

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	596
Land:	Sri Lanka
Kilde:	Freedom House
Titel:	Freedom on the Net 2018 - Sri Lanka
Udgivet:	1. november 2018
Optaget på baggrundsmaterialet:	4. marts 2019



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Publisher [Freedom House](#)

Publication Date 1 November 2018

Cite as Freedom House, *Freedom on the Net 2018 - Sri Lanka*, 1 November 2018, available at: <https://www.refworld.org/docid/5be16af813.html> [accessed 13 December 2018]

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Status: Partly Free
Total Score: 47/100 (0 = Best, 100 = Worst)
Population: 21,444,000
Internet Penetration: 32.1%
Social Media/ICT Apps Blocked: Yes
Political/Social Content Blocked: Yes
Bloggers/ICT Users Arrested: No
Freedom in the World Status: Partly Free

Key Developments, June 1, 2017 – May 31, 2018

- The proliferation of rumors and disinformation on social media led to communal violence in February and March 2018 (see Media, Diversity, and Content Manipulation).
- The government ordered a nationwide block of Facebook, WhatsApp, Viber, and Instagram for just over a week in March 2018 (see Blocking and Filtering and Restrictions on Connectivity).
- The Telecommunications Regulatory Commission reported that it was ordered to instruct mobile operators to restrict 3G and 4G connectivity to the Kandy district in the wake of violence (see Restrictions on Connectivity).
- A few arrests were reported for inciting hatred and spreading hateful messages on social media (see Prosecutions and Detentions for Online Activities).
- The e-NIC Project, a new electronic national identity card, was introduced, raising privacy concerns about a central database storing wide-ranging information and biometric data (see Surveillance, Privacy, and Anonymity).

Introduction:

Internet freedom declined dramatically in Sri Lanka following major restrictions to connectivity and social media platforms during communal violence in March 2018.

An atmosphere of political instability prevailed following the local government elections in February. The newly formed Sri Lanka Podujana Peramuna, which includes former President Mahinda Rajapakse among its membership, received 44.65 percent of the vote,¹ indicative of growing factionalism within the ruling coalition² and the electorate's dissatisfaction with the government's performance since it was elected in 2015.

Building off of existing tensions between the country's majority Sinhalese Buddhist citizens and Muslim minority, disinformation and rumors on social media played a pivotal role in engendering violence in Ampara on the east coast in February 2018 and in Digana in Kandy in March 2018.³ After anti-Muslim violence in Ampara and the death of a Sinhalese man by Muslim men in Kandy, a wave of riots led predominantly by members of the Sinhalese ethnic group resulted in numerous restrictions to internet freedom. The government declared a state of emergency for the first time since 2011, which lasted for nearly two weeks. Facebook, WhatsApp, Viber, and Instagram were all temporarily blocked nationwide from March 7-15,⁴ and the Telecommunications Regulatory Commission (TRC) reported that it was instructed to slow internet speeds in Kandy on March 7, promising that it would be restored within the day.⁵ Almost 300 individuals were arrested in the wake of the riots. Three of them were schoolchildren, arrested in relation to social media content they had posted.

Hate speech – both online and offline – continues to be a pressing concern, and senior ministers have commented on the need to curb content that promotes ethnic hatred and potentially incites violence. In the aftermath of the violence in Digana, there were additional discussions about regulating social media.⁶

Obstacles to Access:

Internet penetration in Sri Lanka has continued to increase in recent years, but there remains a digital divide between urban and rural areas. Regulatory reform is needed to ensure independence and transparency, as Sri Lanka's Telecommunications Regulatory Commission continues to operate under the authority of President Sirisena. In March 2018, the government ordered the TRC to restrict

ICT connectivity in the Kandy district and instituted a nationwide block of social media platforms in an effort to prevent the spread of misinformation and stop communal violence.

Availability and Ease of Access

Internet connectivity remains affordable for individual subscribers. However, the government introduced a new tax on cellular towers in the 2018 budget on telecommunications operators.⁷ The LKR 200,000 levy is meant to reduce the proliferation of new towers, and operators warned this might cause towers to close in unprofitable areas, reducing internet coverage.⁸ A tax was also imposed on bulk SMS advertisements, with the levy paid by the advertiser.

Despite these additional taxes, there was a steady rise in mobile broadband subscriptions during the coverage period.⁹ Mobile penetration reached 135 percent in 2017.¹⁰ However, fixed broadband penetration was relatively low due to the dominance of the mobile platform.

