

2021 May

Issue No. 05



Acquittal of the six persons accused of assassinating journalist in 2000 under the instructions Mylvaganam Nimalrajan of the Attorney General



Colombo Crime Division of police arresting administrative officer Chamila Indika Jayasinghe regarding two social media posts on deforestation.



A group of persons identifying themselves as police officers collecting information regarding Uthayan newspaper journalist Ramachandran Sanath

This monthly report includes briefs on incidents related to media freedom, follow-up of previous incidents and relevant observations. We have also focused on policy changes relevant to media freedom and other incidents related to the freedom of expression of journalists and the public. They include freedom of expression of responsible bloggers, citizen journalists, social media users, human rights activists, whistleblowers and civilians. It also includes the unchallengeable rights of citizens to meet, move and express ideas and the right to know.

Few of the nine incidents included in this report are related to the violation of the citizens' right to freedom of expression that occurred in May 2021. They are in line with the monitoring scope of FMM. The organization issued statements on these two incidents. Further, a collective of media organizations, including FMM, issued statements on Israel attacking the buildings in which the press organizations are housed in Palestine.

New incidents reported in the month of May

1. Updating the 1991 May 30 Windhoek Declaration of UNESCO as Windhoek 30+.
2. Acquittal of the six persons accused of assassinating journalist in 2000 under the instructions Mylvaganam Nimalrajan of the Attorney General of Sri Lanka.
3. Conducting two dialogues online regarding the detaining of teacher and poet Ahnaf Jasim by the Terrorist Investigation Department for a year. A collective of international organizations pressed to release him.
4. Secretary of the Ministry of Health sending a

- communiqué to the senior officers of the Ministry warning that action would be taken under the provisions of the Establishment Code in terms of public statements.
5. Ministry of Health initiating an investigation against famous health communicator Dr. Chamal Sanjeeva against an article on a newspaper and an interview with a You Tube channel.
 6. Colombo Crime Division of police arresting administrative officer Chamila Indika Jayasinghe regarding two social media posts on deforestation.
 7. At Batticaloa, police tried to hand over an injunction against holding a commemoration of war victims at Mullivaikkal to journalist Punyamurthy Sashikaran.
 8. A group of persons identifying themselves as police officers collecting information regarding Uthayan newspaper journalist Ramachandran Sanath.
 9. Police preventing journalist Shanmugam Thawaseelan of Mullaithivu from engaging in professional work

Table 1: Overall Incidents Reported in May 2021

No.	Components covered	Number of Incidents reported
01	Safety and security	05
02	Legal condition	03
03	Trends related to press freedom	01
	Total	09

Safety & Security of journalists

An environment free from physical and mental threats is essential for media freedom. Also, people must enjoy the freedom of expression via media or any other means without repercussions. We observed four incidents that challenged this fundamental right in May. They were direct obstruction of journalists and discouraging of expression of opinion.

Table 2: May 2021 - Safety & Security of journalists - 05 Incidents

No.	Incidents	Number of reported incidents
01	Not allowing freedom of expression	02
02	Right for mobility and access to information	01
03	Psychological impact	02
	Total	05

New Incidents during the month:

1. Secretary of the Ministry of Health sending a communiqué to the senior officers of the Ministry warning that action would be taken under the provisions of the Establishment Code in terms of public statements.

The Secretary of the Ministry of Health sent a letter dated 10-05-2020 on issuing statements to media to all the chiefs of the institutions under it. The Secretary stated that the officials as groups and individuals were making media statements with incorrect health

messages and criticizing the health policies. Quoting several articles of the Establishment Code, the Secretary announced that disciplinary action would be taken against such officials.

The Secretary quoted articles 6 and 7 of chapter XLVII of section II and article 3 of chapter XXXI of section I of the Establishment Code on and state administration circular 06/2019 dated 27-02-2019 on expressing ideas and criticizing the government policies or administrative actions (Source: The letter of the Secretary of the Minister of Health).

This letter threatens the freedom of expression of the health workers, violates trade union rights and the right to know and press freedom.

