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Written statement* submitted by the International Movement Against All Forms of Discrimination and Racism (IMADR), a non-governmental organization in special consultative status

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

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

Freedom of expression in Sri Lanka

Introduction¹

Since the end of the civil war in 2009, Sri Lankan journalists and media workers have been subject to a campaign of intimidation and violence,² resulting in an oppressive environment of de facto censorship. Individual journalists, who speak out on issues such as national politics, corruption, human rights, or the civil war and its aftermath, are subject to intimidation and vilification. Some of them have been publicly branded as having links to a ‘terrorist’ organization. At the same time, the Government of Sri Lanka has engaged in sustained harassment and intimidation of media outlets and workers,³ while the Committee to Protect Journalists lists Sri Lanka sixth on the list of countries from which journalists are forced to flee.⁴ These actions have serious implications with respect to the freedom of expression rights. This submission highlights that, despite longstanding attention from the international community, the Government of Sri Lanka has failed to undertake any effective actions to ensure media freedom and to protect journalists /media workers. Given the centrality of the right to freedom of expression to the protection of all human rights, this issue demands the urgent attention of the Human Rights Council.

Freedom of expression is an inalienable fundamental right, which includes the freedom to seek, receive and impart information through any media of choice.⁵ An important guarantee for media workers, the UN Commission on Human Rights has also recognised the right “stressing the need to ensure greater protection for all media professionals and for journalistic sources.”⁶ States are subject to an active responsibility to prevent attacks against journalists, through legislation protecting the freedom of expression, whilst effectively investigating and prosecuting crimes that breach this freedom.⁷

Attacks and obstacles in the North

The focal point and culmination of the civil war occurred in the North of Sri Lanka, and ongoing violent attacks in this region continue to remind the Sri Lankan and international community of the unresolved tensions of the conflict.⁸ International organisations have regularly reported issued reports with titles such as “Jaffna’s Media in the Grip of Terror”⁹,

¹ The Human Rights Centre Clinic at the University of Essex undertook research and analysis in preparation of this submission.

² Human Rights Watch, ‘Sri Lanka: Halt Harassment of Media’ (3rd July 2012) [<http://www.hrw.org/news/2012/07/03/sri-lanka-halt-harassment-media>].

³ Aljazeera Listening Post Interview with Frederica Jansz, [15th January 2013] [<http://www.aljazeera.com/programmes/listeningpost/2013/01/201311512210128360.html>] See further below.

⁴ Committee to Protect Journalists, ‘463 Journalists forced into exile since 2007’ [<http://cpj.org/exile/>].

⁵ International Covenant on Civil Political Rights, Article 19(2); See also Human Rights Committee, General Comments 34 and 10.

⁶ ‘The right to freedom of opinion and expression’ Human Rights Resolution 2005/38, E/CN.4/2005/L.10/Add. 11, 19th April 2005.

⁷ UNESCO, Operationalizing the UN Plan of Action on the Safety of Journalists and the Issue of Impunity at the Country Level, para 5.6-5.11 (2012-2013).

⁸ Sri Lanka Brief, ‘Jaffna: 25 complaints on students’ arrests under PTA, Canada and Norway express concern’ (14th December 2012) [<http://www.srilankabrief.org/2012/12/jaffna-25-complaints-on-students.html>]. Online Uthayan, ‘Tension in Jaffna concerning the attack against students. Norway ambassador disappointed’.

⁹ Reporters Without Borders, “Jaffna’s Media in the Grip of Terror”, 24th August 2007 Press Release [http://en.rsf.org/spip.php?page=article&id_article=23380].

yet regular violent attacks on journalists, students and politically active Tamils continue.¹⁰ Attacks on the Uthayan, Jaffna's leading newspaper, demonstrate this continuing problem; Uthayan's editor was hospitalized by armed attackers in late-2012,¹¹ and attacks upon Uthayan journalists have continued in recent months,¹² up-to the time of submission.¹³

Restrictions on access to media outlets

Violence does not constitute the only obstacle with respect to freedom of expression rights. In November 2011, the government blocked six news and media websites for allegedly portraying the president and top government officials disreputably.¹⁴

On June 29, Colombo city police raided the offices of two news websites, SriLanka-X-News and SriLanka Mirror, took into custody all the staff present and impounded all their equipment. All media workers present were detained within the locked premises for three hours and questioned by the police, following which they were taken away to the headquarters of the Crime Investigation Department (CID). Computers and other equipment were confiscated from the premises of the news websites.¹⁵

The day that the website offices were raided by police, Shantha Wijesooriya, a journalist working with SriLanka-X-News approached by a group of toughs with evident intent to kidnap him. Wijesooriya managed to evade his intending captors and run to safety and left the country soon after.¹⁶

The challenges for Sri Lankan media reporting in such circumstances have been recognized internationally, with calls on the authorities to "heed the voice of the world and remove all restrictions that they have imposed on the media through legislation and ordinances."¹⁷ Still number of news websites remained blocked to-date.¹⁸

Attacks on journalists

Following the end of the civil war in 2009, Sri Lanka accounted for more than a quarter of the worldwide total of journalists who fled their countries because of harassment and (threats of) violence and/or imprisonment.¹⁹ According to the Lessons Learnt and Reconciliation Commission's 2011 Report, there is a "persistent pattern of attacks and obstacles placed on journalists and media institutions"²⁰ in Sri Lanka. During the civil war,

¹⁰ Crisis Group Asia Report No 219 'Sri Lanka's North I: Denial of Minority Rights' (16th March 2012) pp13.

