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Freedom on the Net 2017 - Sri Lanka

Country:

[Sri Lanka](#)

Year:

2017

Status:

Partly Free

Total Score:

43

(0 = Best, 100 = Worst)

Obstacles to Access:

13

(0 = Best, 25 = Worst)

Limits on Content:

12

(0 = Best, 35 = Worst)

Violations of User Rights:

18

(0 = Best, 40 = Worst)

Population:

21.2 million

Internet Penetration:

32.1%

Social Media/ICT Apps Blocked:

No

Political/Social Content Blocked:

Yes

Bloggers/ICT Users Arrested:

No

Press Freedom Status:

Not Free

Key Developments:

June 1, 2016 - May 31, 2017

- Internet penetration continued to improve under the national unity government (see Availability and Ease of Access).
- A news website was reported to have been blocked by the Telecommunications Regulatory Commission after complaints from the Ministry of Justice and Ministry of Mass Media (see Blocking and Filtering).
- Officials raised the need to introduce laws to regulate news websites and curb hate speech (see Media, Diversity, and Content Manipulation).

Introduction:

Internet freedom continued to improve in 2017, albeit incrementally and not without significant problems. Two-and-a-half years after the defeat of Mahinda Rajapaksa in the January 2015 presidential election, arrests and attacks for online activities have significantly declined, and internet penetration has increased. There remains considerable scope for policy reform in order to guarantee internet freedom and improve internet governance.¹

Mahinda Rajapaska remains active in politics,² opposing the constitutional reform process, and accusing current President Maithripala Sirisena of betraying the country's hard-fought May 2009 victory in a war against the Liberation Tigers of Tamil Eelam (L.T.T.E) that lasted three decades.³ He still commands substantial support, despite facing a spate of investigations into corruption and abductions.⁴

The government ordered a block on one website during the coverage period of this report, though all others targeted by the previous government continue to be accessible. While digital activism increased significantly in the lead up to the last presidential and parliamentary elections, more mobilization and engagement is needed to sustain momentum behind key reform processes and seek redress for the many victims of past abuses. At the end of the coverage period of this report, the constitutional reform process was moving slowly and without input from the citizenry. Moreover, much-needed transitional justice measures proposed by the government have stalled. After right to information (RTI) legislation was finally enacted, the RTI Commission received over 300 applications in the first week of operation, many seeking information on land seizures and enforced disappearances.⁵

Hate speech—both online and offline—is a pressing concern, and senior ministers have commented on the need to curb content that promotes ethnic hatred and potentially incites violence. The government approved a new counter-terrorism framework, which is intended to replace the draconian Prevention of Terrorism Act (PTA) formerly used to imprison web journalists. Sri Lanka reportedly agreed to revoking the PTA, introducing a National Human Rights Action Plan, and expediting the cases of remaining detainees, among other conditions, to regain access to European markets.⁶ But human rights activists and legal scholars say the new antiterror framework contains troubling provisions that could limit freedom of expression if passed into law. Draft legislation to establish a media council also sparked concerns about the extent to which such a council would operate in an independent and fair manner.

Obstacles to Access:

Internet penetration in Sri Lanka has continually increased, although recent tax hikes have hit telecommunications providers and their customers. 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 is needed to ensure independence and transparency, 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

Internet connectivity has become more affordable for individual subscribers (see “Availability and Ease of Access: Key Indicators”). However, the government increased a number of different taxation rates and levies on telecommunications services during the coverage period.⁷ Combining the new, higher rates, customers now pay a total tax rate of 50 percent on voice and value added services, while mobile and fixed broadband data services are taxed at 32 percent.⁸ The tax increase resulted in higher prices for consumers and reportedly affected the financial performance of certain telecommunications companies.⁹

