirisena appointed his brother as the chairman of Sri Lanka Telecom in January 2015.⁴⁹

With over 10.5 million subscribers,⁵⁰ Dialog Axiata is the largest mobile service provider, followed by Mobitel (over 5 million),⁵¹ Etisalat (3.8 million), Airtel-Bharti Lanka (1.8 million), and Hutchison Telecommunications (1.4 million).⁵² So far, only Dialog Axiata, Mobitel, Sri Lanka Telecom and Lanka Bell offer 4G LTE broadband services.⁵³

Regulatory Bodies

Regulatory reform continues to be a pressing issue. The Telecommunications Regulatory Commission (TRC) was established under the Sri Lanka Telecommunications (Amendment) Act, No. 27 of 1996, which states that the Secretary to the Minister of Telecommunications will also be Chairman of the TRC.⁵⁴ Over the years, the TRC's interventions to restrict online content and pronouncements on strengthening online regulation have been partisan, extralegal, and repressive.⁵⁵

During Rajapaksa's presidency, the Ministry was placed under his authority for a period of time and his secretary, Lalith Weeratunga, served as Chairman. In February 2015, after Rajapaksa's defeat in the presidential election, a businessman lodged a complaint at the Financial Crimes Investigation Division (FCID) against Lalith Weeratunga and Anusha Palpita, the former director-general of the TRC, for the alleged misappropriation of LKR 620 million (US\$4 million) in TRC funds for the former president's election campaigns.⁵⁶ In May 2016, the Attorney General's Department filed indictments before the High Court against Weeratunga and Palpita under the Public Property Act and the Sri Lanka Telecommunications Regulatory Commission Act for the alleged criminal misappropriation of public funds.⁵⁷ This news came in the same month that Palpita was appointed as Additional Secretary to the Ministry of Home Affairs, increasing skepticism about the incumbent government's commitment to its own political program of *yahapalanaya*, or good governance. Civil society organizations opposed the appointment,⁵⁸ and he was subsequently removed.⁵⁹

President Sirisena, like his predecessor, appointed his permanent secretary, P. B. Abeykoon, as the Chairman of the TRC.⁶⁰ President Sirisena also appointed M. M. Zuhair, a former Member of Parliament, diplomat and current President's Counsel, as the TRC director-general.⁶¹ These political appointees, who lacked the necessary experience and expertise, were cause for concern given the TRC's interventions in the past. In October 2015, not long after their appointment, M. M. Zuhair and the board of directors were fired by President Sirisena for violating TRC financial regulations.⁶² Zuhair was replaced by Sunil S. Sirisena, a retired, senior member of the Sri Lanka Administrative Service.⁶³

Limits on Content:

During the coverage period of this report, a website belonging to former President Rajapaksa's information center was reportedly blocked under an order from the TRC. Other websites that were previously blocked under former President Rajapaksa's government continue to be accessible. Digital activism remains vibrant in Sri Lanka, with a number of citizen media sites and news sites freely publishing content on political and socioeconomic issues in the country.

Blocking and Filtering

President Sirisena moved quickly to dismantle the censorship regime imposed up until 2015 by his predecessor. Prime Minister Ranil Wickremesinghe assured journalists that they would be free to report without fear of harassment and that authoritarian practices like internet censorship would not occur under the new government.⁶⁴ Previously inaccessible content became accessible across ISPs, including the exile-run news website *TamilNet*, censored since 2007 for its support of the Tamil rebels.⁶⁵ As with the previous government, the current government continues to restrict access to many pornography websites.⁶⁶

There was one apparent exception to an otherwise strong record since January 2015. In September 2015, the *Colombo Telegraph* reported that Mobitel, a subsidiary of Sri Lanka Telecom,⁶⁷ had repeatedly blocked the website Mahinda.info, run by supporters of Mahinda Rajapaksa. The website administrators reported it was blocked several times prior to and after the parliamentary election in August, and said that Mobitel had informed them the blocking was implemented in response to a TRC order.⁶⁸ The nature of that alleged order remains unclear, but the possibility that an opposition candidate was censored in advance of elections was troubling, and highlighted the need for legal reform.