The legal validity of the letter is problematic. Judgment on the fundamental rights petition numbered as 76/2012 pointed out that the fundamental right of freedom of expression is above the provisions of the Establishment Code (Source: P.S. Manohari Pelketiya vs. H.M. Gunasekara, case no. 76/2012).

In 2016, the right to information was included in the constitution, and the provisions of the 2016 No. 12 Right to Information Act is more potent than the previous laws (Source: [RTI Act](#)).

The action of the Secretary of the Ministry of Health seems an attempt to hide the information on the pandemic while violating the right of the officials for the freedom of expression and the media freedom.

2. Ministry of Health initiating an investigation against famous health communicator Dr. Chamal Sanjeewa against an article in a newspaper and an interview with a YouTube channel.

Dr. Chamal Sanjeewa, Director of Estate and Urban Affairs of the Ministry of Health, is a well-known health communicator who writes articles and appears in electronic media. He was summoned by the Deputy Director General (Public Health) on 31 May to record a statement regarding making statements to the media. However, he has not informed the charges against him. When he informed that he was unable to attend on that day, the call was postponed to 7th June.

This action appears as a step to act according to the letter issued by the Secretary of the Ministry on 10-05-2020. The investigation is about an article published in The Divaina newspaper on 16 May and an interview with a YouTube channel (Sources:

1. Divaina newspaper <https://bit.ly/2TdVbIV> 2. [YouTube channel](#)

Weda Karana Jana Balaya organization issuing a statement on 22-05-2012 protested this disciplinary action and other actions.

3. A group of persons identifying themselves as police officers collecting information regarding Uthayan newspaper journalist Ramachandran Sanath.

Uthayan newspaper journalist Ramachandran Sanath complained to the Inspector General of Police that individuals and groups had sought information about him from his family and relations several times. Sanath is also a former founding co-editor of Sudar Oli newspaper and a social activist.

The journalist cited in his letter that a group of police officers from the Gampola police station inquired about him in March 2021 from his mother. They asked, among other information, the reason for him to change residence. A group of police officers of the Criminal Investigation Department (CID) from the Thalawakele division went to his wife's house and questioned him. They inquired about the organization 'Voice of Justice of Upcountry' organization he is connected. A person appeared as a police officer visited his sister's house at Gampola on 25 May.

Writing a letter to the Inspector General of Police on 27 May, FMM urged to reveal whether police collect the information on journalist Sanath and the motives behind such an action.

Such actions depress both the journalists and their families.

4. Police preventing journalist Shanmugam Thawaseelan of Mullaithivu from engaging in professional work.

Shanmugam Thawaseelan is a Mullaithivu-based journalist. On May 22, he was travelling to Mullaithivu for work, and the Army soldiers who were on duty at the Third Mile Post in Wattrapalai prevented him from entering the town, citing it as an order from seniors. When the journalist informed the Officer in Charge of Mullaithivu police station, he said no such order was against him. However, the Army soldiers did not allow him to go beyond that point. He was allowed after a considerable delay only after the Officer in Charge of Police involved. They recorded the journalist's details (Source: JDS website and the video <https://bit.ly/3uOBKDr>)

The convener of the FMM enquired about this incident from the Director-General of Information. He said that the journalist could engage in their work despite the travel restrictions. Journalist Thawaseelan said that other journalists had also been stopped at this checkpoint before him. The officials guarding the checkpoints are unaware of the regulations, and the journalists face difficulties due to this situation.

5. At Batticaloa, police tried to hand over an injunction against holding a commemoration of war victims at Mullivaikkal to journalist Punyamurthy Sashikaran.

At Batticaloa, police tried to hand over an injunction against holding a commemoration of war victims at Mullivaikkal to journalist Punyamurthy Sashikaran.

However, the journalist did not accept it (Source: The Leader website <https://bit.ly/2S0mDJw>). Sashikaran was a reporter of Shakthi TV and presently, he is a freelance reporter. The injunction mentions him as a fisher community trade union president, which is not a position held by him. Police had taken 21 injunctions against various persons, including another journalist of Batticaloa.