Despite this, demand remained resilient with a steady rise in both mobile and mobile broadband subscriptions during the coverage period.¹⁰ The TRC reported 17 percent mobile broadband penetration in September 2016.¹¹ Smartphone penetration stood at 36 percent in early 2017, according to the Minister of Telecommunication and Digital Infrastructure,¹² up from about 20 percent in 2014.¹³ Technology company Huawei described Sri Lanka as the fastest growing smartphone market in South Asia in 2015,¹⁴ and continued to report growth during the coverage period.¹⁵ The 2016 census documented an overall drop in computer acquisition rates, from 24 percent in 2015 to 23 percent in 2016.¹⁶ Officials speculate that the increasing acquisition of smartphones and tablet devices could be contributing to the drop.¹⁷

Speed and connection quality are improving incrementally, and are expected to progress further in the next few years. A new BBG cable is expected to boost Sri Lanka's throughput to an impressive 6.4 Tbps, meaning internet speeds could be up to six times faster (see “Restrictions on Connectivity”).¹⁸ ISPs like SLT offer “ultra speed fibre optic broadband” using FTTx technology, which reportedly offers speeds of up to 100 Mbps.¹⁹

Low digital literacy represents a major barrier to ICT use. Although Sri Lanka's literacy rate is approximately 91 percent,²⁰ only 27 percent of the population was comfortable using computers in 2016 (29 percent of men and 26 percent of women), according to census data.²¹ However, digital literacy is increasing year-on-year, with computer skills gained either during school or university; young people were more likely to use computers.²² Compared to urban areas, however, rural and Up-Country Tamil communities have a significantly lower digital literacy, primarily due to the high cost of personal computers that limits access for lower-income families.²³ Schools with digital facilities lack corresponding literacy programs, though in January 2017, the Ministry of Education inaugurated the country's first “cloud smart classroom,” a pilot project for digital interactive learning.²⁴ For a number of years now, the Information Communications and Technology Agency (ICTA) has promoted digital literacy in rural areas by establishing community-based e-libraries and e-learning centers,²⁵ though some local journalists criticized aspects of the initiative in the past.²⁶ Digital literacy dropped marginally in urban areas in 2016 (to 38 percent from 40 percent in 2015) and appeared to be increasing in rural areas and among Up-Country communities, though those rates remained comparatively low at 26 percent and 10 percent respectively.

Other factors perpetuate a digital divide between urban and rural areas. Internet service and usage has been stronger in the Western Province, the most-populated of the country's nine provinces,²⁷ due to the infrastructure concentration that supports Colombo, the commercial capital, and other urbanized areas. The civil war caused severe lags in infrastructure development for the Northern and Eastern Provinces. Since the end of war, development has been slow in the region and largely focussed on road construction.²⁸ Despite the lack of substantive development across key sectors, telecommunications infrastructure has expanded and internet usage has grown year-on-year. For example, 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.²⁹ In 2016, this encouraging trend continued. Vavuniya had the country's second highest rate of internet usage in the country (almost 23 percent).³⁰

The incumbent government is also working to expand coverage, and has committed to a substantial investment in digital infrastructure projects.³¹ Providing free internet access was a key campaign promise of President Sirisena and the government had pledged to provide WiFi access to over 2,000 public locations by the end of 2016.³² By March 2017, there were 511 hotspots serving

127,890 users around the country, according to the Public WiFi Initiative, which is implemented by the ICTA,³³ though experts voiced concerns about the speed and quality of service in some locations.³⁴

Private companies are also trying to extend service. Dialog, an ISP, reports over 2,500 pay-to-use Wi-Fi hotspots around the country;³⁵ another ISP, SLT, reported over 100 operational Wi-Fi hotspots for both broadband and prepaid customers nationwide as of May 2017, but with a significant concentration in the Western Province.³⁶ However, not all attempts to increase connectivity have been successful. For example, news reports published in early 2017 stated that Google's Project Loon—a balloon-powered, high-speed internet service—might exit Sri Lanka due to a spectrum allocation that violates ITU regulations.³⁷ Three balloons launched by Project Loon entered Sri Lanka's airspace in February 2016,³⁸ but the project has been shrouded with negative publicity due to allegations of corruption against some of the key local players.³⁹