Low digital literacy represents a major barrier to ICT use. An average of only 27 percent of the population was comfortable using computers in 2017 according to census data. Younger age groups had a larger percentage of computer literacy, with ages 15-19 at 57 percent, 20-24 at 53 percent, and 25-29 at 44 percent.¹¹

Schools with digital facilities often lack corresponding literacy programs. For a number of years, the Information Communications and Technology Agency (ICTA) has promoted digital literacy in rural areas by establishing community-based e-libraries and e-learning centers,¹² though some local journalists have criticized aspects of the initiative.¹³ In January 2017, the Ministry of Education inaugurated the country's first "cloud smart classroom," a pilot project for digital interactive learning.¹⁴ Those who participated in the cloud smart classroom reported higher attendance rates and performance.¹⁵ In February 2018, another project planned to provide schoolchildren with computer tabs. However, President Sirisena cancelled the project, estimated to be worth LKR four billion, just one week after approving it,¹⁶ possibly due to concerns raised over violating tender procedures.¹⁷

Compared to urban areas, rural and Up-Country Tamil communities have a significantly lower digital literacy rate, primarily due to the high cost of personal computers.¹⁸ In urban areas, digital literacy increased to 55 percent. There were also increases in literacy in rural areas and Up-Country Tamil communities, though those rates remained comparatively low at 37 percent and 16 percent, respectively.

Other factors such as infrastructure development perpetuate a digital divide between urban and rural areas. There are more households accessing and using the internet in the Western Province, the most populated of the country's nine provinces,¹⁹ due to the infrastructure concentration that supports Colombo and other urbanized areas. The civil war caused severe lags in infrastructure development for the Northern and Eastern Provinces. Despite the lack of substantive development across key sectors, telecommunications infrastructure has expanded, creating a steady growth in internet usage. For example, in 2017, 31 percent of households in Vavuniya used the internet, making it the second highest rate of internet usage in the country behind Colombo. Jaffna too showed significant growth in 2017, as 26 percent of households actively used the internet compared to 15 percent in 2016. Mannar saw a growth from 13 percent of households to 17 percent, and Trincomalee showed a sharp increase from 3 percent to 13 percent. Only Mullaitivu, where the last stretch of the war was fought, and Monaragala showed a drop in the percentage of households using the internet.²⁰

The current government has committed to substantial investment in digital infrastructure projects.²¹ Providing free internet access was a key campaign promise of President Sirisena, and the government pledged to provide Wi-Fi access to over 2,000 public locations by the end of 2016.²² By early 2018, there were 1,173 hotspots around the country, according to the ICTA-implemented Public Wi-Fi Initiative,²³ though experts voiced concerns about the speed and quality of service in some locations.²⁴ Currently, over 280,000 people have registered on the service, with the ICTA planning to expand it to schools as well.²⁵ In January, an e-governance initiative led by the ICTA was launched, which aimed to connect 341 local government bodies and would allow the public to access government services. However, several shortcomings were identified with this project, including the need for users to physically visit local government bodies to register, security issues, and other difficulties with the registration process.²⁶

Private companies are also trying to extend service. The Internet Service Provider (ISP) Dialog reported over 2,500 pay-to-use Wi-Fi hotspots around the country,²⁷ while the majority government-owned Sri Lanka Telecom (SLT) reported almost 200 operational Wi-Fi hotspots for both broadband and prepaid customers nationwide as of May 2017, with a significant concentration in the Western Province.²⁸ Google's Project Loon continues to be at a standstill, but Telecommunication and Digital Infrastructure Minister Harin Fernando hoped in September 2017 to renew negotiations with the International Telecommunication Union (ITU) for its approval of the project. The government has blamed the ITU for the delay, while the ITU has claimed the government has not communicated the necessary requirements properly.²⁹

There was one reported infrastructure-related disruption during the reporting period. In September 2017, Dialog's service and network coverage were disrupted for less than an hour, affecting voice, data, and SMS on mobile phones, due to a power systems failure at one of the key network nodes.³⁰ Users described minor inconveniences such as missed calls and being unable to book transportation.

Restrictions on Connectivity

In March 2018, the government implemented a nationwide block of social media platforms and ordered the TRC to restrict connectivity in the Kandy district in an effort to prevent the spread of misinformation and stop communal violence.