Between 2007 and 2015, dozens of websites were blocked at different times, censorship which lacked a legal framework or judicial oversight.⁶⁹ Blocks were not properly coordinated or comprehensive, with some targeted websites available at times on one or more ISPs and at other times completely inaccessible. Officials cited ill-defined national security measures to legitimize these measures, though websites were blacklisted for publishing information related to human rights issues, government accountability, corruption, and political violence, including content by Human Rights Watch and Transparency International.⁷⁰ During Mahinda Rajapaksa's presidency, censors targeted blogs,⁷¹ opposition and independent news, including Tamil websites, sites run by Sri Lankans in exile, and citizen journalism platforms.

The system that enables website blocking, which has largely operated outside of the law, remains intact. Whilst officials have the power to direct the TRC to blacklist content, previous blocks have not had any legal basis and it is not clear whether they were the result of official directives or unofficial requests.⁷² Under the telecommunications act, ISPs must apply to the Ministry of Telecommunications for a license according to specifications laid out by the TRC, who can make recommendations regarding whether or not a license is granted. The ministry can also impose conditions on a license, requiring the provider to address any matter considered "requisite or expedient to achieving" TRC objectives.⁷³ It is not clear if the TRC can impose other financial or legal penalties on uncooperative telecommunications companies since the conditions, if imposed, are not transparent. To date, however, no company is known to have challenged the TRC's requests or sought judicial oversight.⁷⁴

There is no independent body in Sri Lanka that content providers can turn to if they are censored. Instead, they must file a fundamental rights application with the Supreme Court to challenge blocking or other restrictions. Under Rajapaksa's presidency, the lack of trust in the country's politicized judiciary and fear of retaliatory measures represented significant obstacles for the petitioner.⁷⁵ In December 2011, one settled out of court, agreeing to several TRC conditions—such as removing links to blocked content—in return for restored access.⁷⁶

Content Removal

Documented cases of content removal are few and far between. According to Google's *Transparency Report*, the previous government made four requests for the removal of content over a five-year period. The most recent request was submitted in December 2014.⁷⁷ Google reported that there were no requests for content removal from the current government from January 2015 to May 2016.

Media, Diversity, and Content Manipulation

Despite a history of censorship, there are still diverse, accessible sources of information online in English, Sinhala, and Tamil, including on socioeconomic and political issues. YouTube, Facebook, Twitter, and international blog-hosting services were accessible and widely-used for the anonymous or pseudonymous critique of governance, development, and human rights abuses during the coverage period of this report. Both the presidential and parliamentary elections in 2015 spurred greater activity on social media, particularly as Facebook and Twitter were used to discuss political news, debate key issues and spread awareness about topics pertaining to corruption and governance. Some commentators described the 2015 presidential election as "Sri Lanka's first cyber-election" given the increased activity on social media platforms.⁷⁸

The 2015 elections were also noted for how politicians used social media to influence and engage users. The personal pages of President Sirisena and Mahinda Rajapaksa had over 700,000 "likes" after the 2015 parliamentary election. Mahinda Rajapaksa led the way with over 470,000 engaged users (with engagement meaning comments, clicks, shares, post likes, and video plays).⁷⁹ During the presidential election Twitter was used most effectively by journalists and one politician – Mahinda Rajapaksa.⁸⁰ However, when it came to the parliamentary election in August 2015, politicians published less content on Twitter than journalists and commentators, according to one analysis.⁸¹

Citizen media site *Groundviews* and its sister site *Vikalpa* feature opinion, news, investigative reports, photography, art, and short videos generated by citizens, covering content that would otherwise not be covered by the mainstream media.⁸² In 2014, *Groundviews* announced the launch of *Maatram*, a new citizen journalism initiative that publishes content aimed at Tamil readers across Sri Lanka and the diaspora.⁸³ The past two years have seen journalism initiatives utilizing mobile messaging platforms to reach new audiences. As a natural progression of its reporting initiative during the elections in 2014 and 2015,⁸⁴ *Groundviews* started enabling mobile updates through WhatsApp in order to publish article updates, audio clips, and pictures.⁸⁵