¹¹ BBC, 'Sri Lanka's Jaffna sees clashes over Tamil rebel remembrance' (28th November 2012) [<http://www.bbc.co.uk/news/world-asia-20531233>].

¹² Jaffna University Science Teachers' Association (JUSTA), 'Uthayan journalist allegedly assaulted while taking pictures' (2nd December 2012) [<http://jfnusta.blogspot.co.uk/2012/12/uthayan-journalist-allegedly-assaulted.html>].

¹³ Sri Lanka Brief, 'Attacks on media escalates in Jaffna, newspapers burnt by alleged SL military squad' (7th February 2013) [<http://www.srilankabrief.org/2013/02/attacks-on-media-escalate-in-jaffna.html>].

¹⁴ Human Rights Watch, World Report Chapter: Sri Lanka 2012, (January 2012).

¹⁵ IFJ Situation Report: Sri Lanka, <http://asiapacific.ifj.org/assets/docs/080/019/c8ddf50-b0e8d13.pdf>.

¹⁶ *ibid.*

¹⁷ Sri Lanka Brief, 'GoDL must remove all restrictions imposed on media – Jacob Mathew, Global President of WAN-IFRA' (26th November 2012) [<http://www.srilankabrief.org/2012/11/gosl-must-remove-all-restriction.html>].

¹⁸ IFJ Situation Report: Sri Lanka, <http://asiapacific.ifj.org/assets/docs/080/019/c8ddf50-b0e8d13.pdf>.

¹⁹ Committee to Protect Journalists, 'Special Report: Journalists in Exile 2009' Karen Philips (17th June 2009) [<http://cpj.org/reports/2009/06/journalists-in-exile-2009.php#jump>].

²⁰ 2011 Report of the Lessons Learnt and Reconciliation Commission, para 5.155.

the Government imposed a blackout on media coverage of the war effort while restricting independent and foreign news agencies' access to conflict zones.²¹

In the aftermath of the civil war, these policies and practices remain in place. Frederica Jansz, former editor of *The Sunday Leader*, states that since the end of the civil war, 'the level of intimidation, the harassment has continued, they have continued to call journalists traitors. Lawyers appearing for me, and *The Sunday Leader*, were terrified, or called terrorists and traitors.'²²

In 2012, human rights organisations made written submissions to the Human Rights Council, calling for Sri Lanka to end attacks, threats and harassments against human rights defenders.²³ This submission followed recommendation 39 of the 2008 Universal Periodic Review of Sri Lanka: "to take measures to safeguard freedom of expression and protect human rights defenders, and effectively investigate allegation of attack on journalists, media personnel and human rights defenders, and prosecute those responsible." As continued attacks illustrate, no action has been taken to protect those who are critical of the Government, or to prosecute those responsible for criminal acts.

Instances of self-censorship have increased, leading to the preclusion of critical reportage on post-civil war cases of corruption, governance issues, and human rights violations.²⁴ Some media workers, including Jansz, have been forced into exile and today Sri Lanka is listed as one of the most dangerous places in the world for media workers.²⁵

We are particularly concerned that human rights defenders and journalists who supported a Human Rights Council's Resolution before its March 2012 session were identified and branded as terrorist-sympathizers and "traitors" on state media.²⁶

The Prevention of Terrorism Act (PTA) was given new powers in 2011 that allowed journalists to be convicted and imprisoned for a maximum period of thirty days without any judicial process.²⁷

Impunity

The Government of Sri Lanka has yet to address its own failure to effectively investigate violent attacks and killings of journalists and media workers.²⁸ Since 1992, 19 journalists have been killed, with nine being murdered in the era since then Prime-Minister, now President Rajapaksa came to power in 2004.²⁹ The Government has failed to prosecute any suspects with respect to these nineteen killings. Highlighting the atmosphere of intimidation and impunity, it is noted that officials have publically threatened their critics with

²¹ Al Jazeera: Listening Post 'Frederica Jansz: Sri Lanka's media crackdown', (15th January 2013) <http://www.aljazeera.com/programmes/listeningpost/2013/01/201311512210128360.html>.

²² Al Jazeera: Listening Post 'Frederica Jansz: Sri Lanka's media crackdown', (15th January 2013)[<http://www.aljazeera.com/programmes/listeningpost/2013/01/201311512210128360.html>].

²³ OHCHR, Universal Periodic Review – Sri Lanka [<http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRSriLankaStakeholderInfoS14.aspx>].

²⁴ Sri Lanka Guardian, 'Ethics In Reporting And Sri Lankan Media Bias', Pearl Thevanayagam, (29th October 2010) [<http://www.srilankaguardian.org/2010/10/ethics-in-reporting-and-sri-lankan.html>].