Restrictions on Connectivity

There were no large-scale connectivity interruptions during the coverage period of this report and deliberate shutdowns have not occurred in the post-war period. The only time a shutdown occurred was in 2007, when SLT temporarily severed internet and 8,000 mobile phone connections in the predominantly Tamil-speaking north and east, then the center of the conflict with the L.T.T.E.⁴⁰

Control of the internet architecture diversified somewhat during the coverage period. Sri Lanka has access to multiple international cables, but most of the landing stations for these cables are controlled by Sri Lanka Telecom (SLT), the majority government-owned internet service provider (ISP).⁴¹ In May 2016, however, Dialog connected to the Ultra High Capacity BBG submarine fiber-optic cable through a new cable landing station in the south of Colombo.⁴² Lanka Bell, a private operator, also controls one landing station.

SLT does not allow other telecommunications companies to freely connect to landing stations using their own fiber network, but imposes price barriers by making competing players lease connectivity at significantly higher prices.⁴³ News reports indicated that Dialog would allow other operators to buy bandwidth and compete with its data prices. Government control over the internet architecture could become problematic, particularly if non-economic barriers are used to thwart the growth of private companies. At present, SLT is allowed to install last-mile connections to homes, while Dialog and other operators can only install last-mile connections to businesses and multi-residential units,⁴⁴ which effectively means that residential users only have one service provider to choose from in the fixed-line broadband market.⁴⁵

SLT, therefore, remains a key player in the ICT market and still dominates ICT infrastructure. In early 2016, SLT opened a new cable landing station for SEA-ME-WE-5 in the south of Sri Lanka, which provides roughly 24 Tbps between the Indian subcontinent, South East Asia, Europe, and the Middle East.⁴⁶ SLT formed a consortium with 15 international telecom operators to build the cable in 2014.⁴⁷ 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.⁴⁸

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 nine ISPs in early 2017, according to the TRC,⁴⁹ though SLT is still the leader in the fixed-line market with over 630,000 subscribers (see Restrictions on Connectivity).⁵⁰ President Sirisena appointed his brother as the chairman of SLT in January 2015, notwithstanding concerns about nepotism and the impact of such an appointment on the credibility of the government's good governance platform.⁵¹

Five key operators dominate the mobile market. Dialog Axiata was the largest in March 2017, with over 12.2 million subscribers in March 2017,⁵² followed by Mobitel, a subsidiary of SLT,⁵³ which had 6.4 million subscribers in 2016.⁵⁴ Their main competitors in the first quarter of 2017 were Etisalat (2 million subscribers), Airtel-Bharti Lanka (1 million), and Hutchison Telecommunications (500,000).⁵⁵ Only Dialog Axiata, Mobitel, Sri Lanka Telecom, and Lanka Bell offer 4G LTE broadband services.⁵⁶

Regulatory Bodies

The Telecommunications Regulatory Commission (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.⁵⁷ Analysts have said that spectrum allocation and refarming, or the more efficient reallocation of spectrum, have been administered in an ad hoc manner, but over the years, procedural transparency has improved.⁵⁸ However, regulatory reform continues to be a pressing issue, particularly in terms of strengthening the body's independence. During Rajapaksa's regime, the TRC's interventions to restrict online content and pronouncements on strengthening online regulation were partisan, extralegal, and repressive.⁵⁹ The TRC issued an order to block a website during the coverage period of this report (see "Blocking and Filtering"). Though such orders have been infrequent under the incumbent government, they still raise concerns about the country's approach to internet governance and the politicization of state institutions.

A corruption trial involving TRC funds continued to cast a shadow over its reputation in 2017. In 2015, a businessman accused Lalith Weeratunga and Anusha Palpita, the former TRC chairman and director-general, respectively, of misappropriating LKR 620 million (US\$4 million) for Rajapaksa's presidential election campaign.⁶⁰ Rajapaksa appointed Weeratunga, his permanent secretary, to the TRC during a period when the Ministry of Telecommunications was assigned to the president. In May 2016, Weeratunga and Palpita were indicted under the Public Property Act and the Sri Lanka Telecommunications Regulatory Commission Act for the alleged criminal misappropriation of public funds.⁶¹ Both denied the allegations. However, Weeratunga testified that Rajapaksa had instructed him to implement the election campaign,⁶² and a media interview Weeratunga gave at the time appeared to suggest that the former president had reallocated TRC money to fund the campaign under a special order.⁶³ The case was ongoing by the end of coverage period of this report.