Other curated websites, largely recent startups, contribute to the country's diverse online media landscape. For example, Readme.lk offers news on technology and Roar.lk, a social content start-up, offers "Sri Lankan content" that it describes as "credible, accessible, readable and shareable."⁸⁶ Yamu.lk, a popular city guide, produces short videos on popular culture as well as on socio-economic and political issues, which are viewed and shared widely on social media. Yamu's viewership on Facebook has reportedly doubled every month, from 44,000 views in its first month to 720,000 views in February 2016.⁸⁷

During Rajapaksa's presidency, the media ministry issued a directive requesting all "news" websites to register, and a registration fee was ultimately approved at cabinet level in the previous government at LKR 25,000 (US\$190) with an annual renewal fee of LKR 10,000 (US\$75) and proposed as an amendment to the Press Council Act.⁸⁸ These costs threatened to inhibit the emergence of new websites and force existing ones out of operation.⁸⁹ While the amendment was never passed, the previous UPFA government still imposed the registration fee through the Ministry of Mass Media without any legal basis.

Despite its explicit media freedom guarantees, the current government made a fresh call for websites to register. In a notice published in the *Daily News*, the government announced that all websites had to be registered with the Ministry of Parliamentary Reforms and Mass Media by March 31, 2016; websites failing to do so would be considered "unlawful."⁹⁰ Media freedom activists noted that there is still no legal basis for websites to register with the government. Following considerable pushback from the media and activists, the Acting Minister of Parliamentary Reform and Mass Media Karu Paranavithana stated that the registration drive was not intended to control digital media, but to offer official accreditation, giving web journalism the same recognition as mainstream outlets.⁹¹ Yet Paranavithana undercut this conciliatory message when he justified the government's action with reference to a 2012 Supreme Court ruling, which stated that registration was required in order to prevent the publication of defamatory material on websites, and that freedom of expression was not an absolute right (see Legal Environment).⁹²

In May 2014, former President Rajapaksa reaffirmed his intent to regulate social media and stated that the government would take the necessary steps to prevent the internet from being used to cause “social and political unrest.”⁹³ Under President Sirisena and the new interim government, no attempts have been made to regulate social media as of May 2016.

During Rajapaksa’s presidency, officials actively encouraged self-censorship “on matters that would damage the integrity of the island,” and many mainstream news websites complied, increasing the importance of citizen journalism and exile-run sites in the media landscape.⁹⁴ Online platforms of the main state-run newspaper and broadcasting networks supported former President Rajapaksa when he was in power and the UPFA government.⁹⁵ These and official government websites have waged smear campaigns against UPFA critics in the past.⁹⁶ Under President Sirisena, however, some traditional and new media outlets have become vocal critics of both sides of the political divide, freely expressing opinions and publishing reportage that would have never been tolerated under Rajapaksa’s administration. Overall, the practice of self-censorship by journalists and media institutions appears to be diminishing in response to the government’s commitment to media freedom, although the media still stay clear of reporting on certain topics, such as controversial issues concerning the military, for fear of reprisals.

While media ethics and responsible reportage are critical issues that need to be addressed, some politicians are quick to criticize media institutions, particularly when inconvenient truths are revealed. For example, in reaction to reports published about the government and the economy, the Minister of Finance Ravi Karunanayake requested media institutions and journalists to avoid abusing the “media freedom that prevails under the new government.”⁹⁷ A history of government intervention in media freedom meant such statements were cause for concern, even though some of the criticism had foundation. For example, in February 2016, Prime Minister Wickremesinghe threatened to take action against electronic media in response to an offensive description of a performer in a televised opera, especially since licenses to broadcast are issued by the government.⁹⁸ Separately, in May 2016, he stated that the greatest threat to media freedom comes from within the media itself. The statement was issued in the context of media reports about the Leader of the Opposition and Tamil National Alliance (TNA) MP, R. Sampanthan, allegedly entering an army camp by force.⁹⁹ The TNA said Sampanthan only visited private land the camp was located on, which was occupied by the army during the war.¹⁰⁰ The media was criticized for erroneous reporting, including online.

