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Let us defeat the barriers to the freedom of expression

"Decreases in freedom of expression, the indicator that experienced the largest decline in our (Human Freedom) index"

- CATO Institute -2021 Human Freedom Report, p29

Humans have the inalienable right to enjoy the freedom of expression in diverse ways. It assures the right to quality of life and democracy in society. When studying over 100 observations by the Free Media Movement (FMM) related to freedom of expression, freedom of association, and the journalists' security, we can understand that Sri Lankan citizens face many difficulties related to freedom of expression. We observe that efforts to violate the freedom of expression intensified during the COVID-19 pandemic and the growing economic crisis.

The government's strategy is to manipulate existing laws to violate these rights. FMM has continuously advocated for abolishing the Prevention of Terrorism Act (PTA) which is often misused. FMM has also repeatedly urged the government to stop the misuse of the 2007 No. 56 International Covenant on Civil and Political Rights. Everyone who values human freedom must commit to defeating these barriers in the year 2022 that lies ahead.

- Free Media Movement (FMM)

This monthly report includes briefs on incidents related to press freedom, follow-up of previous incidents and relevant observations. We have also focused on policy changes pertinent to media freedom and other incidents related to the freedom of expression of journalists and the public. FMM monitored 16 violations of the citizens' right to freedom of expression in December 2021. Three of them were related to the safety and security of the journalists. One incident was related to media independence, and six were related to legal conditions. In addition, five were related to structural conditions, whereas one incident was related to professionalism.

Incidents reported in December

1. Inter-Parliamentary Union decided that imprisoning MP Ranjan Ramanayake due to one of his statements had violated his rights.
2. Inter-Parliamentary Union focused on the arrest of MP Rishad Badiudeen.
3. The Officer-in-charge of the Point Pedro police station threatened Uthayan newspaper's Point Pedro reporter Jeyachandran Sulakshan when he visited the station to complain against an injustice caused by police officers.
4. High Court acquitted Azath Salley, former governor of the Western Province, of charges against him under the PTA and ICCPR Act due to a statement he made in a press conference.
5. High Court granted bail to Ahnaf Jasim, a poet detained under the PTA for 18 months to publish a poetry collection.
6. Human rights activists requested the Attorney General under the Right to Information (RTI) Act to provide details of all prisoners detained under PTA.
7. Police banned a commemoration by the Human Rights Office of Kandy to mark the International Day of Human Rights through a court order.
8. Global Alliance of National Human Rights Institutions (GANHRI) downgraded Sri Lanka Human Rights Commission from A to B.
9. Colombo magistrate ordered remanding of Lanka-e-News website journalist Keerthi Rathnayaka until January 15. He has been arrested and held under PTA.
10. FMM initiates a programme to organize digital journalists and media workers to advocate 'decent work' for the industry.
11. Nine civil society organizations issued a collective statement against appointing retired judge Upali Abeyratne as Chairman of the Right to Information Commission of Sri Lanka.
12. RTI Commission ordered the Police Headquarters to initiate action against the officials of three offices of Superintendent of Police for failing to implement the orders of the Information Commission.
13. The Association of Professional Journalists requested the Inspector General of Police (IGP) to investigate the surveillance by the state intelligence of Lasantha Ruhunage, Deputy Chief Editor and the News Editor of Anidda newspaper.
14. A police officer of Akkaraipattu police station threatened independent journalist Abdul Rahim Sahir forcing him to withdraw a complaint lodged with the Sri Lanka Human Rights Commission.
15. FMM sent a letter to the Minister of Media regarding the suspension of the service of the digital media chief of Lake House without showing causes.
16. The gazette notification to ban obscene publications dated December 27 was abolished under the instructions of the Minister of Justice.

Table No. 01: Total number of incidents reported in December 2021

Covered criteria	Number of incidents reported
Safety and security	03
Independence of media	01
Legal conditions	06
Structural conditions	05
Professionalism	01
Total	16

Safety and security of the journalists

An environment free from physical and mental hazards is essential for press freedom. Also, people must enjoy the freedom of expression through media or any other means without repercussions. Freedom of peaceful meeting, protesting and agitating is also included in the freedom of expression. Three incidents of violation of these freedoms were reported in December 2021.

