



Press release/01.11.2013

## **Open appeal to CHGOM: Ensure that the Commonwealth values on Freedom of Expression respected in Sri Lanka; Ensure unhindered access to media**

The Free Media Movement of Sri Lanka makes these open appeals the Commonwealth Heads of Government Meeting (CHOGM) to be held in Sri Lanka next month in the hope that the meeting will be an opportunity to re emphasis importance the democratic governance and human rights including the freedom of expression rights in Sri Lanka.

The FMM makes this appeal in the sprit of the core values and principles of the Commonwealth Charter of 2002 which reaffirms its commitment to freedom of expression rights.

### **V. FREEDOM OF EXPRESSION**

*We (the Commonwealth) are committed to peaceful, open dialogue and the free flow of information, including through a free and responsible media, and to enhancing democratic traditions and strengthening democratic processes.<sup>i</sup>*

Thus the FMM earnestly hope that delegates representing democratic traditions will raise the issue of freedom of expression rights in Sri Lanka in the appropriate forums and discussions during upcoming Commonwealth Heads of Government Meeting.

Freedom of expression rights in Sri Lanka suffered immensely during the last phase of the war, i.e., during the 2005-2009 period. At least thirty four journalists and media workers were killed; hundreds of them were abducted, assaulted and intimidated; media institutions were sent on fire and editors threatened. Nearly 100 journalists had to flee the country for safety.

As the organisation that documented almost all these cases the Free Media Movement it self has been at the receiving end in the those suppressive years. Not a single case of murder, abduction or assault has been investigated to a completion and even after 4 years since the war's end perpetrators remain at large.

Impunity has replaced the rule of law with regards to the attacks of journalists and media. Although four years has passed since the end of the war in May 2019 people in Sri Lanka is yet to enjoy their inalienable right to freedom of expression.

Statements made by the United Nations High Commissioner Madam Navi Pillay after her fact finding mission to Sri Lanka form 25<sup>th</sup> August to 30<sup>th</sup> August 2013 amply describes the prevailing intolerance and intimidation of dissenting voices including the critical media and journalists.<sup>ii</sup>

In this regard the FMM would like to focus on the conclusions and recommendations of the Commonwealth election Observer missions that visited Sri Lanka in recent years. The FMM believe that the CHGOM has

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moral responsibility to persuade the Government of Sri Lanka and its president who will be the [Commonwealth Chairperson-in-Office](#) for next two years to fully implement these recommendations.

Report of the Commonwealth Expert Team  
SRI LANKA PRESIDENTIAL ELECTION, 26 January 2010

*The media play a central part, for good or evil, in the democratic or undemocratic nature of each country's development and reputation. Consequently, no time is more crucial for making an assessment of any country's media than in the period leading up to an election.*

*However, media freedoms have been particularly affected by the Emergency Regulations [see Chapter 3]. The Regulations have established broad criminal offences, including the spreading of rumours or false statements likely to cause public alarm or public disorder and other offences aimed at limiting the communication and possession of information "prejudicial to national security." The effect of these Regulations has been to discourage journalists from investigating allegations of war crimes by the Sri Lankan military, encourage self-censorship, and drive a number of journalists into exile following threats and harassment directed at them and their families.*

*(Some of the emergency regulations were repealed in September 2011 but the draconian Prevention of Terrorism Act still in force<sup>iii</sup> which has been used to suppress freedom of expression rights – FMM)*

*Even after the completion of the military campaign against the LTTE in May 2009, this environment of intimidation of journalists has continued. Self-censorship is believed to be common among journalists: investigative journalism has been a particular victim of this intimidatory atmosphere*

*"... It was stated to the Expert Team that political pressures could also be brought to bear on media proprietors to discourage publication or halt the broadcast of a story deemed sensitive. Privately-owned newspapers in many cases have taken an editorial view tending towards one party or another. The level of this imbalance is nowhere approaching that of the state media which has operated a virtual black-out of any mention of any opposition party unless the item consists of adverse coverage.*