Many pages on Facebook publish offensive material targeting Muslims and other groups.¹⁰¹ In early 2013, hate speech against the Muslim community spread online when a Sinhala Buddhist extremist group gained a considerable following on social media.¹⁰² The group’s violent rhetoric led to attacks on mosques and Muslim-owned businesses, as well as isolated incidents of assault.¹⁰³ No legal action was taken against the group’s members, and prominent public officials—including the President Rajapaksa’s brother, Defense Secretary Gotabhaya Rajapaksa—openly supported them.¹⁰⁴ Some of the relevant social media pages have since been removed, and the intensity of online hate speech declined during the coverage period of this report, though without stopping altogether.

Digital Activism

The web has provided wide scope for robust digital activism and engagement on political issues in Sri Lanka. In the lead up to the January 2015 presidential election, #IVotedSL was launched on Facebook and Twitter – a campaign that called on people to exercise their franchise on election day.¹⁰⁵ Twitter and Facebook profile photos as well as digital posters were developed and shared by thousands of users, publicizing the campaign and encouraging other users to take the pledge. This campaign continued into the August 2015 parliamentary election with hundreds of people uploading #iwillvote photos on Facebook, Instagram and Twitter. For the first time, Facebook allowed all of its users based in Sri Lanka to update their statuses around the August 2015 parliamentary election to indicate whether they were going to vote or had voted on election day.¹⁰⁶

Following the conclusion of the Presidential election, another independent campaign was initiated by citizens on Facebook and Twitter—#icanChangeSL and #wecanChangeSL—to sustain a meaningful dialogue about shaping a new country.¹⁰⁷ Other interesting initiatives were launched during the coverage period of this report. In March 2016, *Groundviews* launched an initiative to highlight street-based sexual harassment around the country by mapping it on Google Maps and publishing the story behind each incident.¹⁰⁸ Similarly, the Center for Policy Alternatives, a leading public policy institute, launched “Right to the City,” an online initiative seeking to broaden the discussion on development, housing, and displacement in Sri Lanka, and anchored to the institute’s research and advocacy work on development and rights.¹⁰⁹

In May 2016, massive floods and landslides caused an estimated \$2 billion worth of damage and claimed 200 lives.¹¹⁰ The Disaster Management Center (DMC), the main institution responsible for managing disasters, has no active social media presence and still disseminates updates via fax and press releases. Despite having the technology to send SMS alerts to all mobile subscribers in the country, the DMC has hardly used it.¹¹¹ Observers criticized the DMC for missing the opportunity to use digital media to advance its mission, and for failing in its duty to protect the public.¹¹²

Citizens and organizations, by contrast, used digital tools to organize flood relief efforts, solicit donations, and disseminate information about rescue operations. For example, Sri Lanka Red Cross used its social media accounts to disseminate information regarding floods and landslides; taxi service apps like PickMe introduced a flood relief button for donations and also an SOS button that allowed existing customers trapped in flood-affected areas to mark their location for rescue;¹¹³ and Dialog, one of the largest mobile service providers, allowed its customers to donate their loyalty points to flood relief efforts, which the company pledged to double with its own financial contribution. Dialog reported that over LKR 50 million (US\$330,000) was donated for flood relief as a result of this initiative.¹¹⁴

Violations of User Rights:

There were no significant reports of intimidation, prosecution or assault during the coverage period of this report. Physical attacks and threats against journalists, including many linked to government actors, gradually decreased in the aftermath of the civil war. Whilst the failure to investigate past incidents cast a long shadow during President Rajapaksa’s rule, the new government under President Sirisena has promised to initiate investigations into the murder and disappearance of journalists. The progress of these investigations has been described as “agonizing.”

Legal Environment

While the right to freedom of speech, expression, and publishing is guaranteed under Article 14(1)(a) of Sri Lanka’s constitution, it is subject to numerous restrictions for the protection of national security, public order, racial and religious harmony, and morality. There is no constitutional provision recognizing internet access as a fundamental right or guaranteeing freedom of expression online. A culture of impunity, circumvention of the judicial process through arbitrary action, and a lack of adequate protection for individuals and their privacy, compound the poor enforcement of freedom of expression guarantees.