Table No. 02: Safety and security of journalists - 03 incidents in December 2021

Covered criteria	Number of incidents reported
Psychological Attacks on Journalist	03
Total	03

1. The Officer-in-charge of the Point Pedro police station threatened Uthayan newspaper's Point Pedro reporter Jeyachandran Sulakshan when he visited the station to complain against an injustice caused by police officers.

A heated argument occurred when the journalist enquired of the police officers about an injustice caused by police officers. The intimidation took place when the journalist attempted to complain to the Officer-in-charge of Point Pedro police station. Quoting the Jaffna Press Society, The Leader website mentioned that the journalist had been threatened.

Source: <https://theleader.lk>

2. The Association of Professional Journalists requested the Inspector General of Police (IGP) to investigate the surveillance by state intelligence of Lasantha Ruhunage, Deputy Chief Editor and the News Editor of Anidda newspaper.

Association of Professional Journalists suspects that state intelligence has started surveillance of geo-locations of Lasantha Ruhunage, Deputy Chief

Editor and the News Editor of Anidda newspaper, through repeated missed calls by the phone number 077 3037462. The association urged the IGP C.D. Wickramarathna to investigate the situation. The letter of the Association of Professional Journalists was copied to the Minister of Media.

Source: <https://www.citizen.lk>

3. A police officer of Akkaraipattu police station threatened independent journalist Abdul Rahim Sahir forcing him to withdraw a complaint lodged in the Sri Lanka Human Rights Commission.

The police officer in civvies threatened the journalist to withdraw the complaint lodged last September regarding an attack by police in the police station.

The journalist complained to the Human Rights Commission about several police officers who assaulted him and damaged his camera, accusing him of not wearing a face mask. The incident took place on September 2 while the journalist was on duty.

Source: <https://theleader.lk>

Independence of Media

Media independence is another critical criterion in terms of press freedom. The indicators of this criterion are independence of the journalists within media organizations; editorial independence; freedom from pressure from politicians, businesses and the religious community; attempts to influence media content through the granting or refusal of advertisements; attempts to influence media content through subsidies, concessions, corruption, blocking internet access and suspension of transmission licenses. One incident related to these indices was reported in December.

Table No: 03: Independence of Media - one incident in December 2021:

Covered criteria	Number of incidents reported
Independence of journalists in a media outlet / political influence	01
Total	01

1. FMM sent a letter to the Minister of Media regarding the suspension of the service of the digital media chief of Lake House without showing causes.

The Human Resources Director of state-owned media Associated Newspapers Company Limited (ANCL) interdicted Manjula Samarasekara, digital media chief of Lake House, without showing causes. The management has failed to reply to a letter by the journalist requesting reasons for his removal that was

sent about a month ago. FMM pointed the matter to the attention of the Minister of Media.

FMM highlighted in the letter that a government-owned media organization had disregarded the rights of its employees. FMM seeks justice for the journalist.

Source: [The statement of the FMM](#)

Legal conditions

Six incidents relevant to the legal criterion of press freedom were reported in December. For example, the High Court acquitted Asath Sally, former governor of the Western Province, from charges against him under the PTA and ICCPR Act due to a statement he made in a press conference. The High Court also granted bail to Ahnaf Jasim, a poet detained for 18 months under PTA for publishing a collection of poetry.

Table No. 04: Legal conditions - 06 incidents in December 2021

Covered criteria	Number of incidents reported
Legal actions	04
Proposals for legal reform	01
Right to information	01
Total	06

1. **High Court acquitted Azath Salley, former governor of the Western Province, of charges against him under the PTA and ICCPR Act due to his statement in a press conference.**

Supreme Court ruled that the charges against Azath Salley had not been proven and acquitted him from the charges against a statement made by him during a press conference on March 9 2021.

On March 16, Criminal Investigation Department (CID) arrested Salley for creating animosity between religious communities, and he was remanded until the end of the hearing of the case. Issuing a press release, FMM stated that the incident was an example of the misuse of laws by political authorities.

Sources: 1. <http://www.dinamina.lk>

2. [Statement of the FMM](#)

2. **High Court granted bail to Ahnaf Jasim, a poet detained for 18 months under PTA for publishing a collection of poetry.**

On December 15 2021, Puttalam High Court granted conditional bail to Ahnaf Jasim, who had been under arrest since May 16 2020. The conditions include reporting to police twice a month and a ban on foreign travel. When the fundamental rights petition filed on his behalf was examined, the Attorney General stated to the Supreme Court that there was no objection to granting him bail.