President Sirisena has also largely chosen political appointees to run the TRC, with mixed success. Like his predecessor, he appointed his permanent secretary, P. B. Abeykoon, as chairman.⁶⁴ The position is reserved for the Secretary to the Minister of Telecommunications under the law, and President Sirisena held the portfolio for a time.⁶⁵ Sirisena also appointed then-President's Counsel M. M. Zuhair as the director-general,⁶⁶ but Zuhair and the board of directors were dismissed in 2015 for violating TRC financial regulations.⁶⁷ Zuhair was replaced by Sunil S. Sirisena, a more experienced senior civil servant who shares the president's name but is not related.⁶⁸ In August 2016, however, President Sirisena appointed President's Counsel Hemantha Warnakulasuriya, a senior lawyer and former ambassador, as a TRC member.⁶⁹ His qualification for the position, other than his position as President's Counsel, was unclear.

Limits on Content:

During the coverage period of this report, the TRC was reported to have issued at least one order to block online content, though other websites that were previously blocked under former President Rajapaksa's government continue to be accessible. Digital activism remains vibrant, with a number of citizen media sites and news sites freely publishing content on political and socioeconomic issues.

Blocking and Filtering

President Sirisena has officially dismantled the censorship regime imposed by his predecessor until 2015. Yet isolated reports of targeted website blocks continue under his presidency, despite promises to steer away from censorship.

Prime Minister Ranil Wickremesinghe assured journalists in 2015 that internet censorship would not occur under the new government.⁷⁰ Previously inaccessible content became accessible across ISPs, though the government maintained restrictions on pornography.⁷¹ However, the system that enables website blocking, which has largely operated outside of the law, remains intact.⁷² Officials direct the TRC to blacklist content without legal procedure, and it is not clear whether censorship results from official directives or unofficial requests from ministers and other officials.⁷³

At least one incident was reported during the coverage period. In October 2016, the TRC ordered ISPs to block the Tamil-language news website *New Jaffna* for posting "false propaganda about judicial decisions given in the north, criticising judges and lawyers and posting news inciting the public," according to local news reports citing a TRC official.⁷⁴ The editor has said a magistrate with political connections complained after the site called on the government to remove him from his post.⁷⁵ The reports said the TRC's action was ordered by the Ministries of Justice and Mass Media while the site was under investigation, continuing the disconcerting pattern of TRC compliance with orders from government officials. The duration of the block, however, was unclear. In reported comments, the TRC appeared to single out SLT, rather than other ISPs in general,⁷⁶ and in March 2017, the website was accessible.

No ISP is known to have challenged the TRC's requests to block content or sought judicial oversight.⁷⁷ 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.⁷⁸

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,⁷⁹ 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.⁸⁰

Between 2007 and 2015, blogs,⁸¹ opposition and independent news websites, sites run by Sri Lankans in exile, and citizen journalism platforms were blocked at different times, including the exile-run news website *TamilNet*, censored in 2007 for its support of the Tamil rebels.⁸² Some targeted websites were available at times on different ISPs. Officials cited ill-defined national security measures to legitimize censorship of information related to human rights issues, government accountability, corruption, and political violence.⁸³

Content Removal

Documented cases of content removal are uncommon. Google reported no requests for content removal from the current government from January 2015 to May 2017. The previous government made four requests for the removal of content over a five-year period, according to Google's *Transparency Report*. The most recent request was submitted in December 2014.⁸⁴

Media, Diversity and Content Manipulation

Diverse content is available online, and self-censorship is gradually improving. However, the government maintains problematic registration requirements for news websites, and nationalist groups attacked ethnic and religious minority groups—both online and offline—in the past year.