The Supreme Court has called freedom of expression from “diverse and antagonistic sources” indispensable to democracy.¹¹⁵ In May 2012, however, it rejected a fundamental rights petition brought by members of the local Free Media Movement questioning the media ministry’s right to block websites for failure to register.¹¹⁶ After a complaint was made to the Human Rights Commission of Sri Lanka about the blocking of two websites in May 2014, the commission said it would investigate, but that freedom of expression was subject to constitutional limits.¹¹⁷

Several laws with overly broad scope lack detailed definitions and can be abused to prosecute or restrict legitimate forms of online expression. Computer crimes and intellectual property rights laws allow information contained within computers to be admissible in civil and criminal proceedings. Publishing official secrets, information about parliament that may undermine its work, or “malicious” content that incites violence or disharmony could result in criminal charges.¹¹⁸

The Press Council Act No.5 of 1973 had lain dormant under previous administrations until the Rajapaksa regime reactivated it after the end of the war.¹¹⁹ The act prohibits the publication of profanity, obscenity, “false” information about the government or fiscal policy, and official secrets. It also allows the president-appointed council to impose punitive measures on the violators of its provisions, including possible prosecution. Six months after his victory at the presidential election, President Sirisena used his executive powers to reactivate the Press Council and appoint three members to it.¹²⁰ The move was criticized by publishers, media activists, editors and journalists, who argued that it contradicted President Sirisena’s election promise to protect media freedom.¹²¹ Since 2009, local and international media rights organizations have constantly opposed the Press Council Act.¹²²

In April 2015, President Sirisena proposed legislation in order to ban hate speech and material that could “exacerbate religious and ethnic tensions.”¹²³ The UN High Commissioner for Human Rights has encouraged the government to address hate speech and religious violence.¹²⁴ The Minister of Justice tabled two new bills in parliament, which added a new offence regarding hate speech into the Sri Lankan Penal Code and the Criminal Procedure Code. However, an existing law, the International Covenant of Civil and Political Rights (ICCPR) Act No. 56 of 2007, already prohibits anyone from advocating national, racial, and religious hatred that might be an incitement to discrimination, hostility, or violence.¹²⁵ In addition, the new offence outlined in the bills replicates Section 2(1)(h) of the Prevention of Terrorism Act (PTA) of 1979,¹²⁶ which was used by Rajapaksa’s government to prosecute critics like J.S. Tissainayagam, who was detained for over a year and sentenced to 20 years’ imprisonment hard labor in 2009 on charges of causing racial hatred and raising money for terrorism.¹²⁷ Moreover, the overbroad provisions of the legislation left it open to manipulation to restrict legitimate forms of expression. The Tamil National Alliance (TNA), the Human Rights Commission and civil society groups opposed the proposed laws.¹²⁸ Petitions were also filed with the Supreme Court in order to challenge the laws.¹²⁹ After considerable opposition, the government withdrew the bills.¹³⁰ Legal scholars argue that enforcing the ICCPR Act, which abides by international standards, is adequate enough for “advancing justice and preventing future religious violence.”¹³¹

The current government also announced that it would be drafting new laws to respond to the growing rate of cybercrime. In the first seven months of 2015, there were over 2,000 complaints regarding fake social media profiles. The Computer Crimes Division of the Criminal Investigations Department (CID) has investigated over 100 internet-related crimes, which includes cases of defamation, obscene content, and email hacking.¹³²

After months of political bargaining, Parliament passed the 19th Amendment to the Constitution in April 2015. The amendment strengthened checks and balances on the executive presidency, restored term limits to the presidency, revived the Constitutional Council, and empowered independent commissions.¹³³ In January 2016, the Public Representations Committee (PRC), appointed by the Cabinet of Ministers to receive public representations on constitutional reform, began its public sittings around the country and published a final report in May 2016.¹³⁴ The Prime Minister also presented a resolution to convert Parliament into a Constitutional Assembly for the purpose of enacting a new Constitution.¹³⁵ In April 2016, Parliament convened for the first time as the Constitutional Assembly in order to discuss the first steps required to draft a new Constitution.¹³⁶