#### **(Relevant) Recommendations**

*5. The democratisation of public media would be greatly strengthened by the transfer of state-run radio and television to a non-political statutory body. This removal of state control would address the very substantial imbalance noted in this report.*

*6. The introduction of an independent media association or council made up entirely of professionals from both private media and the new statutory body responsible for public media. ... It would also facilitate a clear balance by the public media in the interests of all citizens and a reasonable measure of balance by the private sector regardless of each media house's editorial political preference.<sup>iv</sup>*

#### **Commonwealth Observer Mission**

##### **Sri Lanka's Northern Provincial Council Elections 2013: Preliminary Findings**

23 September 2013

(The full report with recommendations has not been released to the public yet - FMM)

*The media environment appeared constricted. It was reported to us that several media outlets were self-censoring when it came to in-depth or sensitive reporting on the elections. The mission noted that in the run up to the elections and on Election Day, important online and electronic media sources were inaccessible.*

- *The fundamental freedoms of association and assembly were constrained in the pre-electoral period.<sup>v</sup>*

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The both missions emphasised the importance of re-establishing democratic check and balances envisaged in the 17<sup>th</sup> amendment to the constitution.

The 2010 mission reported that *"the failure of the Government to implement the Seventeenth Amendment to the Constitution has had many negative consequences for the rule of law and the credibility of key institutions. . A mechanism needs to be found to prevent the widespread abuse of state resources during election campaigns. The implementation of the Seventeenth Amendment may help in this regard, .."*

But by the time of second Commonwealth election observer mission arrived in Sri Lanka the 17<sup>th</sup> amendment had been replaced with 18<sup>th</sup> amendment which empowers the executive president to appoint all such *independent (!)* institutions. In its paramilitary report the Mission said that *" The 18th Amendment to the Constitution, enacted in 2010, undermined the constitutional and legal framework for a credible and competitive election. In particular, the provision for an independent Electoral Commission has been negated. There was inadequate enforcement of existing laws that provide for a level playing field for all candidates, such as the use of state resources in electoral campaigns."*

As the re-establishing the freedom of expression rights and democratic checks and balances in Sri Lanka are of utmost importance and complementary to each other the Free Media Movement calls on the CHOGM to at least re emphasis the conclusions and recommendations of its own elections observer mission of 2010 and 2013.

At the same time the FMM calls on the Sri Lanka government to make all necessary arrangements for Media to cover the CHOGM and provide unhindered access to media.



Sunil Jayasekara – Convener

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<sup>i</sup> <http://thecommonwealth.org/commonwealth-charter-section/freedom-expression>

<sup>ii</sup> [My immediate concern for the protection of human rights defenders, journalists and communities I met during my visit from any reprisal, intimidation or attack - Navi Pillay](#) ; In relation to freedom of expression, the High Commissioner heard complaints about the continuing high levels of harassment and intimidation meted out to human rights defenders, lawyers and journalists. She raised several emblematic cases with the Government, but did not receive any satisfactory responses. <http://www.srilankabrief.org/2013/09/oral-report-to-unhrc-pillay-sets.html>;

<sup>iii</sup> <http://www.amnesty.org/en/for-media/press-releases/sri-lanka-repressive-laws-remain-despite-end-state-emergency-2011-08-26>

<sup>iv</sup> Report of the Commonwealth Expert Team, Sri Lanka Presidential Election, 26 January 2010  
[http://reliefweb.int/sites/reliefweb.int/files/resources/96C7C3124913DE58852576CB0064E67B-Full\\_Report.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/96C7C3124913DE58852576CB0064E67B-Full_Report.pdf)

<sup>v</sup> <http://thecommonwealth.org/media/news/sri-lanka%E2%80%99s-northern-provincial-council-elections-2013-preliminary-findings>