There are diverse sources of information online in English, Sinhala, and Tamil, including on socioeconomic and political issues, despite a history of censorship. Citizen media sites *Groundviews* and *Vikalpa* feature user-generated content generated by citizens that would otherwise not be covered by the mainstream media.⁸⁵ *Groundviews* enables citizen journalists to submit news, article updates, audio, and images via WhatsApp.⁸⁶ It also operates *Maatram*, a website publishing citizen journalism aimed at Tamil readers across Sri Lanka and the diaspora.⁸⁷ 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, which offers cutting-edge reporting on political, social, and economic issues in the country.⁸⁸ Roar launched a Bangladesh edition in 2016.⁸⁹ Yamu.lk, a popular city guide, produces videos on popular culture and political issues, which are shared widely on social media.⁹⁰ Manthri.lk is a nonprofit platform which monitors the performance of members of parliament by assessing their participation, attendance, the diversity of issues they discuss, and their contributions to legislative functions.⁹¹

Social media, communications apps, and blogs are widely available and popular platforms. Some are used for the anonymous or pseudonymous critique of governance, development and human rights abuses. In December 2016, however, 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.”⁹² Former President Rajapaksa also threatened to regulate social media to prevent “social and political unrest.”⁹³

Digital media and social media diversify traditional media coverage and spur debate. In April 2017, a garbage dump in Meethotamulla, which was about 300 feet high, collapsed and killed over 30 people. Residents in the area had been protesting against the dumping of garbage—reportedly up to 800 tonnes a day—for years.⁹⁴ The public outcry over government inaction and its inability to solve the waste management issue reached a peak after the collapse of the dump. The tragedy was covered by all major news outlets, but online media provided some of the best coverage and updates.⁹⁵ Twitter and Facebook became platforms for vibrant discussions as users shared information and debated the issues of marginalization and urbanization, as well as the shortcomings in governance and policy that caused the disaster.

Despite its explicit media freedom guarantees, the current 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,⁹⁶ and undermines privacy and anonymity (see “Surveillance, Privacy and Anonymity”). The directive was proposed as an amendment to the Press Council Act,⁹⁷ but while that amendment was never passed, the media ministry continued to exact the fee. In 2016, the government announced in the *Daily News* that all websites had to be registered by March 31, 2016 or they would be considered “unlawful.”⁹⁸ Acting Minister of Parliamentary Reform and Mass Media Karu Panavithana defended the registration drive as official accreditation, giving web journalism the same recognition as mainstream outlets.⁹⁹ Yet he also 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.¹⁰⁰ The registration process was still active on the Ministry of Mass Media website in mid-2017.¹⁰¹ A draft bill to establish a media council included some problematic provisions (see “Legal Environment”).

Self-censorship by journalists appears to be diminishing in response to the government’s stated commitment to media freedom. Officials under former President Rajapaksa actively news websites not to report “on matters that would damage the integrity of the island.” Many mainstream outlets complied,¹⁰² while online platforms of the main state-run newspaper and broadcasting networks supported Rajapaksa and the UPFA government.¹⁰³ Under President Sirisena, some traditional and new media outlets have become vocal critics of both sides of the political divide, though most still avoid reporting on certain topics concerning the military or other controversial issues, such as religious violence.

There was no evidence of state-sponsored manipulation of online content during the coverage period of this report, though hate speech against minorities continues to foment on various social media platforms, particularly Facebook. During the previous government, state news platforms and official government websites waged smear campaigns against UPFA critics.¹⁰⁴ Online campaigns targeting Muslims and other minority groups have also been linked to former government actors.¹⁰⁵ In 2013, direct action by hard-line groups and online hate speech may have contributed to a spate of violence against the Muslim community.¹⁰⁶ That activity was driven by a Sinhala Buddhist extremist group openly supported by public officials.¹⁰⁷ Similar attacks on Muslim-owned businesses, residences and places of worship were reported during the coverage period of this report.¹⁰⁸ Violence against Sri Lanka’s Christian community continues, with 52 incidents recorded since January 2015.¹⁰⁹ The current government has appeared reluctant to crack down on Sinhala Buddhist extremist groups that allegedly play a direct role in instigating the violence and inciting ethnic hatred, in violation of the Constitution.¹¹⁰ In November 2016, however, authorities arrested two extremists on charges of inciting communal hatred in videos that were widely shared on social media.¹¹¹ Attempts to legislate against hate speech, meanwhile, were met with criticism (see “Legal Environment”).