²⁵ Committee to Protect Journalists, 2012 Impunity Index (17th April 2012) [<http://cpj.org/reports/2012/04/impunity-index-2012.php>].

²⁶ Al Jazeera: Listening Post 'Frederica Jansz: Sri Lanka's media crackdown', (15th January 2013)[<http://www.aljazeera.com/programmes/listeningpost/2013/01/201311512210128360.html>].

²⁷ Amnesty International, *Locked Away: Sri Lanka's Security Detainees*, (2012).

²⁸ 2011 Report of the Lessons Learnt and Reconciliation Commission, para 5.155; Joint Contribution on Sri Lanka to the 14th session of the Working Group of the Universal Periodic Review, para10.

²⁹ Committee to Protect Reporters, *Attacks on the Press 2011*, pp180.

violence,³⁰ and sixty per cent of recorded victims were known to have received threats before they were killed.³¹

The pervasive climate of impunity has led the Committee to Protect Journalists to rank Sri Lanka fourth in its annual Impunity Index.³² The Lessons Learnt and Reconciliation Commission (LLRC) note that failure to bring the “perpetrators to justice” does little credit to the Sri Lankan Government and “undermine[s] the process of reconciliation and the Rule of Law”.

In late 2012, the editor of a Jaffna-based newspaper was brutally beaten after his newspaper attempted to cover the military intrusion into the Jaffna University.³³ Peaceful student protests and boycotts following the incident were met with military attacks.³⁴

Administrative detention is a tool routinely used by law enforcement against those the government believes may be security threats, including journalists,³⁵ many of whom have been detained without charge for significant lengths of time.³⁶ Although the government of Sri Lanka accepted UPR recommendation 18 to “increase its efforts to prevent cases of kidnapping, forced disappearances, and extrajudicial killings”, the subsequent Freedom of Information Bill could not be passed in the parliament as a result of its dissolution in 2004, and so legislation has yet to fully develop to support and protect journalists in their work.

Concluding remarks

The killing of 19 journalists since 1992 has been met with total impunity.³⁷ Since 2001, at least twenty-five journalists have fled Sri Lanka to live in exile.³⁸ The implications with respect to freedom of expression – “the core of the Covenant and the touchstone for all

³⁰ Reporters Without Borders, ‘President personally phones newspaper’s chairman to threaten him’ (2nd August 2011) [<http://en.rsf.org/sri-lanka-president-personally-phones-02-08-2011,40732.html>]; The Economist ‘Gota explodes: Press freedom in Sri Lanka’ (11th July 2012) [<http://www.economist.com/blogs/banyan/2012/07/press-freedom-sri-lanka>]; ‘Gota Goes Berserk’ by Frederica Jansz, The Sunday Leader (8th July 2012) [<http://www.thesundayleader.lk/2012/07/08/gota-goes-berserk/>].

³¹ Committee to Protect Journalists, ‘19 Journalists Killed in Sri Lanka since 1992/Motive Confirmed’, [<http://cpj.org/killed/asia/sri-lanka/>].

³² ‘Committee to Protect Journalists 2012 Impunity Index, Getting Away With Murder’, (17th April 2012) [<http://cpj.org/reports/2012/04/impunity-index-2012.php>].

³³ BBC, ‘Sri Lanka arrests: Jaffna police detain ‘terror’ suspects’, (6th December 2012) [<http://www.bbc.co.uk/news/world-asia-20624125>]; Journalists for Democracy in Sri Lanka, ‘Three Jaffna University students detained under anti-terrorism laws’ (4th December 2012) [<http://www.jdslanka.org/index.php/2012-01-30-09-30-42/politics-a-current-affairs/229-three-jaffna-university-students-detained-under-anti-terrorism-laws>].

³⁴ BBC, ‘Sri Lanka arrests: Jaffna police detain ‘terror’ suspects’, (6th December 2012) [<http://www.bbc.co.uk/news/world-asia-20624125>]; Journalists for Democracy in Sri Lanka, ‘Three Jaffna University students detained under anti-terrorism laws’ (4th December 2012) [<http://www.jdslanka.org/index.php/2012-01-30-09-30-42/politics-a-current-affairs/229-three-jaffna-university-students-detained-under-anti-terrorism-laws>].

³⁵ Amnesty International, *Locked Away: Sri Lanka’s Security Detainees*, (2012), pp6.

³⁶ Detention without charge is allowed under section 9(1) of the Prevention of Terrorism Act 1978, whilst police investigate the possibility of their involvement in illegal activity and with permission from the Ministry of Defence.

³⁷ Committee to Protect Journalists, website, [<http://cpj.org/asia/sri-lanka/>].

³⁸ Committee to Protect Journalists, *Attacks on the Press 2011* (2012), pp181.

other rights guaranteed therein”³⁹ – are self-evident. It is essential that the Human Rights Council take specific action to protect Sri Lankan journalists and media workers, and to ensure the Government of Sri Lanka’s compliance with its obligations under international human rights law.

³⁹ Manfred Nowak, U.N. Covenant on Civil and Political Rights, CCPR Commentary, 2nd ed., 2005, p. 438.