Ahnaf Jasim was detained for more than a year without charges framed against him. He was produced in court on May 12 2021, and indicted in Puttalam High Court on October 10 2021.

The fundamental rights petition will be examined again on March 8 2022.

Source: <https://www.vikalpa.org>

3. **Police banned a commemoration by the Human Rights Office of Kandy to mark the International Day of Human Rights through a court order.**

Kandy Police obtained this ban from Kandy Additional Magistrate under section 106 (1) of the Criminal Procedure Code, citing that the meeting scheduled to be held on December 11 would cause disharmony among communities.

Kandy Human Rights Office stated that the court order remained unchanged despite the facts reported to the magistrate court and the clarifications made to the Deputy Inspector General of Police, Kandy division.

Source: <https://sinhala.srilankabrief.org>

4. **Colombo magistrate ordered remanding of Lanka-e-News website journalist Keerthi Rathnayaka until January 15. He has been arrested and held under PTA.**

Keerthi Rathnayaka was arrested on August 17 2021, by the Colombo Crime Division and detained under PTA to warn that the Indian High Commission in Colombo might be attacked.

Colombo Fort Magistrate Priyantha Liyanage will consider the request of the counsel appearing for the suspect, Attorney-at-law Upul Kumarapperuma, that no charge could be filed against the journalist. Keerthi Rathnayaka has filed a fundamental rights petition against his arrest.

Source: <https://www.dailymirror.lk>

5. **Information Commission ordered the Police Headquarters to initiate action against the officials of three offices of Superintendent of Police for failing to implement the orders of the Information Commission.**

The right to Information Commission of Sri Lanka issued this order in the judgment related to journalist Rahul Samantha Hettiarachchi RTIC/ Appeal 255/2021). The judgment was related to the failure to provide information. The letter, signed by the acting Director-General of the Commission, instructed to implement the commission's order or take disciplinary action as per articles 39/4, 39(1) E and 39 (3).

Source: <https://ceylonnews24.com>

6. **The gazette notification to ban obscene publications dated December 27 was abolished under the instructions of the Minister of Justice.**

The secretary of the Ministry of Justice stated that the gazette notification issued on 24-12-2021 would be annulled from 27-12-2021. He further said that a revised draft would be submitted to the cabinet later. The secretary said that civil society, the Bar Association of Sri Lanka, and the subcommittee for amending criminal law consulted before drafting the amendment.

The Ministry of Justice notification aimed at the welfare of underage children and the women subjected to violence, the statement said, adding that it had not targeted or blocked the freedom of expression.

Source: <https://www.lankadeepa.lk>

Structural conditions

Structural conditions are another criterion considered concerning press freedom. Structural conditions include six potential indices related to the media system and the environment that guarantees press freedom. Five incidents related to the component 'active support for press freedom by monitoring groups' were noted during December. In a positive move, Inter-parliamentary Union decided that legal actions against the freedom of expression of two parliamentarians had violated their right to speak.

Table No. 05: Structural conditions - 03 incidents in December 2021

Covered criteria	Number of incidents reported
Active support for press freedom by monitoring groups	05
Total	05

1. Inter-Parliamentary Union decided that imprisoning MP Ranjan Ramanayake due to one of his statements had violated his rights.

Given that MP Ranjan Ramanayaka had been sentenced to four years for contempt of court, the Inter-Parliamentary Union urged the government of Sri Lanka to offer him a presidential pardon.

The Inter-Parliamentary Union stressed that the case had not been examined according to basic legal principles. The accused was not provided with an opportunity to appeal. The statement said that a heavy punishment had been imposed for an offence that was not appropriately defined.

Source: <https://www.ipu.org>

2. Inter-Parliamentary Union focused on the arrest of MP Rishad Badiudeen.

The issue of MP Rishad Badiudeen being arrested and detained under PTA caught the attention of the 208th session of the Inter-Parliamentary Union held on November 30. The decision regarding the issue was released on December 16.

The union pointed out that police had failed to frame charges against the MP even six months after his arrest under PTA. The Inter-Parliamentary Union expressed concern about the functioning of PTA as usual and sought a response from the government of Sri Lanka to amend or abolish PTA. Furthermore, the union expressed concern about the delay in hearing the fundamental rights petition of the MP.