A similar injunction was handed over to Sashikaran against a protest in February also. He said that he would complain to the Human Rights Commission against this.

Legal conditions

Three incidents that come under the legal component of media freedom took place in May. One of them is a legal action for the freedom of expression, while another is related to immunity regarding the crimes against journalists. The third incident is a development of a previous incident.

Table 3: May 2021: Legal Conditions - 03 Incidents

No.	Incident	Number of Incidents reported
01	Taking legal action	02
02	Immunity regarding the crimes against journalists	01
	Total	03

New Incidents during the Month

1. Acquittal of the six persons accused of assassinating journalist Mylvaganam Nimalrajan in 2000 under the instructions of the Attorney General of Sri Lanka.

Six persons accused of assassinating Jaffna-based journalist Mailwaganam Nimalarajan on 19 October 2000 were acquitted by Jaffna Magistrate on May 5th under the Attorney General's instructions to terminate the case (Source: Times Website <https://bit.ly/3bfRati>). The case has been postponing since August 2004 due to a lack of instructions from the Attorney General.

The BBC Sandeshaya, Tamil Osai, Ravaya, Weerakesari, Haraya and other print and electronic

media journalist was award Nimalrajan in the year 2000 by Editors' Guild of Sri Lanka for reporting under harsh conditions.

Eleven members of paramilitary Eelam People's Democratic Party (EPDP) were arrested within four years. Five of them were acquitted previously. The others were released on bail. International and local organizations for press freedom and human rights had been advocating for the last 20 years for justice for Nimalarajan without any positive outcome.

Sri Lanka Professional Journalists' Association issuing a communique urged re-start of investigations regarding the assassination of and punishi

Nimalrajan ng the culprits (Source: Colombo Post <https://bit.ly/3fq7AC5>)

2. Colombo Crime Division of police arresting administrative officer Chamila Indika Jayasinghe regarding two social media posts on deforestation.

On May 21, Colombo Crime Division of police (CCD) arrested administrative officer Chamila Indika Jayasinghe regarding two social media posts on deforestation posted on his personal Facebook profile. Police claimed that the posts contained false facts.

Police Media Spokesman Deputy Inspector General Ajith Rohana said that the arrest was made following an investigation by the police computer crime unit (Source: News Wire website <https://bit.ly/3vbuLcF>)

On May 22, the administrative officer was produced in Colombo Magistrate Court No. 07 under the charge of ‘provocation of people against the government’ under section 120 of the Penal Code. Police reported facts on a previous post in his profile regarding deforestation and two other posts he had shared.

Police falsely accused that the suspect had attempted to stab the investigators and demanded he was remanded. The court did not admit the allegation and released him Rs. 100,000 bail, said Attorney-at-law Manju Sri Chandrasena (Source: [Aithiya website](#))

The arrest of this administrative officer caused controversy on social media, and many people commented that he was an honest officer who acted against illegal felling and deforestation.

FMM issued a press release denying this act and urged the warning against the public officials to

silence them should be stopped, and people are assured the rights guaranteed by the constitution (Source: [FMM](#))

Weda Karana Jana Balaya organization also issued a statement and protested the arrest of administrative officer Chamila Jayasinghe (Source: statement of Weda Karana Jana Balaya)

3. Conducting two dialogues online regarding the detaining of teacher and poet Ahnaf Jasim by the Terrorist Investigation Department for a year. A collective of international organizations urged to release him.

A Tamil language teacher and poet Ahnaf Jasim have been detained for publishing a poetry book comprising extremist ideas for a year by May 16. Terrorist Investigation Department detains him under the detention orders of the Minister of Defense without framing charges. The fundamental rights petition on behalf of him is to be considered in future.

Two discussions organized by art and cultural society were held online on May 16 regarding the release of poet Ahnaf Jasim. They were organized by Sri Lanka Young Journalists’ Association and an unnamed group of civil and political activists.