The TRC, reportedly on request of the government, ordered mobile operators to restrict 3G and 4G connectivity to the Kandy district in the wake of communal violence. Although the official notice said the restriction would continue 'until further notice,' a TRC spokesman said connectivity would be restored within the day.³¹ In addition to network restrictions, the Ministry of Defense ordered a nationwide block of Facebook, WhatsApp, Instagram, and Viber.³²

Sri Lanka has access to multiple international cables, but most of the landing stations for these cables are controlled by the majority government-owned SLT.³³ In October 2017, SLT completed³⁴ a project for a new cable landing station for SEA-ME-WE-5 in the

south, which provides roughly 24 terabits of content per second between the Indian subcontinent, Southeast Asia, Europe, and the Middle East.³⁵ SLT formed a consortium with 15 international telecom operators to build the cable in 2014.³⁶

SLT remains a key player in the ICT market and still dominates ICT infrastructure due to its imposition of price barriers by making competing players lease connectivity at significantly higher prices.³⁷ In January 2018, SLT opened a Tier 3 "National Data Center,"³⁸ which will host local data and serve as a cloud computing service. Also during the reporting period, SLT, along with the Chinese company Huawei, conducted the country's first successful trial of pre-5G LTE Advanced Pro technology.³⁹ SLT hopes to launch 5G across the country by 2020. In August 2016, SLT announced that it would provide a global connectivity backhauling facility via Sri Lanka, thereby allowing the company to cross-connect to other cable systems and increase capacity.⁴⁰

ICT Market

Sri Lanka's telecommunications industry is generally competitive with retail tariffs considered to be one of the lowest in the world. There were five ISPs in 2018, according to the TRC,⁴¹ after the merging of Hutch and Etisalat in April 2018.⁴²

Four⁴³ key operators dominate the mobile market. Dialog Axiata is the largest, with over 13 million subscribers as of June 2018,⁴⁴ followed by Mobitel, a subsidiary of SLT,⁴⁵ with over 6.8 million subscribers by the end of 2017.⁴⁶ Etisalat-Hutchison Telecommunications had the third largest number of subscribers with over 2.5 million in 2017.⁴⁷ Dialog Axiata, Mobitel, and Hutch offer 4G LTE broadband services.⁴⁸

The competitive nature of the market has led to some legal battles. In June 2017, for example, SLT sought enjoining orders against Dialog to prevent it from providing fixed telecommunications services including Gigabit Passive Optical Networks Active Solutions. The District Court of Colombo rejected the case in August 2017.⁴⁹

Regulatory Bodies

The TRC was established under the Sri Lanka Telecommunications (Amendment) Act, No. 27 of 1996. As the national regulatory agency for telecommunications, the TRC's mandate is to ensure the provision of effective telecommunications, protect the interests of the public, and maintain effective competition between commercial telecommunications enterprises.

The TRC's lack of transparency with regard to license conditions, bad regulatory practices, and instances of preferential treatment have been noted in the past.⁵⁰ Analysts have said that spectrum allocation and reforming, or the more efficient reallocation of spectrum, have been administered in an ad hoc manner, but over the years, procedural transparency has improved.⁵¹ However, regulatory reform continues to be a pressing issue, particularly in terms of strengthening the body's independence.

In April 2018, a right to information inquiry filed by Dialog revealed that the TRC allocated a spectrum telecommunications frequency to Mobitel. The competitive bidding process was reportedly bypassed in this case, which suggests preferential treatment for Mobitel. Mobitel's chairman is President Sirisena's brother.⁵²

During Rajapaksa's regime, the TRC's interventions to restrict online content and pronouncements on strengthening online regulation were partisan, extralegal, and repressive.⁵³ In September 2017, the Colombo High Court found Anush Palpita, former TRC chairman, and Lalitha Weeratunga, secretary to former President Rajapaksa, guilty of misappropriation and using funds for Rajapaksa's presidential campaign. They were sentenced to three years and fined, but were released on bail while filing an appeal against the ruling.⁵⁴