Following the passage of a resolution titled “Promoting Reconciliation, Accountability and Human Rights in Sri Lanka”, which it co-sponsored at the United Nations Human Rights Council, Sri Lanka initiated a transitional justice process with the appointment of the Consultation Task Force on Reconciliation Mechanisms (CTF) in January 2016. It will present a report in October 2016.¹³⁷

Right to Information (RTI) is another legislative development that has been undertaken by the Government during the coverage period of this report. The first RTI bill was proposed in 2003, but was ultimately rejected by parliament. As part of President Sirisena’s 100-day program, the new government promised to introduce RTI legislation in order to entrench good governance and transparency. Whilst the passage of the 19th Amendment to the Constitution recognizes RTI as a fundamental right, Parliament had yet to pass the legislation for it.¹³⁸ In December 2015, the cabinet approved the “Right of Access to Information” bill—following which, the government announced that the bill would be gazetted, circulated amongst the provincial councils and tabled in parliament during the first quarter of 2016.¹³⁹ The bill is expected to strengthen accountability, improve governance and increase transparency within public institutions. In March 2016, the government finally tabled the RTI bill in parliament.¹⁴⁰

Civil society activists flagged serious concerns about the drafts,¹⁴¹ notably for lack of consideration for information surrounding victims of enforced disappearances.¹⁴² In April 2016, Transparency International Sri Lanka said it supported the current version of the bill, while identifying six areas that could be further strengthened.¹⁴³

However, also in April 2016, multiple fundamental rights petitions were filed with the Supreme Court, challenging the constitutionality of several clauses in the bill.¹⁴⁴ Civil society activists also filed fundamental rights petitions in defense of the bill. After hearing all of the petitions,¹⁴⁵ the Supreme Court determined that five sections of the bill were inconsistent with the Constitution of Sri Lanka.¹⁴⁶ The Government stated that it would consider the Court’s determination before moving ahead. Soon after, the Government announced that it would be accepting all amendments to the RTI bill stipulated by the Supreme Court since they further strengthened the bill.¹⁴⁷ In May 2016, the amended RTI bill had not yet been taken up for further debate in Parliament.

Prosecutions and Detentions for Online Activities

No detentions for online activity were reported during the coverage period of this report. Detentions for legitimate online activity were documented during Rajapaksa’s presidency. In one egregious 2012 example, CID officials raided the offices of the *Sri Lanka Mirror* and *Sri Lanka X News* websites in June on grounds of “propagating false and unethical news on Sri Lanka.”¹⁴⁸ The journalists were released on bail the day after their arrest, though investigators later said their computers contained further grounds for prosecution, including content that violated the Obscene Publications Act—although the alleged obscenity was unpublished¹⁴⁹—failure to register the website, ridiculing the president, and evidence of an attempted coup.¹⁵⁰ While the case was finally set aside due to the CID failing to conclude investigations, the

journalists filed a fundamental rights petition with the Supreme Court citing illegal arrest, violation of their right to free expression, and their profession.¹⁵¹ Supreme Court hearings on the petition were ongoing in 2015.¹⁵²

Surveillance, Privacy, and Anonymity

In spite of the new government's commitment to freedom of expression, transparency and right to information, privacy advocates are still cautious about how existing surveillance technology could be utilized and intensified in the future. Civil society groups also fear that website registration could be used to hold registered site owners responsible for content posted by users, or to prevent government critics writing anonymously.¹⁵³

Sri Lanka lacks substantive laws for the protection of individual privacy and data. Extrajudicial surveillance of personal communications is prohibited under the Telecommunications Act No.27 of 1996. However, a telecommunications officer can intercept communications under the direction of a minister, a court, or in connection with the investigation of a criminal offence. There is no provision under the legislation that requires officials to notify users who are targets of surveillance, and under the previous government, many journalists and civil society activists believed their phone and internet communications were monitored, particularly in light of official statements lauding state surveillance.¹⁵⁴ Security surveillance in the north and east still continues.¹⁵⁵