Hard-line nationalists also attacked official online platforms promoting co-existence and reconciliation in the past year. For example, the Facebook page of a national reconciliation campaign launched by the Office of National Unity and Reconciliation (ONUR)—IamaTrueSriLankan—generated hundreds of defamatory, racist and hateful comments against figures representing specific minority communities.¹¹²

Digital Activism

The web has provided wide scope 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. The #IVotedSL social media campaign, for example, called on people to exercise their franchise in the January 2015 presidential election,¹¹³ and continued into the August 2015 parliamentary election.¹¹⁴ But offshoot campaigns about shaping a new country are now largely defunct.¹¹⁵ Another recent citizen-driven campaign, #NewConstSL, was intended to drive conversations around constitutional reform, but fizzled out when the reform stalled during the drafting process.¹¹⁶ While the use of digital platforms to leverage support for varying issues continues to increase, most of the initiatives are reactionary, rather than part of a long-term strategy to strengthen governance and citizen participation.

During the reporting period, the Consultation Task Force on Reconciliation Mechanisms (CTF), appointed by the Prime Minister to carry out a consultation process on the government’s proposed reconciliation mechanisms, used social media to increase engagement with the process. The #pubconsl hashtag generated over 4,000 tweets during the consultation process (from June 11, 2016 to February 12, 2017), with the participation of local activists, representatives of international organisations, and members of the diaspora.¹¹⁷

As with the previous year, inclement weather, resulting in severe floods and landslides, affected 12 districts in the country. By mid-June 2017, the flooding had impacted approximately 700,000 people, killed over 200 people, and destroyed thousands of houses.¹¹⁸ One report indicated that the total economic loss as a result of the floods could be as high as LKR 30 billion (US\$ 195 million).¹¹⁹ The government was criticized for its lack of preparation and coordination,¹²⁰ but similar to previous natural disasters from 2011, citizens

and activists helped with relief coordination on social media (#FloodSL on Twitter), collating information and creating a crowd-sourced flood crisis map, which mapped out support networks, requests for relief, and access routes to affected areas.¹²¹

Other interesting initiatives use digital tools. In 2016, *Groundviews* used Google Maps to track incidents of street-based sexual harassment around the country.¹²² The Center for Policy Alternatives, a leading public policy institute, launched “Right to the City,” an online initiative seeking to broaden the discussion on housing and displacement anchored to the institute’s research and advocacy on development and rights.¹²³ Other informal networks and collectives use social media to push a reform agenda and increase participation of specific target groups. For example, Hashtag Generation is a youth-led movement that advocates for the participation of “young people in policy making, evaluation and implementation,” with a presence on Twitter, Instagram, and Facebook.

Violations of User Rights:

Some legislative developments have raised freedom of expression concerns, but there were no significant reports of retaliatory prosecutions during the coverage period. Physical attacks and threats against journalists gradually decreased in the aftermath of the civil war, though incidents are still periodically reported. The failure to investigate past incidents cast a long shadow during President Rajapaksa’s rule. President Sirisena promised to investigate the murders and disappearances of web journalists, but progress has been slow.

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 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.

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.¹²⁴

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, but with mixed results. After months of political bargaining, Parliament passed the 19th Amendment to the Constitution in 2015. The amendment strengthened checks and balances on the executive presidency, including restoring term limits.¹²⁵ 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.¹²⁶ Though the assembly has released six sub-committee reports since then,¹²⁷ many citizens say that the government has failed to keep them informed,¹²⁸ and the process has been criticized for lacking transparency.¹²⁹