President Sirisena has also largely chosen political appointees to run the TRC. Like his predecessor, he appointed his permanent secretary, P. B. Abeykoon, as chairman.⁵⁵ Sirisena also appointed then President's Counsel M. M. Zuhair as the director general,⁵⁶ but Zuhair and the board of directors were dismissed in 2015 for violating TRC financial regulations.⁵⁷ Zuhair was replaced by Sunil S. Sirisena, a more experienced senior civil servant who shares the president's name but is not related.⁵⁸ In August 2016, however, President Sirisena appointed President's Counsel Hemantha Warnakulasuriya, a senior lawyer and former ambassador, as a TRC member.⁵⁹ His qualification for the position, other than his position as President's Counsel, was unclear. The current director general is P.R.S.P. Jayatilake.⁶⁰

Limits on Content:

The government dramatically increased censorship online during the coverage period by instituting a nationwide block of Facebook, WhatsApp, Instagram, and Viber for just over a week. The block was precipitated by the proliferation of misinformation and rumors online that engendered communal violence in March 2018. Despite these negative developments, content online remains diverse with a number of online journalism and citizen media sites freely publishing on political and socioeconomic issues.

Blocking and Filtering

During the reporting period, there was a nationwide block of Facebook, WhatsApp, Instagram, and Viber from March 7-15, 2018, due to violence in Kandy for just over a week. A few webpages were also found to be blocked in November 2017, prompting a right to information (RTI) request into the website blocking process.

The costs of the nationwide social media block were felt across the country. People in affected areas in Kandy had difficulty contacting friends and family about their safety, while small businesses and entrepreneurs could not connect with their customers. Civil society organizations and activists dependent on social media also lost contact with audiences.⁶¹

Several ministers blamed social media platforms for failing to curb the spread of hate speech as justification for the block, including Deputy Minister for National Politics and Economic Affairs Harsha De Silva,⁶² and Telecommunications and Digital Infrastructure Minister Harin Fernando.⁶³ The president⁶⁴ and prime minister⁶⁵ also both argued that the spread of hate speech and fake news during the violence necessitated the block.

During the violence, some webpages were also unavailable and presumably blocked. The personal blog of author and data scientist Yudhanjaya Wijeratne was temporarily unavailable through one ISP,⁶⁶ as were URLs from forum software Discourse.⁶⁷

In addition to the blocking that occurred in March 2018, at least four websites were blocked⁶⁸ during the coverage period, including two pornographic websites, a gossip site called *gossipplanets.com*, and the website *Lankaenews*.⁶⁹ When civil society organizations learned that *Lankaenews* was blocked, three organizations filed an RTI request about its blocking and the blocking process.⁷⁰ The TRC denied part of the request on national security grounds, and the case was appealed and heard before the RTI Commission in the spring of 2018.⁷¹ In the TRC's response, it was revealed that 13 websites had been blocked between 2015 and 2017, including some sites publishing political news or pornographic material. The response also revealed the blocking process for each website, noting that the presidential secretariat was involved in the blocking of at least four of the sites. As of July 2018, *Lankaenews* was inaccessible via SLT connection but available via Dialog mobile connection.

No ISP is known to have challenged the TRC's requests to block content or sought judicial oversight.⁷² 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. Under the Telecommunications Act, ISPs are licensed by the Ministry of Telecommunications, but the TRC 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

There is no independent body regulating content, which leaves limited avenues for appeal (see Regulatory Bodies). Content providers have filed fundamental rights applications with the Supreme Court to challenge blocking,⁷⁴ but under former President Rajapaksa, the lack of trust in the country's politicized judiciary and fear of retaliatory measures represented significant obstacles for the petitioner.⁷⁵

Content Removal

Documented cases of content removal are uncommon. However, Google's *Transparency Report* identified that between July and December 2017 the company removed two videos for copyright violations after receiving removal requests.⁷⁶

In March, in the aftermath of the violence, there were some concerns relating to content removal on Facebook. Facebook has shown a lack of support for Sinhala language moderation. Users have claimed that many posts flagged for offensive comments, including content that could incite violence, are not removed when reported.⁷⁷ While Facebook was blocked in March, government officials stated that the platform's block would not be lifted until certain hateful posts were removed.⁷⁸ In a meeting between Facebook representatives and Presidential Secretary and TRC Chairman Austin Fernando, Facebook reiterated its commitment to remove hate speech and the government said it would work with Facebook to do so.⁷⁹ In June 2018, following the reporting period, Facebook representatives met with local civil society and made commitments to improve their language capabilities for moderation of Sri Lankan content.⁸⁰

Media, Diversity, and Content Manipulation

Diverse content is generally available online, and self-censorship is gradually lessening in the country. However, misinformation proliferating across social media was a disturbing development during the reporting period.