Source:

1. <https://www.ipu.org>
2. <https://theleader.lk>

3. Human rights activists requested the Attorney General under the Right to Information (RTI) Act to provide details of all the detained prisoners under PTA.

On behalf of the human rights activists representing all religions, Fr. Marimuttu Sathyavel said to the media that they had handed over a letter also to the Attorney General highlighting the cruelty of the PTA. The human rights activists have requested that all detainees held under PTA be freed.

Source: <https://english.theleader.lk>

4. Nine civil society organizations issued a collective statement against appointing retired judge Upali Abeyratne as chairman of the Information Commission.

The civil society organizations pointed out that the chairman of the Right to Information Commission of Sri Lanka appointed by the President was a person subjected to charges of misconduct. Therefore, the appointment was inconsistent with the objectives of the Right to Information Act, and the person was unsuitable to hold the position, according to article 12 of the Act, because he had the role of chairman of the Committee for the Disappeared.

The civil society organizations said that the new Right to Information Commission of Sri Lanka had not included minority representation and breached the fundamental principles of equality and inclusivity.

Source: <https://srilankabrief.org>

5. Global Alliance of National Human Rights Institutions (GANHRI) downgraded Sri Lanka Human Rights Commission from A to B.

The decision was made in line with the Paris principles for the Human Rights Commissions passed in 1993 by UN General Assembly. The decision to downgrade was due to the abolition of the independence of the Human Rights Commission of Sri Lanka through the 20th amendment to the constitution, GANHRI reported.

GANHRI report further pointed out that the Human Rights Commission of Sri Lanka had not effectively addressed the human rights issues, including killings

and torture in custody; the commission had not expressed views in a way that promoted human rights; it had not submitted a report parallel to the UN Human Rights Commission; representation in the Human Rights Commission of Sri Lanka had not taken into account the diversity of Sri Lankan society.

Source: <https://sinhala.srilankabrief.org>

Professionalism

Professionalism is another critical criterion monitored concerning press freedom. Six potential indices, i.e., professional education of journalists, service conditions, journalists and media organizations following international media guidelines, self-censorship, professional sovereignty of journalists through trade unions, and the journalists' perceptions, are included in this criterion. In addition, a significant event that occurred during the period was organizing the digital journalists and preparing a code of ethics with the participation of the journalists in the field.

Table 6: Professionalism - 01 incident - December 2021

Covered criteria	Number of incidents reported
Journalists and media organizations following the international media guidelines/ professional sovereignty of the journalists through trade unions/ journalists' perceptions of their duty	01
Total	01

1. FMM initiated a programme to organize digital media journalists and workers:

At the end of the workshop organized by FMM on December 15 in Colombo on the rights of digital journalists and advocacy through digital media, a memorandum was drafted on a programme to organize the digital journalists professionally and prepare a code of conduct to ensure support quality digital journalism.

This memorandum was drafted after a broad study of international conventions on codes of conduct for digital media. As a result, a code of conduct and ethics will be compiled for digital journalists.

Temporary office-bearers of a professional union of digital journalists were elected.

Table 7: Incidents reported to FMM from January to December 2021- a total of 129

January - December 2021	January - November 2021		December 2021
	New Incidents	Developments of the previous incidents	
Security and safety	48	-	03
Legal conditions	42	10	06
Independence of media	02	-	01
Trends relevant to press freedom	01	-	-
Structural conditions	09	-	05
Professionalism	01	-	01
Total	103	10	16

[FMM Press Freedom Reports - from January to December 2021 from here](#)

Postscript: FMM recognizes press freedom as a human right based on national and international conventions and judgments. Freedoms of thought, conscience, religion and knowing others' opinions are human rights. On that basis, FMM identifies press freedom as a collection of the following ten components. 1) Freedom of thought 2) Freedom of having opinions 3) Freedom of expression 4) Freedom to meet peacefully 5) Freedom for information 6) Freedom of audiovisual recording and storing records 7) Freedom of publication 8) Press freedom 9) Freedom of the electronic media 10) Freedom of the internet. These freedoms are inter-connected, and blocking one freedom disturbs the enjoyment of all other freedoms. Therefore, FMM also emphasizes that misuse of these freedoms in an irresponsible and hateful manner is a wrongful practice.

These monthly reports are prepared by FMM based on the study and analysis of information available for the organization. For this analysis, FMM uses criteria selected through seven internationally recognized elements that cover the ten components mentioned above.

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