Sri Lanka also initiated a transitional justice process with the appointment of the Consultation Task Force on Reconciliation Mechanisms (CTF) in 2016 (see “Digital Activism”). The process is intended to address the issues of truth, accountability, and reparations for abuses committed during the decades-long conflict, including several which affected internet freedom (see “Intimidation and Violence”). Yet none of the mechanisms were established as of mid-2017. The CTF presented a report compiling public submissions on the government’s proposals to further reconciliation in January 2017, but neither President Sirisena nor Prime Minister Wickremesinghe were in attendance. In March, the Office of the United Nations High Commissioner for Human Rights (OHCHR) criticised the government for its “slow progress” on the transitional justice agenda, and for continuing human rights violations.¹³⁰

Several legal developments under Sirisena’s administration have raised freedom of expression concerns. Soon after his election, President Sirisena used his executive powers to appoint three members to the Press Council.¹³¹ The Press Council Act No.5 of 1973 had lain dormant under previous administrations until the Rajapaksa regime reactivated it after the war.¹³² The act prohibits the publication of profanity, obscenity, “false” information about the government or fiscal policy, and official secrets, and has been consistently opposed by local and international media rights organizations.¹³³ It allows the council to punish the violators of its provisions, and journalists said its continued operation contradicted President Sirisena’s election promises.¹³⁴

The government is also spearheading legislation to address the issue of media standards and ethics. The Independent Council for News Media Standards Act, which was released in the form of a discussion draft in early 2017, would impose a system of self-regulation under an Independent Media Council, including punitive measures for any violations of the council’s codes of practice. The proposed legislation applies to all new media outlets, including online versions of publications and “online news media services.”¹³⁵ The draft contained some problematic provisions, including one that allows the High Court to order the disclosure of sources so as to enable the prosecution or defense of cases. Measures are certainly required to improve news media ethics, but observers questioned whether it was the government’s role to impose them, and the legislation prompted concern about the way it could be used against journalists in the future.

After considerable opposition,¹³⁶ the government was forced to withdraw two bills to combat hate speech in 2015.¹³⁷ Legal scholars said 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.¹³⁸

A new offense outlined in the abandoned hate speech bills was particularly controversial because it replicated Section 2(1)(h) of the Prevention of Terrorism Act (PTA) of 1979.¹³⁹ 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.¹⁴⁰ The current government promised to replace the law to comply with international best practices,¹⁴¹ but a draft counter-terrorism framework leaked in October 2016 raised serious concerns.¹⁴² Legal scholars said that the 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.¹⁴³ Among other red flags, the framework also criminalizes the gathering or providing of confidential information, provisions with serious implications for whistle-blowers. The government was revising the framework in early

2017, but initial reports said no changes were made to the scope of terrorism-related offenses,¹⁴⁴ and Cabinet approved the framework as the basis for draft legislation in April.¹⁴⁵

In a positive development, a Right to Information Act pending in various forms since 2003 was finally passed in parliament in June 2016, promising to strengthen accountability and transparency within public institutions. It came into effect in February 2017 after the government established the categories of public authorities that fall within its ambit.¹⁴⁶ Citizens reportedly submitted more than 300 RTI applications in the first week of its operations¹⁴⁷ and over 1,000 RTI applications in just over a month,¹⁴⁸ covering issues such as land ownership and enforced disappearances.¹⁴⁹

Prosecutions and Detentions for Online Activities

Several detentions for legitimate online activity were documented during Rajapaksa's presidency,¹⁵⁰ but no unlawful detentions for online activity were reported during the coverage period of this report, though observers monitored some ongoing prosecutions closely.

In one example, a teenager was arrested under the Computer Crimes Act No. 24 of 2007 for hacking into President Sirisena's official website, removing the homepage, and inserting a demand for A-Level examinations to be postponed.¹⁵¹ The teenager was placed under the supervision of probationary officers for three years rather than subjected to prison time.¹⁵²