Rumors that Muslims were attempting to forcibly sterilize the Sinhalese have persisted from as early as 2012. Recently, for example, a rumor spread across Facebook that 23,000 sterilization pills were seized from a Muslim pharmacist in a small Sri Lankan village.⁸¹ These rumors sparked violence in Ampara when a group of Buddhists found a lump of flour in their food that they believed to be a sterilization pill while eating at a Muslim-owned shop. The group accused the shop owner of planting pills in the food. The shop owner, who spoke Tamil and could not understand what the Buddhist men were asking, nodded in agreement to the group's questions. The group filmed the altercation, including when the shop owner accidentally agreed that he spiked the food.

In the following weeks, the video was shared across social media, particularly Facebook, provoking emotional reactions. This example, along with the death of a Sinhalese man in Kandy, exacerbated online hate speech and content inciting violence, which resulted in real-world communal violence. For example, Facebook posts implored followers to "reap without leaving an iota behind" and "kill all Muslims, don't even save an infant."⁸² In a video shared on WhatsApp, an individual declared that "the sword at home is no longer to cut jackfruit so kindly sharpen that sword and go." Despite the government blocking Facebook, Instagram, WhatsApp, and Viber, some people, including those spreading misinformation, continued to use circumvention tools to post on Facebook.⁸³

Twitter also became a platform of choice. For example, one tweet⁸⁴ included an image of people on a road with accompanied text describing the image as "Muslim people in #kandy #digana waiting to attack innocent Sinhalese. #Aljazeera #cnn #bbc #Geneva what they publish pretending to be innocent and put the blame on Sinhalese people." The tweet did not mirror any of the reporting on the ground at the time, and it was determined that the tweet was published from Frankfurt, Germany.⁸⁵

Following the violence in Digana, the president, prime minister, and law and order minister shared that the government was considering a new program regulating social media.⁸⁶ The potential program was met with criticism from civil society. For example, in an official statement the Human Rights Commission noted that these considerations must be balanced with freedom of expression and the right to information.⁸⁷ Previously in December 2016, Prime Minister Wickremesinghe said that the government was monitoring social media platforms for extremist content, and that laws could be introduced to regulate the platforms "if they fail to listen to reason."⁸⁸

Shortly after the riots, Twitter accounts of journalists, activists, diplomats, and lawyers experienced a sudden spike in followers.⁸⁹ An April 2018 report titled "Weaponising 280 characters" ⁹⁰ describes the accounts as having Sinhala, Muslim, and Tamil sounding names with many using the default Twitter profile picture or an image from another public profile. The accounts were mostly empty profiles with no tweets and it was not immediately apparent what they might be used for.

Citizen media site *Groundviews* also found evidence of bots and trolls being used to boost the Twitter account of former President Mahinda Rajapakse's son, Namal Rajapakse. This was one of the first reports looking at misinformation of this kind in Sri Lanka and could be an indication of strategic moves to manipulate followers online.⁹¹ During the previous government, state news platforms and

official government websites waged smear campaigns against their critics.⁹² Online campaigns targeting Muslims and other minority groups have been linked to former government actors.⁹³

Social media apps, communications platforms, and blogs are popular and widely available, and they diversify traditional media coverage and spur local debate. Other diverse sources of information online in English, Sinhala, and Tamil are available, including on socioeconomic and political issues, despite a history of censorship. Citizen media sites such as *Vikalpa* and *Groundviews* feature citizen generated content that would otherwise not be covered by mainstream media.⁹⁴ *Groundviews* also operates *Maatram*, a website publishing citizen journalism aimed at Tamil readers across Sri Lanka and the diaspora.⁹⁵

Other curated websites contribute to the country's diverse online media landscape. *Readme.lk* offers news on technology and *Roar.lk*, a social content start-up, reports on cutting-edge political, social, and economic issues.⁹⁶ *Manthri.lk* is a nonprofit platform that monitors elected officials' participation, attendance, the diversity of issues they discuss, and their contributions to legislative functions.⁹⁷ Additionally, the new fortnightly news magazine *counterpoint.lk*, launched in February 2018, focuses on long-form journalism and investigative and political content.⁹⁸

Self-censorship by journalists appears to be diminishing in response to the government's stated commitment to media freedom. Under President Sirisena, some traditional and new media outlets have become vocal critics of both sides of the political divide, indicating increased freedom.