Thirteen international organizations advocating for human rights, freedom of expression and creation issued a joint statement urging the release of the poet. They further urged the government to abolish the Prevention of Terrorism Act (Source: [JDS](#))

An online petition also was launched urging to free poet Ahnaf Jasim (Source: [Petition • Secretary, Ministry of Defence of Sri Lanka: අන්තර් ජාතික කවියා ආරක්ෂා කරනු! • Change.org](#))

Table 4: May 2021 - Trends of press freedom - 01 Incident

No.	Incident	Number of Incidents reported
01	Trends of press freedom	01

1. Updating the 1991 May 30 Windhoek Declaration of UNESCO as Windhoek 30+

The 1991 May 30 Windhoek Declaration of UNESCO was updated to suit the present socio-

economic and political context and renamed as Windhoek 30+ to mark the World Press Freedom Day.

The Windhoek+30 Declaration takes forward the

spirit of the original 1991 Windhoek Declaration, but makes reference to nowadays persistent and new challenges to media freedom such as risk of press extinction amid a “severe economic crisis” and disruption of traditional media business models; “increasing proliferation, amplification and promotion of [...] disinformation and hate speech;” as well as “enduring and new threats to the safety of journalists and the free exercise of journalism, including killings, harassment of women, offline and online attacks”. The Declaration also contains recommendations to take effective steps to nurture a diversity of viable public, private and community media, while safeguarding their independence.

Furthermore, it calls on mainstreaming Media and Information Literacy, as well as to work on ensuring transparency of technological companies.

Over 3,000 participants from 150 countries participated in this online discussion.

The Declaration of Windhoek is a statement of free press principles as put together by newspaper journalists in Africa during a UNESCO seminar on “Promoting an Independent and Pluralistic African Press” in Windhoek, Namibia, from 29 April to 3 May 1991. The Declaration of Windhoek was endorsed by UNESCO's General Conference at its twenty-sixth session (1991).

**Table 5: media Freedom:
Number of Incidents reported to the Free Media Movement from January to May 2021**

Covered component	January – April 2021	May 2021
Security and safety	14	05
Legal conditions	22	03
Media independence	01	
Trends of press freedom		01
Total	37	09

[Media Freedom Rights Monitoring Reports- 2021 January -April](#)

Footnote: The Free Media Movement recognizes that media freedom is a human right, in line with civil society aspirations, national and international judgments, and international conventions.

Everyone has the fundamental right to the freedom of thought, conscience and religion and the basic right to know the views of others without a hindrance. On this basis, the Free Media Movement considers media freedom to be a collection of the following ten components. (1) Freedom of thought (2) Freedom of opinion (3) Freedom of speech (4) Freedom of expression, including peaceful assembly (5) Freedom of information (6) Freedom of maintaining audio, video recording and record keeping (7) Freedom of publication (8) Freedom of the press (9) Freedom of the electronic media (10) Freedom of the Internet.

There is a symbiotic relationship between these components and the Free Media Movement recognizes that the limitations imposed on one component invariably restrict the freedom enjoyed through the other components of media freedom. The Free Media Movement also emphasizes that using these freedoms irresponsibly and in hatred is not a beneficial use in practice.

These monthly reports are prepared by analyzing media reports and further information available to the free media movement. In this analysis, the Free Media Movement uses selected criteria through seven internationally recognized components that cover the aforementioned tenfold media freedom components.

Media Freedom Rights Monitoring Desk Supported by Program on Independent Journalism



Free Media Movement

Convener | Seetha Ranjane +94 77 731 2460 | Secretary | Lasantha De Silva +94 71 166 7938
Treasurer | Thaha Muzammil +94 77 374 1026
No 96, Bernard Soysa Mw, Colombo 05. Tel: +94 112368895 Fax: +94 112368895;
Web: www.fmmsrilanka.lk, www.mediareform.lk
Email: fmmsrilanka@gmail.com | Facebook: <https://www.facebook.com/fmm.srilanka>
Twitter: <https://twitter.com/FMMsrilanka> | #FMM25