In 2013, Dialog CEO Dr. Hans Wijesuriya denied the existence of a comprehensive surveillance apparatus in Sri Lanka but agreed that telecommunications companies "have to be compliant with requests from the government."¹⁵⁶ Digital activists in Sri Lanka believe Chinese telecoms ZTE and Huawei, who collaborated with Rajapaksa's government in the development and maintenance of Sri Lanka's ICT infrastructure, may have inserted backdoor espionage and surveillance capabilities.¹⁵⁷

During the coverage period of this report, journalists analyzed leaked documents which revealed that the Milan-based firm Hacking Team was approached by several state security agencies on a number of occasions to acquire the company's digital surveillance technologies.¹⁵⁸ The leaks revealed that in March 2014 the Ministry of Defense was planning on developing an electronic surveillance and tracking system with the help of a local university.¹⁵⁹ While no purchases of the company's equipment were confirmed in the published documents, they included a 2013 email exchange between a Hacking Team employee and individual claiming to represent Sri Lankan intelligence agencies describing confidential acquisitions of "interception technologies" he had brokered in the past.¹⁶⁰

Under the Rajapaksa regime, a Ministry of Defense program to register mobile phone users for the purpose of "curbing negative incidents" was introduced in 2008 and revisited in 2010 after service providers failed to ensure that subscribers registered.¹⁶¹ Real-name subscriptions are already normal procedure, but the call for registration in 2010 required further information, including photo identification and up-to-date residential details. Unregistered users risked disconnection if they failed to comply, though no cases were reported.

Intimidation and Violence

There were no targeted attacks on online journalists or internet users during the coverage period of this report.

Online reporters, like their counterparts in traditional media, were attacked by forces on both sides during Sri Lanka's civil conflict. Unsolved cases include the 2005 murder of *TamilNet* co-founder Dharmeratnam Sivaram, who was found dead in a high-security area outside parliament.¹⁶²

The trend of violence against traditional journalists and a culture of impunity as well as intimidation continued during Rajapaksa's presidency despite sustained international pressure. International news reports and rights groups say soldiers acting on the orders of high ranking officials in the previous government were responsible for the notorious "white van" abductions of critics and activists¹⁶³—named after the vehicle often used to carry them out—a claim the previous administration denies.¹⁶⁴

In May 2015, President Sirisena reiterated his intention to re-open investigations into all past murders and disappearances of journalists.¹⁶⁵ There are some signs of progress. In February 2016, five intelligence personnel were arrested in the case of Prageeth Eknaligoda.¹⁶⁶ The *Lanka-E-News* journalist and cartoonist has been missing since January 24, 2010, after the website backed the political opposition in elections;¹⁶⁷ in the past, officials said he sought asylum overseas.¹⁶⁸ The suspects are alleged to have connections with the military and intelligence services, and numerous others have been detained during the course of the investigations. In May 2016, the case was ongoing. Other investigations have yet to move forward.¹⁶⁹

Technical Attacks

Cybercrime is a growing problem in Sri Lanka, with illegal breaches of social media and email accounts becoming more common.¹⁷⁰ Cyberattacks have also targeted critics of Rajapaksa's regime in the past, though no incidents were reported during the coverage period.

The previous government recognized the need to strengthen its defensive capability, yet critics fear technology bought for this purpose could be used to restrict legitimate expression.¹⁷¹ Following the implementation of the Computer Crimes Act in 2007, the government at the time established the Computer Emergency Readiness Team and Coordination Center (CERT|CC) in order to protect Sri Lanka's digital data. In July 2014, CERT|CC developed a security arm to protect digital banking infrastructure.¹⁷² The CID has also established a Hi-Tech Crime Investigation Unit (HCIU) in order to fight cyber crime around the country and not just in the commercial capital, Colombo. The HCIU will be investigating the sexual harassment of women on social media, threats to minors, and cases of financial fraud online.¹⁷³

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