The government has maintained onerous news website registration requirements introduced by the previous administration. During Rajapaksa's presidency, the media ministry directed all "news" websites to register for a fee of LKR 25,000 (US\$190) with an annual renewal fee of LKR 10,000 (US\$75). The requirement threatens the economic viability of start-up platforms,⁹⁹ and undermines privacy and anonymity (see Surveillance, Privacy and Anonymity).

Digital Activism

The web has provided an avenue for robust digital activism and engagement on political issues in Sri Lanka, although most campaigns progress in fits and starts. Many are hitched to specific short-lived events, crises, or stalled political processes, and campaigners are generally unable to gather the momentum needed to drive meaningful change and long-term participation. However, a number of social media campaigns occurred during the reporting period.

The #IVotedSL campaign was used once again during the local government elections in February 2018, together with #LGPollSL, with many first-time voters sharing photos of themselves participating.¹⁰⁰ Also in February, #lka70 was used to mark Sri Lanka's 70 years of independence.¹⁰¹

Activists and civil society used #DisappearedSL to draw attention to and track the protests by families of the disappeared across the north and east.¹⁰² *Groundviews*, *Vikalpa*, and *Maatram* utilized the #Celebrate150years hashtag marking 150 years of Ceylon Tea to highlight the plight of the Up-Country Tamil community.¹⁰³

A new closed group on Facebook centered on feminist discourse engendered vibrant discussion and social media campaigns. For instance, a sexist billboard was taken down after lobbying from some of the group members.¹⁰⁴ The website *Bakamoono.lk* also used memes to spread awareness of sexual health and reproductive health rights issues.¹⁰⁵

Violations of User Rights:

The enactment of a new electronic national identity card raised privacy and surveillance concerns. While arrests and prosecutions for users' online activity have remained relatively infrequent under President Sirisena, there were a few new arrests during the coverage period.

Legal Environment

Although internet access is not guaranteed as a fundamental right in Sri Lanka's legislation, Article 14 (1)(a) of the constitution protects freedom of expression, subject to restrictions related to the protection of national security, public order, racial and religious harmony, and morality. There are no specific constitutional provisions recognizing internet access as a fundamental right or guaranteeing freedom of expression online.

A state of emergency was issued on March 6, 2018, following violence in Digana, and later lifted on March 18, 2018.¹⁰⁶ These emergency regulations had some worrisome and broad components, such as a section making it an offense to "cause public alarm" by spreading rumors or sharing images or information on social media.¹⁰⁷

Several laws with overly broad scope lack detailed definitions and can be abused to prosecute or restrict legitimate forms of online expression. Publishing official secrets, information about parliament that may undermine its work, or "malicious" content that incites violence or disharmony could result in criminal charges.¹⁰⁸ Government Information Director General Sudarshana Gunawardena stated in March 2018 that incitement to violence, including on social media, is contrary to Article 28 of the constitution and to Section 100 of the Penal Code, as well as to Section 3 of the International Covenant on Civil and Political Rights, to which Sri Lanka is a party.¹⁰⁹

A culture of impunity, circumvention of the judicial process through arbitrary action, and a lack of adequate protection for individuals and their privacy compounded the poor enforcement of freedom of expression guarantees under former President Rajapaksa's government.

President Sirisena's administration has struggled to restore public trust, attempting to adhere to a policy of good governance and transparency. In 2016, Parliament convened for the first time as the Constitutional Assembly in order to discuss the first steps required to draft a new constitution.¹¹⁰ Though the assembly has released six subcommittee reports since then,¹¹¹ many citizens say that the government has failed to keep them informed,¹¹² and the process has been criticized for lacking transparency.¹¹³ In the wake of the government losing ground during local elections and a no-confidence motion levelled at the prime minister which, while defeated,

deepened rifts within the coalition government, civil society noted that the constitutional reform process looked increasingly unlikely to be successful, as it would be difficult for the government to secure the 150 votes needed to pass a new constitution.¹¹⁴ Separately, in January 2018, President Sirisena asked the Supreme Court whether his term was bound by 2015 presidential term limits that he had introduced to limit executive power. The Supreme Court rejected his request.¹¹⁵