The editor of *Lanka-e-News*, a website that was targeted by the former regime, faces legal action over its reportage. In November 2016, a magistrate court issued an international arrest warrant against *Lanka-e-News* editor, Sandaruwan Senadheera, for contempt of court. Senadheera lives overseas. He was accused of publishing a photo of a suspect in an ongoing case prior to the suspect being produced for identification.¹⁵³ Following this, 14 petitions were filed with the Supreme Court requesting the warrant and highlighting alleged defamatory articles published about judges and judicial institutions.¹⁵⁴ Several senior ministers also came forward to criticize *Lanka-e-News* for "mud slinging." The court accepted the petitions with some amendments, and the case was ongoing as of mid-2017.¹⁵⁵

Surveillance, Privacy, and Anonymity

In spite of the new government's commitment to freedom of expression and transparency, privacy advocates remain cautious about existing surveillance technology and the potential for abuse, especially in the north and east, where security officials and the armed forces heavily monitor and intimidate community activists.¹⁵⁶ 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.¹⁵⁷

There are some limits on 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.¹⁵⁸ Access to public WiFi hotspots requires a citizen's national identity card number,¹⁵⁹ 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.¹⁶⁰ 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 writing anonymously.¹⁶¹

Sri Lanka lacks substantive laws for the protection of individual privacy and data, though the issues are under scrutiny. The ICTA appears to be considering a data protection framework, although the time frame for implementation is unclear.¹⁶²

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. 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."¹⁶³

The nature and number of such requests is not known, 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* indicated no requests for user data from Sri Lankan government or law enforcement officials from January to June 2016. The company said it preserved account data in connection with criminal investigations in three instances during the same period, pending legal requests.¹⁶⁴

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.¹⁶⁵ 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.¹⁶⁶ 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.¹⁶⁷ Separately, 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.¹⁶⁸

Intimidation and Violence

Intimidation and violence are still reported, though the number of attacks has declined overall. During the reporting period, the wife of a missing web journalist was intimidated during court appearances which exposed the involvement of military intelligence officials in her husband's 2010 abduction.

In September 2016, investigations into web journalist Prageeth Eknaligoda's disappearance suggested that there was sufficient evidence to file murder charges against army intelligence officials.¹⁶⁹ The *Lanka-E-News* journalist and cartoonist went missing in 2010, after the website backed the political opposition in elections.¹⁷⁰ Investigations reveal that Eknaligoda was held at several army camps following his disappearance. Reports on the number of suspects vary, but almost all had been granted bail by November 2016. Disconcertingly, President Sirisena chastised law enforcement authorities for detaining "war heroes" for lengthy periods of time and said they should be released if they were not guilty.¹⁷¹ In April 2017, Amnesty International reported that Eknaligoda's wife continues to face threats and harassment from Buddhist nationalist groups who oppose the case against the military officers.¹⁷²

Journalists were also subject to attack, though most incidents appeared to relate to content published in the traditional media.¹⁷³ In June 2016, Freddy Gamage, editor of the *Meepura* newspaper, was attacked and beaten by two unidentified men.¹⁷⁴ The motive for the attack was unclear, though Gamage had reported on corruption and illegal property deals.¹⁷⁵ The government was quick to condemn the attack,¹⁷⁶ and two persons were arrested in connection with incident.¹⁷⁷ Gamage is also the convenor of the Professional Web Journalists' Association.

Online reporters, like their traditional media counterparts, were attacked by forces on both sides during Sri Lanka's civil conflict,¹⁷⁸ as well as during the presidency of Rajapaksa.¹⁷⁹ In 2017, investigations into other murders and disappearances continued in line with President Sirisena's commitment to reopen past cases.¹⁸⁰ Progress was painfully slow, though some have resulted in arrests.¹⁸¹

Technical Attacks

Cyberattacks occasionally targeted government critics, such as *Tamilnet*, under former President Rajapaksa.¹⁸² 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 cyber security.¹⁸³ In May 2016, a private bank reported that its website had been hacked, but said that no personal data had been compromised.¹⁸⁴ During the coverage period of this report, a teenager also appeared in court for hacking President Sirisena's official website (see "Prosecutions and Detentions for Online Activity").

The Computer Emergency Readiness Team and Coordination Center (CERT) is tasked with protecting digital data under the Computer Crimes Act, and operates a security arm to protect digital banking infrastructure.¹⁸⁵

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