Sri Lanka's transitional justice process was initiated in 2016 with the appointment of the Consultation Task Force on Reconciliation Mechanisms (CTF). The process is intended to address the issues of truth, accountability, and reparations for human rights abuses committed during the decades-long conflict, including several which affected internet freedom. In March 2018, President Sirisena made appointments to the Office of Missing Persons (OMP), after a nearly 18-month delay since the OMP law's passage in August 2016.¹¹⁶ Civil society has raised concerns with the process of the office's operationalization.¹¹⁷ Following appointments to the OMP, the government also approved the creation of a Reparations Office.¹¹⁸ Unfortunately, however, legislation for a Truth-Seeking Commission has yet to materialize.¹¹⁹

The government continued to make amendments to a draft counterterrorism law that would fulfill its promise to replace the Prevention of Terrorism Act (PTA) of 1979.¹²⁰ The PTA was used by Rajapaksa's government to prosecute critics like web journalist J.S. Tissainayagam, who was imprisoned in 2009 on charges of causing racial hatred and raising money for terrorism.¹²¹ The government said that it had wanted to pass the new counterterrorism law before the February-March 2018 UN Human Rights Council session in Geneva,¹²² but did not meet this self-imposed deadline. Some have critiqued the lack of transparency in this drafting process,¹²³ and civil society actors who have read the bill are concerned about the law's broad scope, which could lead to a "chilling of expression and information."¹²⁴ A previous draft counterterrorism framework leaked in October 2016 also raised serious concerns.¹²⁵ Legal scholars said that the previous framework would criminalize "words spoken or intended to be read" that threaten the "unity, territorial integrity, security or sovereignty of Sri Lanka" (Clause 18), potentially making criticism of state policies a punishable offense.¹²⁶

The RTI Act passed in June 2016 and went into effect in February 2017, promising to strengthen accountability and transparency within public institutions.¹²⁷ Over 100 appeals to the RTI Commission related to state institutions refusing to provide information.¹²⁸ Citizens reportedly submitted more than 300 RTI applications in the first week of its operations¹²⁹ and over 1,000 applications in just over a month,¹³⁰ ranging from legislation on the rights of persons with disabilities to the report into the death of the founder and leader of the Sri Lanka Muslim Congress, M.H.M. Ashraff.¹³¹

Prosecutions and Detentions for Online Activities

Several detentions for legitimate online activity were documented during Rajapaksa's presidency.¹³² Under the new government, there has been a very limited number of arrests and prosecutions for online activity reported. During the coverage period, a few arrests were reported for inciting hatred online.

In wake of the violence in Digana, the TRC reported that the Ministry of Defense was monitoring social media for content that incited violence.¹³³ Around 10 people were arrested for spreading provocative and hateful messages on social media.¹³⁴ Also in March, a few students were arrested for instigating hate and "disharmony" on social media.¹³⁵ Reports did not clarify the content of their social media posts.

While Sri Lanka constitutionally protects freedom of expression through Article 14 (1)(a) of the constitution, Government Information Director General Sudarshana Gunawardena stated in March 2018 that incitement to violence, including on social media, is contrary to Article 28 of the constitution and to Section 100 of the Penal Code, as well as to Section 3 of the International Covenant on Civil and Political Rights, to which Sri Lanka is a party.¹³⁶

Surveillance, Privacy, and Anonymity

The National Action Plan for the Protection and Promotion of Human Rights 2017-2021 outlined the goal of recognizing the right to privacy with the objective of ensuring constitutional recognition of this right. ¹³⁷ During the reporting period, however, advocates raised privacy and surveillance concerns about some new initiatives.

Most notably, concerns were raised over the introduction of a new electronic national identity card, the e-NIC Project. The project includes a central database storing wide-ranging information and biometrics with "family tree" data.¹³⁸ Activists warn that this could be used to target political opponents and could be hacked and abused.¹³⁹ However, there was hardly any opposition to the project when it was first introduced, presumably because the government justified the project's necessity as an improvement to the state's service delivery.

In a statement following a Facebook representative's visit to the country in March 2018, President Sirisena said they were initiating steps toward "implementing necessary monitoring and surveillance methods to ensuring public safety," raising alarms about protecting privacy and freedom of expression.¹⁴⁰

In another initiative, the Family Planning Association of Sri Lanka partnered with Dialog to install a Smart Condom Vending Machine. This received some negative feedback, as the machine required a Dialog phone number to be entered to receive contraceptives.¹⁴¹

There are some limits to anonymous digital communication. Real-name registration is required for mobile phone users under a 2008 Ministry of Defense program to curb "negative incidents." It was bolstered in 2010 after service providers failed to ensure that subscribers registered.¹⁴² Access to public Wi-Fi hotspots requires a citizen's national identity card number,¹⁴³ which could be used to track online activity.

News websites continue to be required to register under a procedure that critics say lacks legal foundation (see Media, Diversity, and Content Manipulation). The registration form issued by the Ministry of Mass Media requests users to enter their personal details along with the name of the server, IP addresses, and location from which content is uploaded.¹⁴⁴ The form does not refer to a law or indicate the penalty for non-compliance. Civil society groups fear the requirement could be used to hold registered site owners responsible for content posted by users, or to prevent government critics from writing anonymously.¹⁴⁵

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 offense. In 2013, Dialog CEO 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."¹⁴⁶ The nature and number of such requests is unknown, since there is no provision under the legislation that requires officials to notify the targets. Some companies disclose some information: Facebook's *Government Requests Report* showed that from June to December 2017, there had been six requests for user data pertaining to a legal case and five preservation requests for six accounts.¹⁴⁷

State agencies are believed to possess some technologies that could facilitate surveillance. In 2015, leaked documents indicated that the Milan-based firm Hacking Team was approached by several state security agencies seeking to acquire the company's digital surveillance technologies.¹⁴⁸ 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.¹⁴⁹ While no purchases of the company's equipment were confirmed in the leaked documents, they included a 2013 email exchange between a Hacking Team employee and an individual claiming to represent Sri Lankan intelligence agencies describing confidential acquisitions of "interception technologies" he had brokered in the past.¹⁵⁰ Separately, digital activists in Sri Lanka believe Chinese companies ZTE and Huawei, which collaborated with Rajapaksa's government in the development and maintenance of Sri Lanka's ICT infrastructure, may have inserted backdoor espionage and surveillance capabilities.¹⁵¹

Intimidation and Violence

Intimidation and violence are still reported in Sri Lanka under the new government. A February 2018 report from the Sri Lanka Campaign for Peace and Justice interviewed 27 individuals in the north who detailed excessive and ongoing surveillance, harassment, and intimidation by an array of state security agencies, including over phone and via SMS.¹⁵² The report notes that among those targeted were human rights activists, survivors of Sri Lanka's civil war, and ordinary citizens.

In November 2017, two young men were questioned by police for an image posted on Facebook taken outside of the Nedunkerny Divisional Secretariat office in the Vavuniya district. The image focused on a poster of a local tree planting campaign with a cut-down tree behind the poster. The police warned the two youth to not critique government work and that they could lose their jobs in the future for this activity. The police also made them sign an affidavit in Sinhala.¹⁵³

Progress of investigations into past killings and disappearances of journalists was either slow or stagnant during the coverage period.¹⁵⁴ A conference commemorating the International Day to End Impunity for Crimes Against Journalists did see the police reopen a case involving attacks on Tamil newspaper *Uthayan*.¹⁵⁵ In 2016, Sri Lanka was dropped from the Committee for the Protection of Journalist's Impunity Index because no new attacks took place.¹⁵⁶

Women have been subjected to misogynistic and intrusive commentary and content on social media, especially on Facebook. For example, personal and intimate images have been shared in Facebook groups, often with abusive or derogatory captions.¹⁵⁷ Female activists and politicians have been subjected to threats and intimidation online that have impacted their work.¹⁵⁸

Technical Attacks

Cyberattacks occasionally targeted government critics, such as *Tamilnet*, under former President Rajapaksa.¹⁵⁹ No similar incidents have been reported under President Sirisena.

Hackers frequently attack government and business websites, and one technology company placed Sri Lanka among the top ten countries in the Asia-Pacific region with respect to growing threats to cybersecurity.¹⁶⁰

On the 2018 National Remembrance Day, held on May 18 to mark the end of the civil war, the Tamil Eelam Cyber Force hacked¹⁶¹ the Ministry of Tourism website and at least one other government website and posted the symbol of the Liberation Tigers of Tamil Eelam. Sri Lanka's Computer Emergency Readiness Team and Coordination Centre (CERT) noted that it had issued a warning to key government departments that there was a risk of cyberattacks around this day.¹⁶² CERT is tasked with protecting digital data under the Computer Crimes Act, and operates a security arm to protect digital banking infrastructure.¹⁶³

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